

---

STATE OF WISCONSIN

Plaintiff,

-vs-

**AUDREY A. EDMUNDS**

DOB: 04/27/1961

Sex/Race: F/W

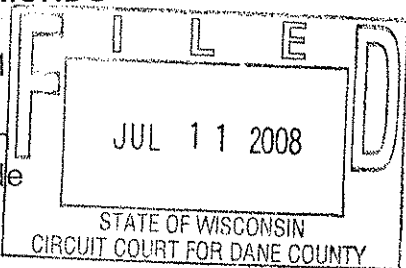
Eye Color: Brown

Hair Color: Blonde

Height: 5 ft 9 in

Weight: 135 lbs

Alias:



DA Case No.: 96DA003734

Assigned ADA: Shelly J. Rusch

Agency Case No.: 95018307

Court Case No.: 1996CF000555 *alb*

Hon. John Markson

Defendant.

---

**STATE'S MOTION TO DISMISS PROSECUTION**

---

The State of Wisconsin by Assistant District Attorney Shelly Rusch requests that, pursuant to sec. 968.03(2) Wis. Stat., the court dismiss the complaint and prosecution in the above case. The State elects to present a statement in connection with this decision, based upon the extensive record in this case and, more substantially, the severe victim impact to the parents of the deceased baby.

Natalie Lynn Beard was born healthy on March 21 1995. To her proud parents Cindy and Tom Beard, Natalie was the light of their lives; their pride and joy.

On October 16, 1995, Cindy Beard took Natalie - a healthy, normal, neurologically intact seven-month old baby - to the home of Audrey Edmunds for daycare. There, Natalie was alert, making eye contact and visually tracking.

One hour and six minutes later, Audrey Edmunds called 911 and within two minutes, Waunakee Police Chief Robert Roberts arrived. He saw Natalie breathing, gasping for air, and spitting up formula, but when he shined his flashlight into Natalie's eyes, her pupils did not respond to the light. They were fixed and dilated, even as she continued to take short breaths. Six minutes after the 911 call, Natalie stopped breathing. 18 minutes after that her core body temperature had dropped to 91.7 degrees. She never regained consciousness.

At seven months of age, on October 16, 1995, six weeks after being placed in the daycare of Audrey Edmunds, the lives of Cindy and Tom Beard changed forever when their baby Natalie died as a result of inflicted traumatic brain injury.

Natalie's autopsy revealed:

- Subdural and subarachnoid hemorrhage in locations characteristic of **inflicted** injury.
- Severe brain injury suggestive of an extended hypoxic period.
- Evidence of impact injury to Natalie's scalp.
- Extensive retinal and preretinal hemorrhages and vitreous hemorrhages bilaterally, with retinoschisis and retinal folds.

The medical conclusion regarding the cause and manner of death in this case, Shaken Baby Syndrome (SBS)<sup>1</sup> was based upon a constellation of findings in light of a differential diagnosis, including the absence of any high-energy traumatic event to explain the brain injuries.

Between November 16<sup>th</sup> and 25<sup>th</sup> 1996, a jury heard the testimony of many witnesses, including Cindy and Tom Beard, seven medical experts, including one for Audrey Edmunds, and Audrey Edmunds herself.

On November 26, 1996 the jury unanimously found Audrey Edmunds guilty of First Degree Reckless Homicide for causing the death of 7-month old Natalie Beard on October 16, 199~~6~~<sub>5</sub>.

On February 20, 1997, Judge Moeser sentenced Audrey Edmunds to 18 years in prison, and commented upon the loss of life and impact on Cindy and Tom Beard:

They "never saw her walk, never heard her talk, never celebrated Thanksgiving or Christmas or her birthday. They will never again feed her, hold her, watch her sleep, play with her or sing to her. They will take no more pictures. There will be no more videos. "

On July 21, 1997, Audrey Edmunds filed a post conviction motion for a new trial alleging newly discovered medical evidence and challenging the diagnosis of SBS. Judge Moeser denied that motion, noting in part that Edmunds' conviction did not rest entirely on medical evidence and that her own testimony "was devastating to the defense. ... [t]he inconsistencies between interviews with law enforcement and the defendant's trial testimony were very significant. ... [o]ne had to be there to understand it completely."

