

Sentence angers victim's family

Dan Hammes/St. Maries Gazette Record

The father of the young woman murdered two years ago said the sentence his daughter's killer received is wrong.

Jim Comack said he is angry Joe Herrera will be eligible for parole after serving 22 years for murdering his daughter.

Stefanie Comack was killed by Herrera Christmas Day, 2011 when a gun he pressed against her forehead discharged. He was convicted of second-degree murder following a four-day trial in June. The sentence for second-degree murder in Idaho ranges from 10 years to life imprisonment.

Judge Fred Gibler sentenced Herrera to life in prison with a mandatory minimum sentence of 22 years.

Prior to passing sentence, Judge Gibler told the court that an inmate is not necessarily released after completing the mandatory minimum sentence. The parole board determines whether to release an inmate, he said.

It is a distinction that means little to Mr. Comack. He believe sthe minimum sentence should have been much longer.

"I guess a life in Benewah County is only worth 22 years," Mr. Comack said. "And the only reason we got that much of a sentence is because I pushed the issue so hard."

Mr. Comack said he is disgusted with the criminal justice system. He said he tried to contact Doug Payne, the prosecutor, before the sentencing but his calls were not returned.

"Instead of asking me, you should ask the prosecutor and the judge if their daughter is only worth 22 years," he said. "I think the prosecutor and the judge ought to be ashamed every time they get a paycheck."

Mr. Comack's anger is not limited to his disgust with the sentence.

He said his wife contacted the Benewah County Sheriff's office a week before Stefanie was murdered, in an attempt to protect her daughter.

"Suzie went to the sheriff's office a week before Joe shot Stefanie. She told them that Joe had put a gun to Stef's head and choked her out. She was trying to protect her daughter," Mr. Comack said. "Nobody even went and talked to Joe."

The lack of response is ironic, Mr. Comack said, when compared to what happened after the murder.

Mr. Comack threatened Herrera after his daughter's murder. Security for Herrera, whenever he was let out of jail for hearings or the trial, was extremely tight. There were seven armed guards at last week's sentencing.

"If they would have protected Stefanie half as much as they protected Joe from me, she would still be alive today," Mr. Comack said. "They couldn't even find the time to go and talk to Joe. Now my daughter is dead."

The sentencing, in a Coeur d'Alene courtroom Thursday, lasted 75 minutes. Prior to hearing from the attorneys, family and friends of the victim addressed the court. Their comments, many choked by tears, were followed by Herrera reading a letter of apology.

While some of those who addressed the court struggled to find words to express their sorrow and outrage at Stefanie's murder, the consensus was they wanted Herrera to spend the rest of his life in prison. Judge Gibler addressed that request before passing sentence.

"There is no doubt in my mind if I were to follow the wishes of the family and impose a fixed life sentence without the possibility of parole after this went up on appeal we would be back here for sentencing. I am hopeful with the sentencing today that everyone can get some degree of closure in this case."

None of the comments made were as gut-wrenching as those by Suzie Comack, Stefanie's mother. Ms. Comack started her remarks on behalf of her husband, who was not allowed to attend the sentencing. Mr. Comack was ejected from the courtroom on the first day of the trial during opening remarks by the defense attorney. A bailiff broke his leg in the ensuing fracas and Mr. Comack was banned from the courtroom.

"I don't know how a father is supposed to react when he sees what he saw in the hospital and the ambulance," Ms. Comack told the court. "He tried to protect her from Joe, but he couldn't. He was the one who held her hand when they took her off the machine."

"Stefanie was beautiful, she was smart, she was young. She was healthy, until Joe got her."

Ms. Comack told the court that Joe isolated her daughter from her family and friends. He refused to allow her to contact anyone and even broke her phone to enforce the isolation.

"Joe Herrera put a gun to her head and he killed her on purpose because he is mean, he is selfish and because he wanted to be a gangster. He can be a gangster in prison for the rest of his life."

