

THE STATE OF ARIZONA
Plaintiff

CAUSE NO. CR8700863

HONORABLE BARRY G. SILVERMAN

vs.

TODD CHRISTOPHER KOHLHEPP
Defendant

CRIMINAL DIVISION 2

SUPERIOR COURT

PRESENTENCE INVESTIGATION

PRESENT CHARGE: Count I: Kidnapping, a Class 2 Felony and Dangerous Crime Against Children in the First Degree; as originally charged.

PLEA: July 24, 1987.

DEFENSE COUNSEL: Allen Bickart, privately retained.

PRESENT OFFENSE:

The following information is taken from Tempe Police Departmental Report #86-086208:

On November 25, 1986, at approximately 8:56 p.m., a Tempe Police Officer was dispatched to [REDACTED] in Tempe regarding a sexual assault. Upon arrival, the officer contacted fourteen-year-old victim [REDACTED] who related the following information. Earlier on that date at approximately 7:40 p.m., a subject known to her as Todd Sampson, later identified as the defendant, came to her front door asking her to come to the alley behind her house to talk to her ex-boyfriend, Mike. She told the defendant that she could not leave her house because she was baby-sitting her two younger siblings. The defendant returned to the front door three or four more times making the same request. [REDACTED] finally agreed and went to the back gate outside of her home and was approached by the defendant who was pointing a small blue steel handgun at her head. He told her to walk down the alley towards his house located at 2322 South Gary and threatened to kill her if she screamed. While they were walking down the alley, [REDACTED] pushed the gun away from her head. However, she stopped resisting the defendant when he "cocked" the gun and threatened to kill her. They entered Todd's home through the kitchen door and walked into his bedroom where he placed gray duct tape over her mouth. He also tied her hands together with a rope. He then removed her clothes, then his clothes and forced the victim to have sexual intercourse with him. He then allowed [REDACTED] to get dressed and advised her that if she told anyone about the assault, he would kill her and her younger brother and sister who were six and three years old at the time. He also threatened to get her through her parents. He then walked her back home where she contacted police.

Shortly thereafter, the defendant was arrested at his home without incident. When contacted by police, the defendant was holding a .22 caliber rifle which was pointed at the ceiling. When questioned regarding this incident, the defendant fully admitted his guilt and indicated that he used the victim's ex-boyfriend as a ploy to get [REDACTED] out of her house. He conceded that Mike had never been in the area. He also admitted to threatening the victim and her siblings. He related that he removed the .32 caliber handgun from the glove box of the truck parked in the driveway, then replaced it after the incident. The defendant was subsequently taken into custody and has remained incarcerated to date.

The defendant was remanded to adult court on January 19, 1987, pursuant to a transfer hearing held in juvenile court on that date.

RELATED OFFENSES:

Pursuant to the plea agreement in this matter, count I: sexual assault, a class 2 felony and dangerous crime against children in the first degree will be taken under advisement to be dismissed at the time of sentencing. This count is also described in the Present Offense section of this report.

DEFENDANT'S STATEMENT:

The defendant admits his guilt in this offense and indicates that the information contained in the police report is accurate with one exception. After he got the victim into his bedroom, he claims that he returned the handgun to the truck before raping her. Despite his absence, he contends that the victim did not try to get away. He reports that he displayed a knife to the victim and told her to take her clothes off. He states that he did not hold the knife while raping the victim, but it was within reach during the assault. He reports that the handgun belonged to his father and that it could not have been fired. He informed that he bought the rifle from a friend. The defendant relates that he understands what he did was wrong and does not know why he committed this offense. He drank approximately three Coors beers and one or two mixed drinks before committing this offense, but was not intoxicated. He denies any forethought and indicates that he was not thinking and just went and did it. He cannot recall at what point he decided to rape the victim. He proposes that he may have "flipped out" for awhile while committing this offense. He also feels there is a possibility that this was an act of rebellion because he was angry at his father for being out of town. When questioned about his anger, the defendant felt he did have control over it. He states that he is sorry for what he has done and feels his actions were stupid. When questioned how he thinks this offense has affected the victim, the defendant responded, "I have messed myself up too." He voiced a desire to call the victim to apologize. He feels that he should be punished for what he did and he will never do this again.

