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## Trooper acquitted of fondling charge

Davenport Photo by: Courtesy Photo

Tim Pratt  
February 7, 2009

STARKVILLE - The highly charged trial of a Mississippi Highway Patrolman had it all this week in Oktibbeha County Circuit Court, from accusations of child molestation and victim intimidation to threats against witnesses and the state trooper.

But the case against Master Sgt. Richard "Dane" Davenport, who is accused of fondling a 14-year-old boy in Starkville in 2007, came to a dramatic conclusion Friday when a jury found him not guilty. The courtroom let out a collective gasp and Davenport, of Vicksburg, put his hands in the air.

"Thank you, Jesus," he said, then hugged his defense team.

Family members of the now-15-year-old accuser sat in stunned silence. Some dropped their heads and wept.

Meanwhile, Davenport's friends, family and church members hugged and grasped hands. The group eventually bowed their heads and prayed together.

"I'm just very, very thankful," Davenport said after he exchanged hugs with roughly a dozen supporters.

### The Starkville incident

Davenport was accused of fondling the teen in a Starkville hotel room on Sept. 23, 2007. Both Davenport and the boy were in town for a Mississippi State University football game against Gardner-Webb University.

The boy's mother walked in on the incident and testified this week she saw Davenport moving his hand in and out of her son's boxer shorts. The teen also testified Davenport touched him in a sexual manner and said September 2007 wasn't the first time it happened, though Davenport claims he was only wrestling with the boy in a playful manner.

The state also brought forward the boy's older brother, who claimed Davenport fondled him on several occasions. Additionally, a 24-year-old man, who is unrelated to the brothers, testified Davenport molested him a half dozen times nearly 20 years ago.

But the state's effort to show Davenport's sexual history and intent wasn't enough for the Oktibbeha County jury as it reached a verdict after 90 minutes of deliberation.



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## Back in Vicksburg

Davenport still faces sexual battery and fondling charges in Warren County for separate incidents involving the same family who testified against him this week in Starkville. He already went to trial in Warren County for the sexual battery and fondling counts in late 2008, but the case resulted in a hung jury. The new trial is expected to begin later this year.

Davenport also was in the Oktibbeha County courtroom before this week. The fondling case initially came to court in October 2008, but resulted in a mistrial due to the introduction of inadmissible evidence.

The proceeding this week nearly ended in a mistrial, as well, when Zelbst asked a witness if she knew the state's 24-year-old witness, who testified earlier in the week, had hired an attorney to recant his allegations against Davenport. The question brought an immediate objection from prosecutor Brandon Ogburn, of the state Attorney General's office, who argued Zelbst was accusing the 24-year-old of giving false testimony in front of the jury. It is unclear if the witness has tried to recant his allegations, but he testified this week he was molested by Davenport in the early 1990s.

Ogburn wanted Kitchens to remove Zelbst from the trial or declare a mistrial. Kitchens said he wouldn't declare a mistrial because "too much time and too much money" already had been spent on the case, so he opted to remove Zelbst as Davenport's lead defense attorney. However, Kitchens did allow Zelbst to make closing arguments for the defense.

It wasn't the first time Zelbst drew ire from Kitchens and Ogburn. Kitchens had to send the jury out of the courtroom more than a dozen times throughout the week as he talked with Zelbst about the improper way he was phrasing questions, leading his witnesses and referencing evidence previously deemed inadmissible. Zelbst, who operates out of Oklahoma, said procedure was slightly different in his home state than it is in Mississippi.

The veteran attorney was in tears after the verdict as he hugged Davenport and the rest of his defense team.

## Courtroom drama

Because Davenport still faces charges in Warren County, he would not comment on the allegations against him, but did say he was "relieved" the trial was complete. The proceeding was full of tense and emotional testimony.


Throughout the past week, it was revealed the girlfriend of one of Davenport's accusers had sent threatening text messages to a witness for the defense. Additionally, the accuser pointed his finger like a gun at Davenport after a previous trial. Davenport felt threatened and the accuser admitted to the threatening incidents this week in court.

After the verdict, Davenport's accusers quietly left the courtroom. The 15-year-old who says Davenport molested him in 2007 struggled to hold back tears.

The boy's mother, who was in tears while giving testimony earlier this week, left in shock. The family must now prepare for Davenport's next trial in Warren County.

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 sad case commented at 2/10/2009 1:02:00 PM:

A band teacher was accused of fondling a boy at heritage and got nearly 35 years. Yet this trooper had more than 2 people say they got molested by him and he gets nothing! I wonder if i join the force can i get away with alot of bad stuff, but good thing i stay out of trouble especially crooked cops like him who gives police officers and troopers bad names

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