

Larsen opts for trial by judge

By Sue Yanagisawa
Whig-Standard Staff Writer

CHERYL ANN LARSEN, WHO GOES ON TRIAL NEXT WEEK for manslaughter in the death of her young babysitting charge, has elected late in the process not to have a jury trial.

Larsen, 34, the mother of three young boys herself, was charged with aggravated assault after the toddler she'd been looking after, 22-month-old Brody Albert, was rushed to Kingston General Hospital on Dec. 6, 2002.



LARSEN

The boy died in his parents' arms two days later, still in hospital and the assault charge against Larsen was withdrawn by police and replaced with second-degree murder.

However, at the conclusion of a preliminary hearing last November, Mr. Justice Paul Megginson of the Ontario Court of Justice reduced the crime to manslaughter. Megginson didn't find that the evidence presented to him was capable of supporting a charge of murder: that would have required the Crown to demonstrate that Brody's death was either intentional or the reckless outcome of an intent to injure him.

Prior to her preliminary hearing, while she was still facing the second-degree murder charge, Larsen elected to be tried by a judge of the Superior Court of Justice, sitting with a jury.

Until yesterday, that plan was proceeding. Jury notices had been sent out and it was expected that jury selection was going to take at least one full day and possibly two.

Prospective jurors will now have to be notified not to show up at the Frontenac County Court House.

Larsen appeared briefly before Mme. Justice Helen MacLeod in the Superior Court of Justice yesterday afternoon and elected to be tried on the manslaughter charge by a judge of the Superior Court of Justice, sitting without a jury.

MacLeod indicated that she will be the judge hearing the case, which will now begin Sept. 21 at 10 a.m. The evidence is scheduled to be heard over the next four weeks at the Frontenac County Court House.

Paramedics testify about toddler's injuries at Larsen trial

Autopsy concluded boy was victim of shaken baby syndrome

By Sue Yanagisawa
Whig-Standard Staff Writer

PARAMEDICS ARRIVING AT THE HOME OF 22-month-old Brody Albert's babysitter in December 2002 found the toddler unconscious and weren't able to revive him, a judge of the Superior Court of Justice was told yesterday during the opening day of Cheryl Ann Larsen's manslaughter trial.

Larsen, 33, the mother of three young boys and Brody's babysitter, has pleaded not guilty to causing her the death of her young charge.

In his opening statements, Crown attorney Bruce Griffith told the court that Larsen, in a statement to police, said the boy was injured when he fell down a flight of basement stairs in her home.

But Griffith said doctors who worked on Brody at Kingston General Hospital thought his injuries were inconsistent with a fall. Doctors who performed his autopsy in Ottawa concluded he was a victim of shaken baby syndrome.

Griffith told Madam Justice Helen MacLeod that Brody was the only child of Julie and Steve Albert and Larsen was his regular babysitter at the time of his death.

He said that Julie Albert dropped off her son at Larsen's Pembroke Drive home the morning of Dec. 6, 2002, about 8:10 and Larsen's call to 911 was received about an hour later.

Brody underwent emergency surgery at KGH to relieve pressure on his brain and was later placed on life support.

Two days later Brody was pronounced dead," Griffith said.



LARSEN

He told the court that Larsen was charged about two hours later.

He also advised the judge that Larsen gave a statement to police in which she described taking Brody into the main floor washroom shortly after 9 a.m. and leaving him there while she went downstairs to the basement to check the e-mail on her computer. She told police he was toilet training at the time.

While she was in the basement, Griffith said, she said she saw Brody holding his pants at the top of the stairs before he stumbled and fell.

Ross Brown, an advanced-care paramedic and part of the first paramedic team to arrive at the Larsen home that morning, testified that the boy was found lying on the carpet in the main floor of the house. He was unconscious.

Brody "started to vomit about a minute after we arrived, I believe," Brown said.

The paramedic, with 15 years' experience, told the judge that "the child had a dilated pupil - I believe on the right side," which he said is an indication of brain swelling.

Such swelling can be caused by trauma or a tumour, Brown testified, but "given the situation we assumed it was from trauma."

Neither Brown, his paramedic partner Dale Hodgins nor paramedic Jeffrey A. Burgess, who was part of the second ambulance team to arrive, remember seeing any bruises or external swelling on the boy. But Brown testified bruising may not become evident until later.

He recalled being met at the door by Larsen that morning.

"I don't think she introduced herself," he said. "She just simply stated the child had fallen down some stairs and struck his head - I believe on the concrete floor."

They didn't get into detail, he explained.

"We didn't interview her at great length because the child was obviously critical."

While rushing the boy to hospital, Brown said, the boy's heart rate dropped in the ambulance, which can be an indication of brain stem injury.

"It's kind of an ominous sign in a head injury," he told the court.