In regards to his plans for the future, the defendant states an intention to start his life all over again, try to keep out of jail and lead a productive life. He would also like to get a job, possibly in the military and would like to finish his education and go on to college to study in the technical field area. Finally, he would like to help his grandparents on their farm. In regards to sentencing, the defendant states, "Either send me back to juvenile court or give me twelve years or less instead of fifteen." The defendant reports that if he serves twelve years or less in prison, he will still be eligible to get a job in the military. In his favor, the defendant points out that he was only fifteen years old at the time he committed this offense and that this is the only time he has ever been in trouble with the law. He does not feel that fifteen years is fair or that a fifteen-year-old deserves that much time in prison when he has no priors. He also states that he did not know the victim's age at the time of the assault and thought she was sixteen.

STATEMENT OF VICTIMS:

This writer met with the victim, [REDACTED], and her parents, [REDACTED]. During the majority of our interview, the victim was visibly upset and crying and unable to communicate. Her parents relate that the instant offense has had a devastating effect on their entire family. Prior to this assault, they described [REDACTED] as an outgoing and athletic child. However, following this incident, she was afraid to be by herself and refused to sleep in her own bedroom. Both her participation in athletics and her grades in school have deteriorated. For the first time in her life, she failed a course because she could not concentrate. [REDACTED] was also afraid to attend school for fear that the defendant would be released and she would be confronted by him again. Additionally, her mother had to drive her to and from school as she was so afraid. As a result of this assault, [REDACTED] has had to face adult issues, including gynecological examinations and sexual relations. The close relationship [REDACTED] and her mother enjoyed has been impaired due to this offense. Mr. [REDACTED] informs that it was weeks before the marks on [REDACTED]'s arms made by the ropes went away.

This offense has also had a detrimental effect on the victim's younger siblings. Her brother cannot be left alone, even in the same room. He is afraid that "bad men" are out to get him and he has had nightmares. All family members, including [REDACTED]'s parents, have sought counseling because of the assault. [REDACTED] continues to be involved in counseling and may require such intervention indefinitely.

The [REDACTED] describe the defendant as a very violent and vicious person. [REDACTED] was able to inform that during the assault, the defendant shined the knife in her face. They contend that he was well aware of [REDACTED]'s age as he knew what grade she was in. Mrs. [REDACTED] informs that the defendant had no sense of reality and was grandiose in his thinking.

They report that although the defendant had no supervision from his father, Todd liked it that way. When his father was absent from the home, it allowed Todd the freedom to do what he wanted. On the date of the instant offense, the [REDACTED] report that the defendant came over to their home and spoke with them prior to their leaving. They contend that he was well aware of the fact that they were leaving, where they were going and how long they would be gone. They fear what might have happened had their young son not contacted the police as he did. To protect her family, [REDACTED] may have taken the defendant's threats seriously and kept the assault to herself. Additionally, they fear that Todd would have possibly followed through with his threats. They fear for the safety of the community and they are afraid that the defendant may kill someone some day. In addition to the emotional trauma, the [REDACTED] accrued costs which fortunately were covered by their insurance company. They had to pay for the cost of the emergency room, the doctor and prescription medications. They have also paid for counseling at CASA and Kristie's current counselor. ~~They also hired a lawyer and obtained a restraining order against the defendant and his father.~~ They indicate that they are not interested in restitution as their insurance company has covered most of their costs. Disputed ✓

The [REDACTED] would like to make the Court aware of the fact that their trauma has been ongoing. They fear that they may have to move as remaining in the neighborhood continues to be traumatic. In regards to the stipulated sentence of fifteen years, Mr. [REDACTED] feels that the defendant got quite a deal. He would like to see the defendant receive a longer sentence, however, if it means that they have to go through a trial and additional court hearings, he is not interested. Their primary concern is the welfare of their daughter and they feel that the closure of this matter would be the best thing for her. Mr. [REDACTED] does feel that the defendant should have been convicted as a sex offender. They are most concerned about the welfare of their daughter and they would like her to be able to grow up unafraid. The [REDACTED] previously submitted a letter to the juvenile court prior to the defendant's transfer to adult court. This letter is attached to this report for the Court's perusal.

STATEMENT OF REFERENCES AND INTERESTED PARTIES:

Deputy County Attorney Terry Jennings recommends that the plea agreement be followed in this matter. He points out that the defendant has displayed aggressive behavior since the age of nine. He indicates that had the victim's younger brother not contacted the police, it is hard to tell what the defendant might have done. He feels the fact that the defendant used a gun, that he taped and bound the victim and that he has a history of aggressive behavior, represent aggravating factors. He sees the defendant as quite a sophisticated individual, a fact which he feels further aggravates the situation.