Ms. Comack said her daughter was not the first young girl to be abused by Herrera. She then directed her comments to the man who killed her daughter.

"I wanted to come here today and give you my gift of forgiveness so I would no longer live with this pain, so my family would not have to live with this pain. But I can't do it because you never asked."

Her final plea was made to Judge Gibler.

"I don't know what the law is I just want you to put him away for as long as you can."

The hearing started in somewhat unusual fashion with Stefanie's sister, Kaytlin (sp?) taking the stand and testifying under oath. Judge Gibler overruled an objection by Herrera's attorney, Jim Siebe, and allowed Kaytlin to testify.

Prosecutor Doug Payne asked Kaytlin about a conversation she had with Stefanie two days before she was murdered. Kaytlin testified that she told her sister to leave Herrera and live with her. She said Stefanie was afraid to leave.

"She said she couldn't because Joe was a psycho and he knew where I lived."

On cross examination, Mr. Siebe asked if Stefanie was under the influence of drugs at the time. Kaytlin said she was not. Mr. Siebe asked if Kaytlin told anyone about the conversation. Then he asked why Kaytlin did not take action.

"She was dead before I could do anything," Kaytlin answered.

Following her testimony Kaytlin addressed the court. She said her sister's murder has made Christmas a difficult time for her family.

"She did not do anything wrong. She was just a kid. The fairest thing to happen to (Herrera) is for him to spend the rest of his life in prison without a chance of getting out because he took my sister's life without thinking twice."

Jack Comack, Stefanie's brother, echoed those sentiments. He said Herrera has never shown remorse for killing his sister.

"I think you should put him in prison for life without any chance for parole. He hasn't shown any remorse this whole trial, he just downgraded Stefanie the whole time," he said.

Other family members also charged that Herrera had shown no remorse for killing Stefanie. They repeated that Stefanie, who was 18 years old when she was killed, was not the first young girl abused by the now 30-year-old Herrera. They were also angry about efforts by the defense to put Stefanie in a bad light.

"There is no remorse on his face. There is no remorse for all the other little girls he scared. You should put him in prison forever so he can't hurt anyone else," Tiffany Reeves, the victim's sister-in-law, said.

Prosecutor Doug Payne said it is difficult to find a reasonable sentence in this case. He reviewed the purposes of sentencing as established by the Supreme Court.

Mr. Payne pointed out that Herrera had never been convicted of a felony prior to murdering Stefanie Comack. But he described Herrera's life that includes a long history of drug and alcohol abuse as a 'ship wreck.'

He asked the court to impose a life sentence with a minimum time to be served of 22 years – the sentence eventually issued by Judge Gibler.

"He would be eligible for parole when he is 50. Fifty is a sobering position in life for a lot of people," Mr. Payne said.

While Mr. Siebe did not recommend a specific sentence for Herrera, he submitted letters written in support of Herrera and told the court his client was sorry for what happened. He said the shooting was an accident.

"I think no matter what chain of events you believe, he thought the chamber was empty," Mr. Siebe said.

Mr. Siebe cited an incident in the Benewah County Jail to show his client is not the person some believe him to be. Herrera alerted jailers about an attempted suicide in the jail and then assisted the jailer in saving the life of the inmate who tried to hang himself.

"He was trustworthy enough to be let out of his cell to help cut someone down and help revive him. That should be considered by the court," Mr. Siebe said.

Charges that Herrera has no remorse are unfair, he said.

"It is really hard to judge just by looking at someone to say if they are under-reacting, over-reacting or whether they show any remorse," he said. "Joe has every intention of making an apology to the Comacks."

Following his attorney's remarks, Herrera read from the letter he wrote.

"I wanted to tell you how truly sorry I am. I am sorry for my reckless actions that resulted in the loss of life of your loved one, Stefanie. I take full responsibility for my actions," he said. "Please try to believe me when I say how sorry I am. I pray night and day that your family will find it in their hearts to forgive my actions."

Following the apology, which is not in its entirety here, Judge Gibler passed sentence.