The trial continues this morning at the Frontenac County Court House.

Toddler's mother describes close relationship with sitter

Cheryl Larsen is accused of shaking boy to death

By Sue Yanagisawa
Whig-Standard Staff Writer

JULIE ALBERT STRUGGLED TO control tears yesterday as she described waiting for her 22-month-old son to arrive at Kingston General Hospital on Dec. 6, 2002.

She and her husband, Petty Officer Steve Albert, were told by a hospital social worker that their babysitter, Cheryl Ann Larsen had come as well.

"My husband and I went to see

Cheryl in the emergency waiting room and I gave her a big hug," Albert said, choking back tears.

Larsen, 33, is on trial for manslaughter in the death of the Alberts' 22-month-old son, Brody, who was rushed to hospital that day with a severe brain injury that an autopsy later concluded was the result of shaken-baby syndrome.

When paramedics wheeled the unconscious toddler into KGH on a gurney, he was wearing only a diaper, according to his father, Steve.

Yesterday, both of Brody's parents and his paternal grandparents testified in front of Mme. Justice Helen MacLeod, recalling that day and the child's death two days later, following surgery. Brody never re-

gained consciousness.

Court was told that the Alberts and the Larsens became acquainted through the military. Cheryl Larsen's husband, Mark, is a major and Steve Albert was posted to work in the same building on base.

He testified that he met Cheryl Larsen when the mother of three showed up six or seven months into his posting as a reservist. The Larsens have three sons, who were three, six and seven years old in December 2002.

Julie Albert told the court that she and her husband began socializing with the other couple after Cheryl Larsen started babysitting their son when he was about 11 months old.

Please see MOTHER, Page 9

LOCAL NEWS

Mother says babysitter told her 22-month-old child wouldn't listen

Continued from Page 1

Under questioning by Larsen's defence lawyer, Clyde Smith, she identified a series of cards and notes exchanged between the two families during her son's short life.

Entered into evidence at the trial, they include a card from Brody's first birthday; a thank-you note for the Larsen's christening gift of a St. Christopher medal, and an Easter card that Julie Albert sent Cheryl Larsen.

In a faltering voice, she read the inscription out in court at defence lawyer Smith's request. It read: "Cheryl, Happy Easter. You have truly been an inspiration to me when it comes to parenting. Some day I hope to have as much expertise as you."

Part of the message on the Thanksgiving card she sent Larsen for the 2002 holiday – two months before Brody died – was also read to the court. The closing signature reads, in part, from "Brody, your fourth son."

Smith suggested to her that Larsen treated Brody like a member of her own family and "had some very deep feelings for him," to which Julie Albert replied, "Yes sir," in a small, tight voice.

However, she also recalled under questioning by Crown attorney Bruce Griffith that just two days before her son was rushed to hospital, Cheryl Larsen had told her she couldn't continue to babysit because Brody wouldn't listen to her. "I started to cry," Albert said. "It's hard to find a good babysitter."

She testified that Larsen later told her she'd just had "a bad day."

That last morning, Julie Albert testified she went for an early workout, returning home to wake up Brody and give him his breakfast.

"We listened to a little bit of music," she recalled. Her husband went out and warmed up the cars and then she drove her son to the Larsen home and dropped him off around 8:10 a.m., she said.

She estimated she stopped in for about five minutes before continuing to work at the insurance adjusters firm where she was an administrator. Brody was the couple's only child at the time, although Julie Albert told the court they've since had another son, in February of this year.

She said it was about 9:15 a.m. when she got the call from Larsen telling her that Brody



Whig-Standard file photo

Cheryl Larsen is being tried for manslaughter

had fallen down some stairs. Albert said she tried to call her husband at work, got a busy signal and left a message, then tried to call Larsen back. She got a busy signal there too, but then Larsen returned her call and told her her son was being taken to KGH. Then her husband got through and she relayed the message to him, driving directly to the hospital.

Court was told Tuesday, by the paramedics who responded to Larsen's 911 call, that the first of two ambulances arrived at Larsen's home about four minutes after the call was dispatched at 9:04 a.m. They also testified that they worked on the boy for some time before transporting him by ambulance.

Julie Albert said she got to the hospital to find that her son hadn't yet arrived. Then her husband got there and a hospital social worker found them and warned them "when Brody arrived not to rush out to him, to let the doctors do their work."

Steve Albert told the court there was a trauma team waiting when the ambulance pulled up and he tried to talk to the paramedics, but all they said was he'd fallen, before turning Brody over to the trauma team.

The team ordered a CAT scan and Julie Albert said "the doctor told us they saw blood clots in Brody's brain the thickness of your finger."