TODD CHRISTOPHER KOHLHEPP
Defendant

CAUSE NO. CR8700863

The defendant's privately retained attorney, Allen Bickart, feels that this case should never have been remanded to adult court. He strongly proclaims his intention to take this matter to the United States Supreme Court. He feels the defendant has received cruel and unusual punishment. He feels this case is an abomination of the criminal justice system. He strongly feels that the defendant's father should have been prosecuted in this matter.

This writer contacted Tempe Police Officer Cable who was the arresting and investigating officer in this matter. She reports that when she arrested the defendant for this offense, he was not scared or worried. His first statement was, "How much time am I going to get for this?" He displayed no feelings and did not care about what he had done. He showed no remorse for his actions. She indicates that it appears that the defendant had no parental supervision as neighbors told her that the defendant's father was always gone from the home. She was also told that the defendant had apparently always had a crush on the victim. Officer Cable explained that once the gun had been cocked, it could have easily gone off and resulted in the murder of the victim. She stated that the weapon was loaded and ready to be fired. She feels that despite the defendant's emotional problems, he was well aware of the illegality of his actions at the time he committed this offense. Officer Cable reports that the victim was quite shaken up as a result of the assault. In regards to sentencing, Officer Cable recommends that the defendant be sentenced to prison.

This officer received a letter from the defendant's mother, Regina Kohlhepp. She indicates that Todd is not a bad boy and never has been. She realizes that what he did was wrong and indicates that he is sorry. She contends that despite allegations that the defendant has been in counseling for most of his life, such is not true. She informs that he underwent counseling for three months and later for eight weeks. She reports that when Todd came to Arizona, they were not very close. However, since his incarceration, he calls her every week, sometimes twice and writes her letters. She feels that they have gotten the closeness back. She states that she loves her child and will do anything that she possibly can to help him. She feels that the defendant is a good boy with a lot of love to give and needs some decent guidance, help and love. She states that he knows he must pay for what he did, but she truly feels that fifteen years is unjust. She relates that he will not be rehabilitated in prison, but will be ruined. She feels that the defendant can make all of this up and become an asset to society if someone will just give him a chance. Finally, she states, "I am also a court reporter and have seen a lot. Never have I seen this happen to a fifteen-year-old child and not even any help offered. They don't stop to think that he even walked the girl home. Does that sound like a dangerous criminal? He even walked the girl home."

TODD CHRISTOPHER KOHLHEPP
Defendant

CAUSE NO. CR8700863

PRIOR RECORD:

JUVENILE:

The instant offense constitutes the defendant's sole contact with the criminal justice system.

SOCIAL HISTORY:

Family: Todd Christopher Kohlhepp is the only child born to his parents, Regina Kohlhepp and William Sampsell. When the defendant was approximately one to two years old, his parents were divorced. According to the juvenile file, when the defendant was approximately three years old, his mother remarried Carl Kohlhepp who had two children from a previous marriage. Mr. Kohlhepp adopted the defendant when he was approximately five years of age. The defendant reports that he never did accept his stepfather and never got along with him. According to the juvenile file, the defendant apparently created problems in his mother's marriage to Mr. Kohlhepp. The Kohlhepps have divorced and remarried on at least two occasions. According to the juvenile file, Mrs. Kohlhepp informed the defendant's natural father that he (the defendant) was experiencing behavioral problems which she felt were the result of him not knowing his real father. Therefore, during the summer of 1982, the defendant went to live with his natural father and indicates that he had not seen him since he was five years old. After the summer visit, the defendant was determined to live with Mr. Sampsell. The defendant's mother related that he (the defendant) threatened her and threatened to commit suicide on several occasions until he got his way. He also completely destroyed his newly remodeled bedroom with a hammer. The defendant reports that when he was twelve years old, he went to live with his father and has resided in Arizona for approximately four years. He relates that he and his natural father fought a lot and he (defendant's father) was physically and verbally abusive towards him. In addition, he was hardly ever home and would be gone for days. He feels that most of the problems he had with his father were his father's fault. He reports that he has only seen his natural father once since he was arrested in November. As contained in the juvenile file, the defendant's move to Arizona was to be temporary as Mrs. Kohlhepp needed time to "get herself together." However, the temporary arrangement lasted over two and one-half years. Indications are that the defendant had been asking his mother to allow him to return to live with her, but she was making excuses to prolong his visit in Arizona. The defendant concedes that he experienced behavior problems while living with his mother and stepfather, but feels that such problems were his own fault. He informs that he gets along much better with his mother now.

