

Cat killing can be used to judge murder suspect's truthfulness, judge rules

[By Mark Hayward New Hampshire Union Leader](#)

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MANCHESTER — Now that truthfulness has become a key factor in the trial of child-murder suspect Mark Heath, a jury will likely hear that he lied to police about killing a cat more than a decade ago, a judge has ruled.

The ruling came Tuesday, a day after the murder trial started in Hillsborough County Superior Court. In opening arguments on Monday, Heath's defense lawyer told a jury that the mother of Jacob Pelletier could be responsible for his death.

Pelletier was 2½ years old and lived with his mother, Alisha Pelletier, his older brother and Heath in a Howe Street apartment. That's where he died in December 2017 while alone in the apartment with Heath while his mother went to work.

Defense lawyers have said Heath was in his own room most of the time and had little contact with Jacob, and that his mother could have injured the boy before going to work.

In casting doubts on Pelletier's version of events, Heath's lawyers have opened up the question of truthfulness for both sides, Superior Court Judge Diane Nicolosi ruled on Tuesday.

"The defense opened its case as expected, pointing the finger directly at Alisha as being the murderer and endorsing his (Heath's) denials of responsibility with the contention he was cooperative and forthcoming during the investigation," Nicolosi wrote. "In doing so, he pits his credibility against Alisha Pelletier's."

The judge said the cat abuse denials are evidence of a "clear and indisputable lie" when it comes to Heath's violence and aggression.

After starting on Monday, the trial stalled over the last two days. On Tuesday, Nicolosi devoted her day to drug court cases. And on Wednesday, she entertained a hearing on sealed motions.

Although she agreed to unseal the motions in open court, those were not available Wednesday.

The trial is expected to resume Thursday morning.

The cat story came up during a police interview with Heath on the day of Jacob's death.

Heath said he didn't have a violent bone in his body. He downplayed a domestic violence conviction and denied any history of aggression.

When police asked if he had ever thrown a cat, he denied that and said he was convicted of animal cruelty in 2004 because he took the blame for a friend.

But during a recorded jailhouse conversation last month, Heath told a visitor: “I got attacked by a cat and I kicked the bastard. I wasn’t trying to hurt it, I was trying to get it away from me. Well, it died, it broke its neck, it was not intentional and I got a class B felony for cruelty to animals,” he said.

In her ruling, Nicolosi said it would be important for the jury to hear how Heath created an “elaborate story” when asked by police about the cat.

“His facility at creating falsehood in the moment ... out of whole cloth is critically important for the jury to hear,” she wrote.

Nicolosi said she will instruct jurors that they should not hold the cat killing against Heath. Rather, they can use his denials to police to judge his credibility and feelings of guilt.