

New trial granted in molestation case

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A former Rochester Hills man who has been behind bars for six years, convicted of molesting a child family member, was granted a new trial Thursday after a judge ruled his defense attorney did not adequately represent him.

Jacob Trakhtenberg, 73, was convicted of second-degree criminal sexual conduct during a 55-minute bench trial in 2005. His court-appointed attorney, Deborah McKelvy, declined to ask for a jury trial, did not make an opening statement and called no witnesses except Trakhtenberg — who denied the charges.

Then-Oakland County Circuit Judge Deborah Tyner

found him guilty and sentenced him to 15 years in prison.

On Thursday, Circuit Judge Daniel P. O'Brien ruled that McKelvy provided ineffective counsel to Trakhtenberg and that he should get a new trial. O'Brien set a trial date for Nov. 1.

Trakhtenberg was not in court Thursday and remains in prison. One of his attorneys, James Elliott, said he planned to notify Trakhtenberg — who steadfastly has continued to maintain his innocence — of the news today.

"He's been in prison a long time," Elliott said. "He deserves some good news."

Trakhtenberg passed up a chance at probation in January

because he has refused to take responsibility for the crime, a requirement of the parole board. Elliott said Trakhtenberg will refuse to admit guilt, even if he is required to serve out the full sentence.

His appellate attorney, Robyn Frankel, said she would seek to have Trakhtenberg released on bond pending the new trial.

Trakhtenberg was arrested on the charges after his ex-wife made allegations, and the child was interviewed by police. Within weeks of his conviction, his ex-wife filed a civil suit, seeking Trakhtenberg's \$5-million estate.

Elliott represented Trakhtenberg during the six-day civil trial. During that trial, El-

liott questioned the ex-wife and child on the stand, and provided expert testimony on how suggestions can be introduced to children in sex cases. Jurors found in favor of Trakhtenberg and declined to award damages to the ex-wife. A juror at the time told the Free Press that he believed the child had been coached by the ex-wife.

Trakhtenberg subsequently took a polygraph while in prison, and passed.

Attorney McKelvy did not immediately return calls Thursday to her cell and office phones. Trakhtenberg has sued her for malpractice. That case is pending in the higher courts.

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