Education: The defendant was enrolled in the tenth grade at McClintock High School when he was arrested. He received average to below average grades and

indicates that he could have done better. However, he messed around and was not interested in school. As indicated in the juvenile file, intelligence testing indicated that the defendant could do better, but he lacked the motivation. He reports that he had a lot of disciplinary actions taken against him prior to attending high school. Since high school, he has had to stay after school on only two occasions. The defendant expresses an interest in returning to school to study in a technical field such as aeronautics.

Employment:

<u>EMPLOYER</u>	<u>CITY/STATE</u>	<u>KIND OF WORK</u>	<u>DATES FROM/TO</u>
Billy's Famous for Ribs	Tempe, AZ	Busboy-Dishwasher	Off and on from 1983 to 1986
Burger King	Tempe, AZ	Cook-Prep Cook	Summer of 1986

Health: The defendant advises that he is in good physical health, but does suffer from asthma. He takes medication on an as-needed basis.

Mental Health: Mrs. Kohlhepp informed Juvenile Probation Officer Shirley Twiggs that the defendant has been experiencing noticeable emotional and behavioral problems since he was about fifteen months of age. He has always been mean to other children and when required to interact with them, the defendant did so in an aggressive manner. During nursery school the defendant would destroy other children's projects or hit them. Mrs. Kohlhepp told of incidents where Todd chloroxed a goldfish because he wanted a gerbil instead, shot a dog with a BB gun and was dismissed from boy scouts on two occasions for being too disruptive within the group. Prior to his moving to the Valley, the defendant's mother bought him new clothing. Two days after he left, she found the clothing cut into shreds and hidden underneath the sofa. Mrs. Kohlhepp further related that the defendant has always had trouble with authority figures, mainly male authority figures. She stated that she had completely exhausted her finances providing counseling and any service she felt would help. She feels she has done everything possible to help Todd and feels there is absolutely nothing else she can do. Mr. Sampsell informed Ms. Twiggs that the only emotion Todd seemed capable of showing was anger. On many occasions, he had to reprimand Todd about being a bully, especially with younger children. He apparently purchased Todd model kits and attempted to teach him to build things, but the defendant was unwilling to read directions and would either throw the model pieces in the trash, or begin building a model and would later destroy it. Mr. Sampsell stated that Todd would also wreck models he had built and also destroyed a stereo that was purchased for him. Mrs. Kohlhepp also informed that the defendant threatened her that he was going to live with his natural father and if he must kill her to get there, then that was what he was going to do.

As indicated in the juvenile file, Probation Officer Shirley Twiggs was contacted by [REDACTED], a neighbor and witness mentioned in the police report. She related that the defendant could be described as "a devil on a chain." She felt that the defendant appeared to be starved for affection and attention and that Todd would generally use inappropriate methods to get such attention. During conversations with Todd, it was obvious to her that he was obsessed with sex and weapons. He was also obsessed with hurting others. [REDACTED] informed that on one occasion, Todd locked her son in a dog kennel cage and rolled it over and over. Despite the fact that her son was crying and screaming, Todd was laughing. On another occasion, the defendant had her son by the hair and was banging his head against clay pipes.

In regards to the instant offense, Mrs. Kohlhepp informed Shirley Twiggs that she was not surprised about the violence of Todd's act, namely his threatening and having a gun. She was surprised regarding the sexual act as Todd had always seemed unsure of himself in that way. She informed that she had received several letters from Todd since his incarceration in which he wrote that he was sorry for what he did. However, she did not believe him and felt that he had absolutely no remorse regarding the offense. She felt that his only concern was to get out of custody and have his things, including his knife and gun, shipped to South Carolina.

The defendant was examined by Dr. Roger Martig on December 4, 1986, as a result of a pending transfer hearing. Dr. Martig sees the defendant as an individual who is extremely self-centered. During testing, the defendant came across as being extremely touchy, defensive and attempted to gain control over the situation by being rather demanding. Results of intellectual testing revealed that the defendant is in the above average range of intelligence, even near superior range. Psychological testing revealed that the defendant is an individual with high levels of antisocial personality functioning. Although he is not psychotic, he possesses severe underlying emotional issues which could result in an emotional deterioration in the future or continued aggressive behavior towards others. Dr. Martig reported that projective testing indicated severe underlying emotional issues while subjective testing indicated an individual with pronounced signs of family discord and a person who is not willing to take responsibility for himself. Test data indicated that Todd is distrustful of others and is naive in his understanding as to how his behavior affects others. Socially, Todd's evaluation indicated that he felt alienated from others and especially has difficulty dealing with any type of authority figures. Dr. Martig states that behaviorally, Todd's evaluation demonstrates he is an individual who does show some signs of psychomotor acceleration and signs of a great deal of ego inflation defense mechanisms in order to bolster feelings of low self-esteem and inadequacies. He feels that the defendant is demanding behaviorally, self-centered, and likely will attempt to force others to do what he wants them to do in order to meet his own egosyntonic needs. Dr. Martig diagnosed the defendant as displaying an undersocialized aggressive-type conduct disorder and antisocial and

