

Toddler killer, 30, seeks release from juvenile system

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Everybody seems to agree that Donald Schmidt is all grown up — what Santa Cruz County authorities now need to determine is whether he can act like an adult. A prisoner of the juvenile justice system, the only thing stranger than Schmidt's heinous crime is his age.

At 30 years old, Schmidt is the oldest ward of the juvenile justice system. A prisoner of the California Youth Authority for more than 15 years, Schmidt has recently completed his prison sentence for the 1988 rape and murder of 3-year-old Marihia Silvola of Lompico. Attorney Bill Weigel says Schmidt has served his sentence and should be released.

Prosecutor Ariadne Symons is doing everything in her power to stop that. Symons believes

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Schmidt is still too dangerous and is taking him to court to keep him behind bars.

Even though Schmidt has served his entire sentence, a law allowing a two-year sentence extension for sexual predators could keep Schmidt in jail for 24 more months. The extension can be applied to a sex offender every two years for an indefinite period of time if a prosecutor can prove to a judge or jury that the offender still poses a threat to society. Schmidt has opted to take his case before a jury, and his trial is well under way.

Opening arguments on Monday had prosecutor Symons telling the jury that Schmidt never successfully completed his treatment and continues to manipulate the staff of the sex offender program he

participates in. Further, Schmidt has never explained the reasoning behind his 1988 rape of 3-year-old Marihia Silvola.

At age 16, Schmidt was visiting the victim's older sister at the family's Lompico home when he discovered Marihia being given a bath by mother Leslie Silvola. Schmidt sneaked into the bathroom after Marihia's mother temporarily stepped out, and crawled into the bathtub with the child. Schmidt grabbed the child and forced her head under the bath water, sodomizing her while she struggled for air. Schmidt later confessed that he masturbated over the girl's lifeless body. Marihia was found unconscious in the tub and later died at Stanford Medical Center.

Prosecutors at the time attempted to charge Schmidt as an adult but were blocked by a judge. He was convicted and held by with the California Youth Authority. Symons would like to see Schmidt

kept in an adult prison, but the state Department of Corrections refuses to accept him.

On Tuesday Prosecutor Symons called her first witness, Dr Laura Ponsin, who has worked with Schmidt for nearly two years in a sex offender program. Despite years of treatment, "He still has never explained his motivation behind the crime he committed," Ponsin told the court. Prosecutors argue that the inability to deal with these demons makes Schmidt dangerous.

Ponsin testified that Schmidt has continued to lie about the crime, even during the most recent therapy sessions. The prosecution presented damaging evidence that disproved Schmidt's original explanation of his actions.

"He told us that the reason he murdered the girl was that he became enraged when he entered her house and saw the home filled with

Christmas gifts and decorations," said Ponsin. "He claimed that he grew up in an abusive family in which he never received a single present, and he wanted to inflict pain upon the little girl (that) he said he felt his whole life."

Prosecutor Symons then told Ponsin that interviews with Schmidt's siblings painted a much different picture of his childhood. She revealed that Schmidt's family did in fact celebrate Christmas and that Schmidt had made the whole story up.

"It's very hard to believe anything he says," said Ponsin. Ponsin argued that it was almost impossible to determine whether Schmidt had benefited from his treatment or if he was manipulating his therapist the entire time so he could be released.

Ponsin said Schmidt cried several times during group sessions but would appear jovial afterwards, leaving therapists skeptical about the authenticity of his tears. Ponsin said Schmidt barely touched the sexual aspects of his crimes, instead diverting attention to his anger over his father's alleged molestation of his two sisters. "He never addressed why he chose to sodomize the girl, or what caused him to be aroused," she told the court.

Ponsin said she first starting having doubts about Schmidt's recovery when the results of an independent psychological test concluded that he still acted like an untreated sex offender despite years of treatment. On a true-false portion of what is known as the "1800 test," Schmidt contended that he never masturbated or had sexual fantasies. Schmidt also claimed that never in his life had he engaged in unusual sexual acts, touched the genitals of a child, or brought harm to someone else.

Ponsin said she encouraged Schmidt to lie to other prisoners about his crime to ensure his safety, but that his dishonesty on the test shows his failure to understand the gravity of his sexual disorder. "He's trying to present himself as asexual, as if he isn't interested in sex from anyone," she said.

Schmidt sat stone-faced during the testimony, his hands folded on the table in front of him. Shadows covered his eyes as he stared at the ground, his skin hardened by a life of shaving with a dull razor. Dressed in khaki pants and a blue-striped shirt, he could have passed for his young lawyer's associate.

Defense attorney Bill Weigel cross-examined Ponsin and argued that Schmidt had been a model prisoner while in confinement. Ponsin confirmed that Schmidt was a group leader and enjoyed the highest level of security at the center, even taking on the position of grievance clerk — a liaison between the prisoners and the prison staff. Weigel also pointed out that Schmidt had not committed any sexual offenses while under Ponsin's care, and suggested that Schmidt's crime could be linked to his heavy methamphetamine use.

Schmidt's trial is expected to last several more weeks and is being presided over by Judge John Salazar.