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Judge sentences Binkley to 12 years

“No potential for rehabilitation”

By Albert Dittes and Sonya Thompson Nov 19, 2009



Criminal Court Judge Dee David Gay explains the value of entering a journal into evidence during Sandy Binkley's sentencing hearing. The journal contains entries from students to Binkley which were deemed by the District Attorney General's office as highly inappropriate.

Former Portland High School teacher Sandy Binkley learned Friday that she will be sentenced to 12 years - the maximum allowable sentence — for her September conviction of two counts of statutory rape by an authority figure. Her victim was a student, and the crimes took place in the volleyball locker room at the school.

Each count carries a maximum of six years in prison; Criminal Court Judge Dee David Gay ordered both sentences to be served consecutively.

Jailed since her Sept. 29 conviction, Binkley will be eligible for parole as early as mid-2013.

"This is the most difficult sentence delivered I have had to make since I have been on the bench," said Judge Gay after nearly five hours in the courtroom Friday morning. "Without truth you can't have justice; without truth you can't have rehabilitation. The truth has been very clear to me and the jury, and something the defendant has not embraced. I don't see any potential for rehabilitation."

Judge Gay added that his sentence had satisfied all requirements of the law, the first being two or more statutory offenses. Oral sex and sexual intercourse fulfilled these requirements as well as the aggravating factor.

"Nothing is more sacred than a relationship between a teacher and student," he added.

The time span of activity was clear, between March and Sept. 23, 2008.

"This was a time of undetected sexual activity and would have continued had she not been arrested," he said.

Friday's victim impact statement, read by the teenage boy whom Binkley is accused of having had sexual relations with, especially disturbed Judge Gay. Binkley had charged him with raping her. The label of rapist — whether true or not — never really disappears.

On the stand, the victim stated that the events and consequent court case had drastically changed his life and affected his reputation.

"People thought of him as committing a horrible crime," commented Judge Gay. "He felt like he had been placed in a lower class of people. His 8-year-old brother got into a fight at school for standing up to his name. He said it lowered his self-esteem. The minimum effect on the victim is great. Recovery for him will take a long time. All elements of the law are satisfied."

Judge Gay said he could not find words to state the severity of the offenses committed at Portland High School, where teachers were supposed to keep their hands off the students.

He issued Binkley's sentence after hearing several hours of testimony, with state prosecutors arguing for the maximum sentence and the defense requesting the minimum.

Binkley herself took to the witness stand and failed to persuade him after taking the stand walking on shackled feet and clad in striped prison clothing.

"I am sorry for the harm done to my family and the school system and believe something good can come out of this," she said. "I can't change the decision I made but will use my skills while incarcerated for the benefit of others."

She added she had no criminal history and would behave well in jail.

"I hope for leniency so I can return to my husband and children who desperately need me," she concluded. "I hope God can use this to His glory."

Several witnesses took the stand during the course of the morning, both for the prosecution and for the defense.

Sumner County Director of Schools Benny Bills and Portland High School Principal Bob Gideon both testified that their annual staff development classes the past five years have taught the proper relationship between students and teachers. That meant no text messaging and sharing of cell phone numbers, the exception being coaches notifying players of practices. Binkley was bound to have attended the training session, which is part of the 30 hours of inservice training required of teachers.

Bills was asked what kind of impact cases like Sandy Binkley's and Holly Hatcher's have on the school system.

"It hurts us as far as relationships and pride in the school system and it interferes with local instruction."

Principal Gideon added that this case has been an embarrassment.

"It's hurt a lot of people," Gideon said. "It continues to be a distraction. I get asked about the trial when we should be talking about our students in the school."

Rich Haglund, general counsel for the Tennessee State Board of Education, indicated that from 2005 through July 2009 164 teachers have had action taken. Of those, 78 were for inappropriate actions/relationships with students.

"How many of those involved inappropriate touching?" asked assistant district attorney Sallie Wade Brown.

"Fifty-four," said Haglund.

Haglund added that several of those cases involved inappropriate texting with students.

"Would you agree with me that this teacher in an inappropriate relationship is one too many?" asked ADA Brown.

"Yes," replied Haglund.

Yvette Groft took the witness stand to share her concerns for Binkley's behavior towards her youngest son when he was a freshman. She shared two incidents that caused her to be concerned about inappropriate behavior on Binkley's behalf.

The first incident she referred to took place at registration. She said that she heard a woman squeal and shout out her son's name. She then overheard Binkley say to her son, "I'm not supposed to do this ..." and then stood up and hugged her son.

Another incident occurred at Sonic where Groft was with her son. She explained that Binkley pulled up to their left and rolled down the passenger window and began to converse with her son in what sounded like an adolescent girl's voice.

District Attorney General Ray Whitley submitted a journal found in the closet of Ms. Binkley's classroom containing suggestive and inappropriate messages from students; the court had kept the journal from the jury during the trial. Some of the comments refer to Binkley as "Sexy Sandy" and even said "thanks for letting me tap that (butt)."

Her attorney objected to the content of the journal arguing that nobody could possibly know the intent or the context of the entry. Judge Gay ruled the journal was relevant to the sentencing, saying that her keeping it for all these years bothered him.

The mother of the victim in this case then took the stand to testify to the damage her family has suffered over the course of the last year. She said the ordeal had cost her family loss of money and has been stressful to the family.