narcissistic personality characteristics. He rates the potential for the defendant to act out in the future as being moderate to moderately high. Due to his distrust of others and his own exploitive personality characteristics, the acting out potential is increased. Dr. Martig concluded that the potential for reasonable rehabilitation on the part of the defendant was within the moderate range at that particular time. The defendant was not found to be mentally defective or deficient and therefore, placement in an institution which serves such individuals, was not thought to be necessary.

The defendant was involved in eight sessions of individual therapy from December 8, 1982, until May 12, 1983, with Dr. William M. Baker of Behavioral Evaluation Centers. Todd was referred to Dr. Baker because he was not getting along with other children at school and was frequently in trouble for his oppositional behavior. Initially, the defendant was angry and resistant to therapy but was eventually able to admit that he did not like himself. He eventually understood how he picked on other children and used critical forms of humor with them. During therapy, the defendant's disruptive behavior showed occasional improvement, but not consistent improvement. During his interactions with Dr. Baker, the defendant was able to accept criticism about his own behavior, to attempt to make changes and was able to develop a good working relationship.

Substance Use: The defendant describes his use of alcohol as moderate and indicates that he will drink very small amounts of alcohol on a social basis and does not like to get drunk. He denies ever experiencing any problems related to alcohol.

The defendant has never experimented with or been addicted to any illegal substance.

FINANCIAL STATUS AND EVALUATION:

Due to the defendant's current incarceration, he is earning no income. He lists no assets, expenses or liabilities. Pursuant to the plea agreement in this matter, the defendant is to pay a \$100.00 felony assessment to the Victim Compensation Fund. There is no restitution to be garnered in this cause.

The probation officer has considered the following factors in determining the manner of payment:

1. Defendant's age: sixteen.
2. Defendant's income: zero.
3. Defendant's assets: zero.
4. Defendant's education: ninth grade education.
5. Defendant's obligation to support dependents: none.
6. Defendant's employment history: sporadic.

TODD CHRISTOPHER KOHLHEPP
Defendant

CAUSE NO. CR8700863

7. Defendant's prospects for employment: good.
8. Others: none.

DISCUSSION AND EVALUATION:

Awaiting sentencing on the charge of count I, kidnapping, a class 2 and dangerous crime against children in the first degree, is sixteen-year-old Todd Christopher Kohlhepp. He admitted participation in the instant offense and noted that he and the victim "had sexual intercourse." The defendant claims to understand what he did and claims that he is sorry for the pain inflicted on the victim. This writer viewed the defendant as an extremely cold and somewhat callous young man, who has no comprehension whatsoever of the devastating effects of his own violent and aggressive behavior. It is felt that the instant offense was premeditated, as the defendant was well aware that the victim's parents would be gone for the evening. Aside from that fact, is the issue that the defendant had to coerce the victim out of her home. In the course of the assault, the defendant threatened the lives of the victim's family, apparently in an attempt to gain additional control.

There is little question that the defendant is the result of an extremely dysfunctional childhood. He apparently harbors a good deal of resentment toward family members and, as a result, has displayed outwardly aggressive and violent tendencies. The defendant has been a behavior problem for a good deal of his life. He has been referred to psychologists and psychiatrists on at least three occasions since he was nine years old. The common thread contained in all of the evaluations is the defendant's acting out. It would appear that his behavior has been progressively worsening and now, it has escalated to the point where he has sexually assaulted an innocent child. One can only speculate as to where the defendant's behavior will lead. It is this writer's opinion that it is this type of individual, one with little or no conscience, who presents the greatest risk to the community.

It would appear that, aside from the instant offense, the defendant's prior behaviors have not come to the attention of the criminal justice system. This writer does not find that particularly surprising, as the defendant is only sixteen years old. He has apparently never been afforded the benefit of juvenile probation nor has he ever been incarcerated.

This writer has reviewed the plea agreement and feels that it is a travesty of justice that the defendant has pled to a nonsexual offense. Had he pled to a sexual assault charge, the community would at least receive the benefit of the defendant's registering as a sex offender. However, in an effort to avoid traumatizing the victim or her family any further, it is hoped that the Court can provide closure of this matter as soon as possible. Hopefully, the Board of Pardons and Parole will find a way to place the