

Woman sways judge to spare husband of harshest sentence

Man will receive 364 days in death of stepdaughter

BY MISSY DIAZ
STAFF WRITER

After three hours of testimony from Scott Wynkoop, previously convicted of negligence in the 2005 death of his 9-year-old stepdaughter, and a host of his co-workers at a Boca Raton health-care company, it was time for Circuit Judge Lucy Chernow Brown to announce Wynkoop's sentence.

The judge had heard what a kind and charitable co-worker Wynkoop was. How he sank into a dark hole after the death of stepdaughter Saman-



Scott Wynkoop drove around railroad railings in front of a train with his 9-year-old stepdaughter in the backseat.

tha Rosales, whose artwork and photographs covered his office walls. How he and his wife, Marissa, started an organization called Angels to the Rescue to honor Samantha's memory. How he contemplated suicide to ease his pain, deterred only by his religious beliefs. He looked forward to the day he and the little girl could reunite in heaven, they said.

State guidelines called for a prison term of 9½ to 15 years for driving his Mazda around railroad gates as an oncoming freight train barreled toward him with Samantha in the back seat. But Wynkoop's lawyer, Ken Lipman, asked for leniency, saying his client is full of remorse and that defects at the crossing gate — including an inadequate warning horn and gates that didn't fully cover both lanes — should mitigate his sentence.

Wynkoop, 42, maintains that he didn't hear the train's horn or see the flashing lights at the intersection. Marissa Wynkoop begged for mercy, saying her husband was all she had left and she would be devastated both financially and emotionally.

■ WYNKOOP CONTINUES ON 2B



AFTER VERDICT: Scott Wynkoop's wife, Marissa, said she would be devastated financially and emotionally if Wynkoop was not given leniency in his sentencing in the death of her daughter, Samantha Rosales. "He's the only family I have," she said as she clutched family photographs. Pool photo/Bruce R. Bennett

Wife's testimony sways judge

WYNKOOP

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Prosecutor Ellen Roberts argued strongly for a 9½-year sentence. Wynkoop had an excuse for everything, she said, including blaming a spiked drink on causing him to get a DUI in Ohio in 2000.

He never acknowledged trying to beat the train despite witness testimony that it was obviously approaching, she said. She didn't question that Wynkoop is saddened by the loss of Samantha, whom he considered his own. But he broke the law and should pay the consequences, she said.

"He is not remorseful," Roberts argued. "He's sorry he got caught."

After taking a recess to ponder her decision, Brown resumed the bench as the packed courtroom waited. Moments earlier, Wynkoop and friends huddled in a circle reciting prayers.

Brown didn't buy any of Lipman's arguments for her to depart from state guidelines. But Marissa Wynkoop's plea

had moved her. Her decision: Ten years in prison, but she would suspend the sentence and place Wynkoop on 10 years of probation with a special condition that he serve 364 days of long weekends in the Palm Beach County Jail. No exceptions, no excuses. It will take 91 weeks to complete. If for any reason he shows up late to jail or arrives intoxicated he will do the full 10-year term, the judge warned.

Seated behind her husband, Marissa Wynkoop broke into tears.

The sentence was nearly identical to a plea deal Wynkoop had been scheduled to take in February, but which was nixed by Samantha's biological father, Gustavo Rosales, who came to Palm Beach County from Mexico to voice his disapproval. Gustavo Rosales wanted the maximum sentence for Wynkoop, so Roberts rescinded the offer. Instead she offered him five years in prison followed by five years' probation.

He declined and opted for a

trial. The following month a jury convicted him of manslaughter by culpable negligence.

Outside the courtroom, a tearful Marissa Wynkoop expressed her gratitude at the judge's decision.

"He's the only family I have," she said as she clutched family photographs of her with her daughter and Wynkoop. "I lost my mother, my father."

A perspiring Wynkoop emerged from the courtroom to a throng of TV cameras and reporters with questions about the sentence.

"It doesn't bring Samantha back, but it gives us the chance to keep her memory alive . . . and to pay our mortgage," he said. "We love her and we miss her."

Their life ended the day Samantha died, he said, and "it has been one bad day ever since."

Missy Diaz can be reached at mdiaz@sun-sentinel.com or 561-228-5505.