Then the trauma team spoke to them and Steve Albert recalled "they said he had traumatic injuries to his head and they said he had to go into surgery to alleviate the swelling in his head and I said, 'Just hand me a waiver and I'll sign it.'"

While waiting for the ambulance to arrive, Brody's father told the court he'd telephoned Larsen for more information about his son. He recalled her telling him that she'd left Brody in the toilet and gone to check her e-mail and that she said he'd fallen down the basement steps, but didn't know how many. She told him "it was five or six, or six or seven," he testified.

In person at the hospital, he said he asked her again to explain how it happened, as did his mother, June Albert.

After learning that Larsen was her grandson's babysitter, the elder Mrs. Albert told the court: "I asked her if she could tell me how many stairs Brody fell down. She told me it was five or six. I said, Five or six?! She said maybe it was seven or eight. I said, even seven or eight – and she said, 'Well, it's not the first time he fell down, you know.'"

The Albert family spent that Friday night at the hospital, in and out of the toddler's room. They were given periodic updates on his condition by medical staff and some medication to sleep that night.

The next day they learned that while the operation had taken the pressure off his brain, the "best-case scenario," his mother told court, was "if Brody survived he would be bound to a wheelchair and he would never be 100 per cent ..." and her voice again dissolved.

As it turned out, by Sunday the doctors had far worse news. Julie Albert told the court "they indicated they had some tests they'd run to see if there was any brain activity – and he failed all five tests."

June Albert told the court, "My son came into the room, fell on his knees and put his head on the table," and it was after that she told Cheryl Larsen "that Brody wasn't going to make it and she would be under police investigation."

The trial continues at 10 a.m. today in the Frontenac County Court House.

LOCAL NEWS

Doctor stands by shaken baby diagnosis

Babysitter on trial for manslaughter

By Sue Yanagisawa
Whig-Standard Staff Writer

EYE INJURIES SUFFERED by Kingston toddler Brody Albert are consistent with shaken baby syndrome, an expert testified yesterday at the manslaughter trial of the boy's babysitter.

Lawyer Peter Kemp spent several hours trying to get Dr. Seymour Brownstein, a specialist in eye injuries, to back away from his diagnosis.

But Brownstein stood by his finding that the pattern and nature of injuries he found during a microscopic examination of the boy's eyes was "consistent with shaken baby syndrome."

Brownstein agreed with Kemp that severe head injuries

can cause the kinds of internal damage he found in the child's eyes.

However, the "array" of injuries led him to his diagnosis.

Brownstein also disagreed that such severe head injuries as Brody suffered could result from a fall down a carpeted staircase - which is how defendant Cheryl Ann Larsen explained the injuries to paramedics, Brody's parents and the police.

"We know, historically, that children falling down stairs do not present us with this type of damage," said Brownstein, an ocular pathologist with the University of Ottawa.

Larsen had been babysitting the 22-month-old toddler when he was rushed to Kingston General Hospital on the morning of Dec. 6, 2002. He died two days later, after an operation to relieve pressure from bleeding within the brain.

Larsen, 33, has pleaded not guilty to manslaughter in the

trial being heard by Mme. Justice Helen MacLeod of the Superior Court of Justice.

The Crown yesterday called two doctors to testify, both of whom believe Brody's death resulted from a violent shaking.

Brownstein, who told the court he's one of only five to 10 ocular pathologists in Canada, was qualified as an expert to give opinion evidence related to his field - the study and treatment of eye disease and injury.

Assistant Crown attorney Laurie Lecelle pushed to have the other witness, Dr. Richard van Wylick, qualified as an expert on shaken baby syndrome, but the judge wasn't convinced that such an expert exists.

MacLeod noted that the syndrome embraces the expertise of a number of specialties. She therefore qualified van Wylick, a pediatrics specialist and medical director of the child protection team at Kingston General and Hotel Dieu hospitals, as an expert pediatrics specialist

with a special interest in child abuse and shaken baby syndrome.

In his questioning of Brownstein, Kemp read excerpts from medical and scientific articles to him and suggested, based on one of them, that shaking alone isn't capable of generating the G-force required to cause the brain damage Brody suffered.

Brownstein replied that he wasn't an expert in biochanics, and that the scenarios Kemp proposed were hypothetical.

Pediatrics specialist van Wylick testified the existence of shaken baby syndrome is

"widely accepted" in medical circles. Questioned by Lecelle, he said he couldn't say exactly how much force was needed to cause a "classic constellation" of injuries associated with the condition. But, he said, "it's felt to be a force that would be recognized by a common person as injurious."

Very young children have relatively large heads and weak necks, he explained. During vigorous shaking, it's believed a child's brain moves rapidly inside the skull, causing veins to "break apart."

The trial continues today at 10 a.m. in the Frontenac County Court House.



Cheryl Ann Larsen at arrest in December 2002