For the next five years, Audrey Edmunds appealed unsuccessfully throughout state and federal courts.

On June 2, 2006, Audrey Edmunds filed a second motion for a new trial alleging newly discovered evidence surrounding the diagnosis of SBS. In January and February 2007 Judge Moeser heard the testimony 10 medical experts regarding the research, science and diagnosis of SBS/SIS/ITBI.<sup>2</sup>

---

<sup>1</sup> Also referred to as Shaken Impact Syndrome (SIS) or Inflicted Traumatic Brain Injury (ITBI).

<sup>2</sup> Six for the defense and four for the State.

Not one of the six defense expert witnesses who testified could provide an alternative mechanism or theory that explained *all* of the findings in this case. While the defense experts provided potential alternate explanations for *individual* findings, none could explain any mechanism by which Natalie Beard sustained the "constellation" of injuries consistent with the evidence, which formed the diagnosis of death in this case, SBS/SIS/ITBI.

Not a single defense expert could provide an alternative mechanism or theory that explained the severe retinal trauma found in this case, retinoschisis, consistent with the evidence in this case, absent a significant crush injury.

The state's experts testified that the original diagnosis in this case is stronger today, based upon the research and science, than it was in 1997 and that the intervening years of study and research only reaffirm the cause and timing of Natalie Beard's inflicted injury.

On March 29, 2007, after considering the testimony of all ten experts and the arguments of counsel, Judge Moeser determined that even considering the "new" evidence, there was not a reasonable probability of a different outcome were the case to be re-tried.

In denying Edmunds 2<sup>nd</sup> motion for a new trial, Judge Moeser stated: "The newly discovered evidence presented by the defense is significantly outweighed by the evidence presented by the prosecution. When all the new evidence is added to all the evidence at trial, not just the medical evidence, the prosecution's case is just as strong, if not stronger, than it was at the original trial."

Edmunds appealed and on January 31, 2008, the court of appeals issued a decision reversing Judge Moeser and ordering a new trial based upon the emergence of a dispute within the medical community. The court of appeals decided that Audrey Edmunds should receive a new trial for the death of Natalie Beard in 1995.

After the Wisconsin Supreme Court denied the State's Petition for Review, and pursuant to Chapter 950 of the Wisconsin Statutes, representatives of the District Attorney's Office met with Cindy and Tom Beard regarding the retrial of this case. We stressed our confidence in the case; that the evidence that Audrey Edmunds inflicted the traumatic brain injuries resulting in Natalie's death was stronger today than it was in 1997; that the diagnosis was strong and that a purported "debate" among experts should not undermine the significant medical findings in the case.

Cindy and Tom Beard expressed their strong preference that the case not be retried. They described the never-ending legal process of appeals and media coverage, which has neither allowed Natalie to rest in peace nor them to regain any semblance of closure in their lives. From the day their baby died, it took almost two years for the case to be tried and for the defendant to be sentenced. The appellate process has gone on ever since and now, more than 13 years later, they face the prospect of another trial. They know that if this prosecution continues, a second conviction would take another year or more and the appeals process could go on for years afterwards.

They described the emotional toll of a continuing prosecution. What cannot be described is the raw grief and weary devastation etched so visibly on the faces of these

STATE OF WISCONSIN - VS - Audrey A. Edmunds

surviving victims. Cindy and Tom Beard manifested the permanent and palatable wounds of parents who have lost their baby and who know, that under no circumstances, will she or life as they knew it, ever return.

Audrey Edmunds served 11 years of her 18- year sentence in prison and Natalie Beard is never coming back. Her parents – the victims in this case – wish to be able to grieve the tragic loss of their baby in peace without the celebration of litigation – without the sudden images on TV or in newsprint of the woman in whose care they left their healthy baby girl 13 years ago.

The human cost of this prosecution, the continued emotional trauma to Cindy and Tom Beard, is unacceptable and a dismissal ends the process.

For these reasons, the State elects to dismiss this case in the interests of justice for the victims. With this decision, Cindy and Tom Beard will at least not have to relive the loss of their baby again in a contested public forum.

Respectfully submitted this July 11, 2008.



---

Shelly J. Rusch  
Assistant District Attorney  
Wisconsin Bar Member #1007533

Copy: Atty. Dean Strang  
Atty. Stephen Hurley