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Lawyer to seek dismissal of case in which officer's daughter died

By [Diana Hefley](#), Herald Writer

EVERETT -- A Seattle defense attorney plans to ask a judge to dismiss the manslaughter charge against a Marysville police officer whose young daughter was accidentally shot to death by her 3-year-old brother.

Derek Carlile, 31, made a quick court appearance Thursday for lawyers to reschedule trial for Nov. 2. His attorney, David Allen, also notified the court that he plans to file a "Knapstad" motion, asking a judge to find that there is insufficient evidence to prove that Carlile committed a crime.

Prosecutors [charged Carlile with second-degree manslaughter](#) in May. They allege that the off-duty officer failed to heed or be aware of the danger of leaving his four children, ages 1 to 7, alone in a van with a loaded handgun last March. The Camano Island man's negligent actions were the "proximate cause" of the girl's death, Snohomish County deputy prosecutor Lisa Paul wrote.

Investigators believe Carlile's son grabbed a .38-caliber revolver from a cup holder next to the driver's seat in the van. The boy, who was known to be fascinated with guns, reportedly fired the revolver once.

Jenna Carlile, 7, was struck in her abdomen. She died within hours, after emergency surgery.

Allen has [called the shooting an accident](#), not a crime. He said Thursday that the [manslaughter statute](#) "doesn't cover this type of factual situation."

Lawyers are scheduled to argue the motion Sept. 20 in Snohomish County Superior Court.

Meanwhile, both sides will be paying close attention to how the state Court of Appeals rules in another accidental shooting that left an 8-year-old Bremerton girl with life-threatening injuries after a [classmate brought a loaded handgun](#) to school in his backpack.

Kitsap County prosecutors charged the boy's mother and her boyfriend with felony assault, alleging that they were negligent in allowing the boy, 9, to get his hands on the .45-caliber gun.

The boy's mother, Jamie Chaffin, [pleaded guilty to two counts of unlawful gun possession](#). In exchange for her plea, prosecutors dropped the assault charge.

The owner of the gun, Douglas Bauer, is fighting the [assault charge against him](#). His lawyer, Wayne Fricke, asked a Kitsap County judge to dismiss the charge, arguing that his client didn't cause the girl's injuries and therefore can't be convicted of assault.

The judge sided with prosecutors and agreed that the case against Bauer should go forward.

But the state Court of Appeals recently agreed to review the trial judge's decision.

In Washington, there is no specific law regarding potential criminal penalties for adults who make it possible for children to get their hands on guns.

Fricke said on Thursday that he's asking the court to find that under the law his client can't be held responsible for the girl's injuries. Bauer didn't fire the gun or ask the boy to bring the weapon to school. He didn't even know the boy had the gun, the lawyer said.

Fricke said that the court's decision could have possible ramifications in the Snohomish County case because prosecutors have alleged that Carlile caused his daughter's death even though he didn't fire the fatal shot.

The state Court of Appeals likely will hear arguments in the Kitsap County case in late fall or early winter.

Carlile was placed on paid administrative leave after the shooting. Marysville police said an internal investigation will wait until the criminal case is resolved.

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