"I've had to explain to my 8-year-old son what sex is," she said tearfully. "Others have called his older brother a rapist. I feel like my son is not only a victim but a defendant because he has to defend himself."

ADA Brown then asked if her son continues to suffer since the case.

"He's withdrawn," said the mother. "I think this will affect him in the future when he goes on and has a future relationship."

The victim in the case then took the stand to read his victim impact statement.

"My life has changed drastically since the case," he read from his prepared statement. "It wasn't until the word 'rape' came up that I became upset."

He explained that being labeled a rapist - whether it was true or not - interferes with getting someone to like and trust you.

"I feel like I was placed into a class of lower-class people," he explains. "I feel down more than up. After being falsely accused, I didn't want to be in the public."

"My family life has been affect also," he adds.

He breaks down into tears as he explains how his 8-year-old brother got into a fight in school over his reputation.

"I wonder what my father thinks," he adds as he looks up.

Many in the courtroom weep openly as his gaze catches his father's eyes.

"My parents stuck beside me the whole way through. There are no advantages. I can see getting a better chance at a job only if I worked in the adult movie business."

"I want her to get the full sentence," he adds as Binkley purposely avoids his gaze. "She should face all charges applicable."

"This has affected you and your self-esteem and how other people think about you," said ADA Brown matter-of-factly.

"Yes. Greatly."

Both the victim and three additional teenage boys then testified that Binkley had bought them alcoholic beverages at a market next to a state line bar at the intersection of State Highways 109 and 31W. Assistant District Attorney Sallie Wade Brown said the prosecutorial team decided to keep this incident out of the trial but found it relevant to the sentencing.

The defense then called forward its witnesses to show why Sandy Binkley should receive the minimum sentence and to display her potential for rehabilitation.

Forensic psychologist Sandra Phillips said she had talked extensively with Sandy Binkley and found her depressed at extensive sessions dating back to 2001. Phillips said that, while an intensely private person, Binkley exhibited emotional distress over the declining health of her grandfather. Emotional distance from her mother plus a difficult childhood of witnessing daily beatings of her mother by her father had left her hiding a lot of stress.

For the first time all morning, Binkley is visibly shaken and weeps at the mention of her grandfather.

Phillips continues by explaining Binkley found comfort through her grandfather, who attended her soccer games, and school, where she excelled in sports, grades and relationships with teachers. Later on, Phillips said that Ms. Binkley found herself able to "look past the kids," and work well with difficult students. She found herself wanting to nurture these children that others easily would discard as problematic.

"She was on fire to help these students," Phillips explains. "Binkley once said 'I'm nice even to the meanest of kids.'"

Phillips said Binkley wanted to hold on to her children and husband and posed little risk to the community due to no past record of violence, pedophile conduct or substance abuse.

When asked if Binkley was at risk for suicide while incarcerated, Phillips responded by sharing that her husband's mother had committed suicide and Binkley had said she wouldn't do that to her husband.

"I would say that her risk to the community would be nil," Phillips added. "She understands that she put herself in a situation with a young man and she questions how close she allowed herself to become to the two men."

Her two daughters testified to a hushed courtroom that they had moved to a different house and missed sitting with their mother on the couch and watching movies. Binkley sits up

proudly as her girls take the stand. Neither of the girls displayed much emotion or distress over their mother's absence.

Sandy Binkley then took the witness stand to beg Judge Gay for leniency.

"I'm truly sorry for the harm I've caused the (victim's) family," she says with a trembling voice. "I can only hope the court will show leniency on me."

In closing arguments, assistant prosecutor Sallie Wade Brown cited an abuse of trust on public property and asked for consecutive sentences due to the severe impact on the 17-year-old victim and especially his 8-year-old younger brother. The state motive in asking for a maximum sentence was to deter other teachers from improper relationships with students. Two other such cases are pending in the county court system.

Brown also urged the court to deem Binkley as one who is unable to be rehabilitated due to her inability to admit her crime.

"She has not taken responsibility for this, and continues to blame the school administration for what she did," Brown added.

Binkley had testified she did not report the alleged rape incident because she was afraid her superiors would do nothing about it.

Defense attorney David Ridings argued that two offenses involving the same act did not call for consecutive sentencing. He also cited the teenage victim for telling inconsistencies in his stories at the preliminary hearing and the trial itself.

"She is a low risk of reoffense," he said. "According to the psychological report, she is not a pedophile nor a sexual predator. She should be eligible for alternative or split sentences. I ask for leniency. She is an excellent candidate for community corrections."

He added a minimum sentence would return her home before her twin daughters finished high school.

He cited the no prior criminal record but conceded she committed the act on school grounds to gratify herself.

"The judge gave her the maximum sentence, and that is what she deserved," said District Attorney Ray Whitley after the sentencing. "It was based on all the evidence, and there was no doubt about the charges. We need a zero tolerance policy for inappropriate contact between teachers and students."

"I can't wait to appeal," said Defense Attorney David G. Ridings. "I had hoped the judge would follow the law and give her the least restrictive measure. He failed miserably at that. This was the most egregious abuse of justice I have ever seen."

Ridings added she had been charged with 10 counts and acquitted of almost everything.

"To run consecutive sentences is abuse."

http://www.portlandleader.net/news/judge-sentences-binkley-to-years/article_75db40fb-bfdf-5759-8a09-0109f7f74c65.html