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Testimony against Graf disputed

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Three defense witnesses in the capital murder trial of Edward E. Graf Jr. on Friday contradicted conclusions by the prosecution's fire investigators and disputed testimony about the behavior of Graf's stepsons, who were killed in the fire.

McLennan County District Attorney Vic Feazell rested his case against Graf on Friday morning after testimony by Charles King, a private arson investigator from New York.

Graf, 36, is charged with two counts of capital murder in the August 1986 fire deaths of his two stepsons. The bodies of Joby, 9, and Jason, 8, were found in a storage shed behind their residence at 505 Angel Fire Drive in Hewitt.

Defense testimony continues Monday, when the trial enters its eighth day of testimony.

King, who said he studied fire scene photographs and investigators' reports, testified that two fires were deliberately set and that a flammable liquid was poured on the floor of the shed.

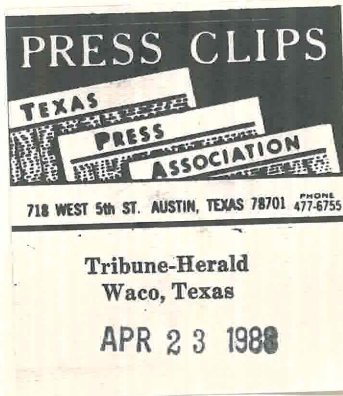
Both doors to the shed were closed, King said. The "relaxed" face-up positions of the bodies indicate the boys were unconscious when the fire started and apparently made no attempt to flee or protect themselves from the flames, he said.

But in defense testimony, Jerry Gilmore, a former captain of the Dallas Fire Department arson unit, said he couldn't determine much about the fire from studying the photographs and doubted anyone else could do so with certainty.

Nearly all he could say for sure, he said, is that a flammable liquid was poured or spilled just inside the doorway of the shed. A leaking container of gasoline could be ruled out as a fuel source because it would have sparked an explosion that would have destroyed the shed, he said.

"There is a lot about this fire I can't tell you because there just isn't enough evidence. The bottom line is I can't tell you what caused the fire," said Gilmore.

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now a private fire and explosives consultant in Duncanville.

He attached no significance to the way the bodies were found, noting that he has seen at least 20 burn victims found in a variety of positions during his career.

"I don't know how many burn victims you have to see to be an expert, but I can't make anything out of the positions of the bodies," Gilmore told defense attorneys Lynn Malone and Charles M. McDonald.

Gilmore said he is unsure whether the boys were conscious when the fire started. But Jason's body being found in the back corner of the shed is consistent with someone trying to escape from a fire and running as far away from the flames as possible, he said.

He could not explain the position of Joby, found lying in the center of the shed with his head near what prosecution experts said was the source of a second blaze.

Gilmore said he was uncertain if two fires were set or whether burn patterns nine feet away from the fire's point of origin were merely a continuation of the fire.

He also said he could draw no conclusions as to whether the shed doors were open or closed.

During cross-examination Gilmore, after examining electronically enhanced photographs of the door area pointed out by Feazell, said the right door appeared to have been closed at the time of the fire.

In other defense testimony, Les Burks, a captain in the Fort Worth Fire Department, testified on statistics showing that 9-year-old white males set the majority of fires of those set by children younger than 15.

Burks, who heads a program to prevent juveniles from setting fires, said 20 percent of the children in his program use flammable liquids in fires they set.

Feazell asked Burks during cross-examination if his statistics indicate the "number of parents who murder their children in fires." Burks said no.

Gene Firmin of 516 Angel Fire Drive told Malone that when he moved to the Grafts' neighborhood in 1981, Jason and Joby could best be described as "incorrigible." The boys were "prone to be looking for trouble, foul-mouthed and unruly, with no respect for authority," Firmin said.

He allowed the boys to play with his children at first, Firmin said, but soon told them they were no longer welcome on his property. Jason often would club cats with sticks and then run away and hide, said Firmin, describing the boy as "a disruptive influence on the neighborhood kids."

By the spring of 1986, however, both boys had matured and were "acceptable playmates" for his boys, he said. "They didn't cuss as much for one thing, and they were not as prone to start fights or cause trouble."

Graf was "very firm, but very fair" with the boys and seemed to be a positive influence on them, Firmin said.

Graf's former wife, Clare Gerdes, the boys' mother, has testified that Graf was like a "drill sergeant" with the boys.