

### *Jury Selected - Re-Trial Begins*

**6/15/2009**

The prosecution and defense agreed upon a 6-men 6-women jury and the call of witnesses began at 3:10pm Monday, June 15th. Charles Yarbrough is in the punishment phase for the Reckless Injury of a Child charge he received last October. There was a mistrial declared by the judge originally when the jury could not agree upon punishment. The trial is expected to last all week.

### *Day 2 of Yarbrough Trial - Update*

**6/16/2009**

District Attorney Heath Hemphill and Wes Mau, Assistant Attorney General from Austin, called several witnesses to the stand Tuesday morning. Among those giving testimonies today were a nurse that was on duty in the ER at Coleman County Medical Center the day that 14-month old Lacey Lynn Nichols was brought in and Dr. Darren Atwood, the doctor on call at that time. They both testified that they felt the bruising they saw was inconsistent with normal child activities. The last witness called before lunch was Chief of Police Jay Moses. He testified on the law enforcement activities that took place on the day in question. The trial continues Tuesday afternoon.

### *Afternoon Update in Yarbrough Trial - Day 2*

**6/16/2009**

Dr. Sisler with the Tarrant County medical Examiners Office was first on the stand Tuesday afternoon. When asked by the state, he testified in the Charles Yarbrough trial that the cause of death of 14-month old Lacey Nichols was blunt injury to the head and brain. It was his opinion that this was a non-accidental trauma. The medical examiner said he believed that this death had nothing to do with choking or accidental injuries. Bob McCool, defense attorney, then cross-examined Sisler and asked if it was possible that these injuries could have been accidental. Dr. Sisler said it might be possible but said it is an extreme rarity.

Next was Dr. Jayme Coffman, Pediatric Child Abuse Specialist at Cooks Children's Hospital. She reviewed over 30 bruises and injuries to the body. It was also her opinion that the injuries were non-accidental. She commented that chances of these injuries having been from a fall are "one in a million." Defense Attorney Wallace Olney asked Coffman whether she could say the injuries could "never" be attributed to accidental choking; her opinion was it was a high rarity that it could have been an accident. The trial will resume at 9:00am on Wednesday in the Coleman County courthouse.

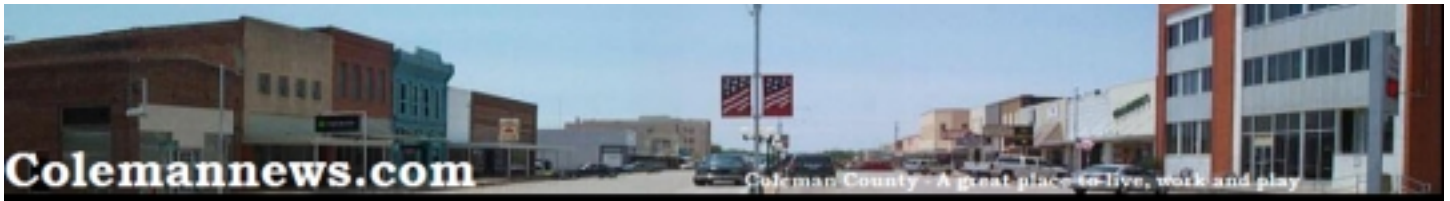
### *Day 3 - Yarbrough Trial*

**6/17/2009**

The punishment phase of Charles Yarbrough's trial continued Wednesday morning with the state calling some medical specialists and a sister of Lacey Nichols, the victim who died in January of 2006. The first witness was Dr. Hernandez, Pediatric Neurologist at Cooks Children Hospital, who said his first impression was to notice the amount of bruising on Lacey Nichols body. After she was brought to the Cooks Hospital, he looked at all the imaging studies that were done on her and he stated they showed she was "brain dead." He testified that the injuries shown on the studies happened within minutes of a trauma, not earlier in the day. He stated he saw two injuries to the brain. Dr. Hernandez gave his personal diagnosis - that the injuries were caused by non-accidental trauma. He stated he saw no evidence of choking; and, choking cannot cause hemorrhaging of the brain, much less two subdural hematomas.

