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Photo by LESLIE MANNING / LNR

Justin Boardman, Jason Smith, Mandy Smith and Madison Smith hold clipboards with a petition of signatures. The petition will start the process to convene a grand jury for a criminal case Madison would like to see charged as a sex crime.

Petition drive held to collect signatures calling to convene a grand jury

by LESLIE MANNING / LNR

On Sunday, May 31, supporters of Madison Smith held a petition drive, gathering signatures calling for the McPherson County Court to convene a grand jury to investigate and appropriately charge the case of State of Kansas vs. Jared Peter Stolzenburg (19-CR-202). Supporters included her parents, Jason and Mandy Smith, and Justin Boardman, a former special victims unit detective out of Utah.

"When you've done all the things you can do, you are forced into a last ditch effort," said Jason Smith. "It's been an overwhelming response. It's enough to bring tears to your eyes, because it matters to them because it matters to you."

The petition will request a grand jury investigation, as the Smith family thinks that McPherson County Attorney Gregory Benefiel has inadequately charged the case. With 335 signatures of McPherson County residents, the petition can be filed with the county courts to request a grand jury be convened to review the facts and investigate. This petition strategy is

set forth by Kansas Statute Chapter 22, Article 30.

Forcing the last ditch effort

On February 11 of 2018, Madison Smith reported that she and the suspect began engaging in consensual sexual intercourse for the first time when the suspect, without warning, repeatedly slapped her across her face and strangled her with both hands several times. When Madison tried to remove the suspects hands from around her neck but was unable to, he squeezed harder when she struggled until she started to lose consciousness. The encounter left visible marks on her body.

Madison consulted her friends the next day, and her best friend helped her tell her parents. Her parents immediately called the Lindsborg Police Department to file a report. The Lindsborg Police Department called Salina Regional Health Center for Madison to have a SANE (Sexual Assault Nurse Examiner) - SART (Suspected Abuse Response Team) exam

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PETITION

County attorney changes his mind three times before filing charges

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completed.

"To my understanding, what they head of the SANE-SART team, was there was sufficient evidence to file sexual assault charges," said Madison.

Within a week of the assault, communication began between Madison and the McPherson County Victim/Witness Coordinator, Dwila Busse, to set up a meeting with the county attorney. On March 20 of 2018, the McPherson County Attorney, Gregory Benefiel, called to set up a meeting.

"He told me he wasn't filing charges, because it was immature sex," said Madison.

Unsatisfied with Benefiel's response to the situation, Madison's mother, Mandy, went to Benefiel's office to question the lack of charges on March 28 of 2018.

"I was just heart broke," said Mandy. "I ended up taking two and a half hours of the day explaining the laws how I understood them, and expressed my concern about his lack of judgement."

On April 2, Benefiel called Madison to schedule a forensic interview.

"A forensic interview is meant for child victims of sexual assault to surface details of the crime, bring up memories that might be suppressed," said Madison. "I don't think I said anything new between the Lindsborg Police Department report and the forensic interview."

The forensic interview was done on April 24. On May 18, Benefiel scheduled a meeting with Madison to communicate that the charges would be aggravated criminal sodomy and aggravated sexual battery.

"He said rape was not a charge because I didn't verbally say no," said Madison. "But, it's pretty hard to say no when you're being strangled. I was terrified. I thought I was going to die. I don't think I ever felt a fear like that before."

According to Madison, a Title 9 investigation was also done by Bethany College in the spring of 2018, as the incident happened on Bethany campus. Madison reported the incident to Bethany College on February 13 of 2018, meeting with the Title 9 investigator on February 14. On March 2, the college investigation was completed.

"I felt so incredibly happy that I was getting some form of justice," said Madison. "They did everything they could to protect me."

Stolzenburg was eventually dismissed from Bethany College due to the Title 9 investigation.

The case with the county attorney's office was at a standstill between May of 2018 to September of 2019, with Benefiel not filing charges until late September. The charges in the case had been filed as aggravated battery due to the strangulation.

"He doesn't think that the jury pool is smart enough to know that you can revoke consent after you've given it," said Mandy. "He doesn't think he can win a sex crime case."

Benefiel was unable to respond to questions regarding his decisions.

"As a prosecutor, we have special rules that limit discussion of cases outside of the courtrooms," said Benefiel. "Since this case is pending, I'm not at liberty to comment about it."

Madison Smith and her parents hope to file the petition with the office of the clerk of

the district court by Monday. They collected around 180 signatures on Sunday, but will need to weed out signatures that are not registered McPherson County voters. The petition will be given to the county election officer, who will have to go through the signatures one at a time to look up their records and verify they are voters.

According to Kansas Statute Chapter 22, Article 30, a majority of the district judges may order a grand jury to be summoned if it is determined to be in the public interest.

"We'd love to have more than 335 to make our point," said Madison.

McPherson County registered voters wanting to sign the petition for grand jury to investigate and appropriately charge case State of Kansas vs. Jared Peter Stolzenburg (19-CR-202) can sign petitions located at Lindsborg Nutrition, Ol Stuga, The White Peacock and Smoky Valley Winery. Mandy Smith, Madison's mom, is also willing to bring a petition to interested signers, and she can be reached at 785-787-9044 or by email at msmith7558@gmail.com.