Lawyers for the defense then cross-examined Dr. Hernandez in reference to the CT scans from Coleman and Cook Children's Hospital. He questioned Hernandez about the differences in them, to which Hernandez said he felt the difference was due to the time-lapse between hospitals.

The state then called Dr. James Marshall, Pediatric Critical Care Physician at Cook Children's Hospital. On January 12, 2006 at 11:55am he pronounced Lacey Lynn Nichols dead. He said his team had prepared an operation room for her, but when she got there, they did not perform surgery because she had such a traumatic injury. It was his opinion that injuries like Lacey's would be noticed immediately after the incident happened. Dr. Marshall stated he has seen a brain injury show cause for CPR, but has never seen CPR cause a brain injury.



When the defense questioned Dr. Marshall, he was asked if he was able to eliminate choking in Lacey that could have caused injuries to the brain. Dr. Marshall stated he saw nothing that gave evidence to that, but said it could not be ruled out. He then stated that he did not believe her particular brain injuries could have been caused by choking.

At this point the state called Dr. Hernandez back to the stand where he stated that he had not personally ever seen CPR cause subdural hematoma.

The final witness for the prosecution was Lacey's 17 year-old sister. She, Lacey and another sister lived with the Yarbroughs together. She said on the stand that at times she did not like living with them. She felt that her siblings did not get treated the same as the biological daughter. She had told her family advocate at one point, that she didn't like it in the home. She also stated that she personally never harmed Lacey. Robert McCool, defense attorney, asked the sister about her relationship with Charles. She said she didn't think he was a bad person. He questioned her about a video on which she said she did like living there. She stated that she was concerned about some of their discipline techniques.

District Attorney Heath Hemphill completed the questioning by saying, "Any living environment was much better than the one you came from." She then said, "Yes, by far."

The State rested its case at 11:00am Wednesday.

After lunch on Wednesday the first witness called by the defense was Janna Yarbrough, Charles' ex-wife. She said they were divorced in 2006 due to the incident with Lacey. CPS took their own baby away during the investigation so she had to divorce Charles to get her baby back. When Lacey first came to live with them, she cried a lot, was still on a bottle and could not walk. She lived in the home 6-7 months. Janna said Charles treated the kids all equally, that he loved them like they were his own, and never lost his temper. She said Lacey fell a lot when she was trying to learn to walk. She had no idea how the bruises that were on the baby got there. She said the morning of her death, Charles was fine and his mood was normal. Janna testified that she called her case worker at New Horizons often to report any bumps and bruises Lacey received. McCool questioned her about an incident where Charles did shake Lacey one time, and Janna admitted that he had. He had said, "Stop crying Lacey, stop crying." She said they both knew it was wrong and that they should never do it again. She said it's been extremely hard on them because her daughter cannot see her dad. She stated that Charles always took all the kids hunting and fishing, and that they (Lacey and her sisters) had never done anything like that. McCool asked her if he'd ever slapped her; she replied that once she'd slapped him and he slapped her back. Police were called on that incident. McCool also asked her to comment on the sheriff's department being called out for an argument between Charles and his Dad. She admitted that had happened.

The state questioned Janna on the police and sheriff's visits to their home. He also questioned her on Charles' temper with Lacey, and referenced her testimony from the first trial. She was also questioned about her own daughter, of about the same age of Lacey, and whether she had the same amount of bruising from normal kid activities.

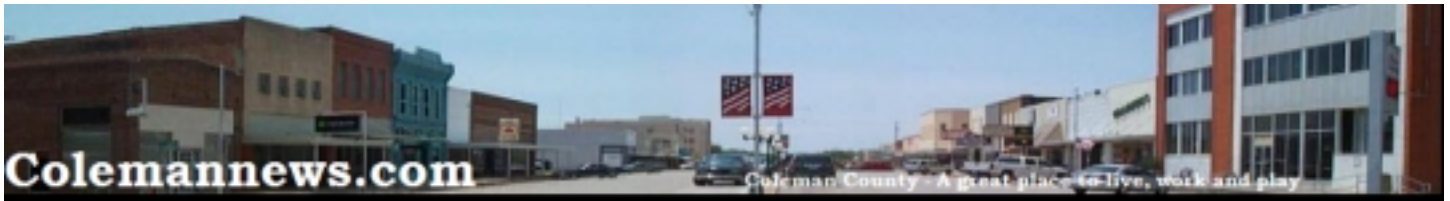
The New Horizons case worker was called to the stand by the defense, where he said that when he first obtained the Yarbroughs as Foster Parents, he was concerned about their young age. However, after he made visits to the home, he felt they were doing a good job. He said that Janna called him often to give him reports.

The state questioned the case worker about Charles' work and his being gone from home for several days at a time.

The defense then called Melinda McKinney, older sister of Yarbrough. She stated that he is her best friend, and they have one big happy family. She said she noticed that Lacey fell more often than most children when she was in the home. Janna was with the kids most of the time according to McKinney, and she believed that Charles would never hurt the kids. She also stated that her own boys love Charles.

The state questioned the sister about lies he had allegedly told an ex-girlfriend. McKinney stated that it's not Yarbrough's character to lie, it's not his character to injure a child, and she didn't believe it was his character to hit his wife.

Three more character witnesses were called to the stand that were not members of Charles' family. Each stated that he was truthful and honest. One said he was a peaceful and law-abiding citizen. One had known him all his life and never known him to lose his temper.



Charles' mother and father were separately called to the stand, and both of them discussed how they felt about Charles not being able to see his own children. They both feel it's been a tough time for Yarbrough.

The trial resumes Thursday morning at 9:00am with the defense calling a medical specialist to the stand.

### *Yarbrough Case to Jury*

**6/18/2009**

The prosecution ended its closing arguments Thursday morning, and the Judge gave the jury their instructions in the punishment trial of Charles Randal Yarbrough. At 11:20 the jury began deliberation on punishment for the "Reckless Injury to a Child" charge that Yarbrough was found guilty of in October of 2008.

Yarbrough took the stand at 9:19am Thursday following three more character witnesses presented by the defense. Yarbrough told the jury he had never had any other charges filed against him for family violence. He gave his present situation with his family and work. He also discussed the tragedy and how it had affected Lacey Nichols's family, as well as his own. Yarbrough gave a description of his normal duties around his house at the time Lacey and her sisters were in his and his ex-wife's care. He then gave his description of the events that occurred on the day Lacey was injured. His testimony was that she choked on a toy while he was in the other room, and he was doing CPR when he called 9-1-1. He said he continued CPR until the ambulance arrived. He said he has never had any intention of hurting any child.

In further testimony, Yarbrough stated that he would have no problem complying with any probation stipulations the jury might give to him. He asked the jury to consider probation so he can continue to take care of his own two children, by continuing to work.

When the state questioned Yarbrough, the original order that stated he could not see or have access to his own child was discussed. He told Wes Mau that his lawyer, McCool, told him it had expired and it was okay for him to see his child. Mau produced the order, which did not have an expiration date on it, but Yarbrough continued with what his lawyer had told him. After further discussion of possible probation stipulations, the defense rested. No state rebuttal witnesses were called and the final arguments were begun at 10:45am.

At 11:20am, the judge sent the jury to the jury room to deliberate Yarbrough's punishment.

### *Yarbrough Sentenced to 20 Years in Prison*

**6/18/2009**

A six man six woman Coleman County jury has sentenced Charles Yarbrough to 20 years in prison. The sentencing came less than one hour after the jury was sent to deliberate Yarbrough's punishment.

After Judge John Weeks announced the verdict, there was a mixture of crying and happiness from representatives of both sides in the courtroom.

Yarbrough was then escorted from the courthouse by Sheriff Wade Turner and deputies Vickie Plummer and Les Cogdill to the Coleman County Jail.

Yarbrough was found guilty in October 2008 of Reckless Injury to a Child but the jury in the case could never decide a punishment. A new jury was picked this past Monday, heard testimony through Wednesday morning and made a decision by noon.