WINNER OF THE

1991

PULITZER PRIZE

FOR FEATURE WRITING

SPECIAL SOUVENIR SECTION

Sunday
April 14, 1991

St. Petersburg Times

Last week, Times staff writer Sheryl James won the 1991 Pulitzer Prize in feature writing for *A Gift Abandoned*, a four-part series published Feb. 18-21, 1990, in the Floridian. In this special souvenir section, we're reprinting the series, plus an epilogue that updates this compelling human story that won journalism's highest honor.

■ An alarming number of newborns are being abandoned in the Tampa Bay area. Some have died, discarded in dumpsters. Others have been wrapped in towels and left for someone to find. Why is this happening? In this four-day series of articles, we focus on one mother who abandoned her baby. As this case shows, there are no clear-cut explanations; there are only observations, theories and, very often, regret.

Times photo — VICTOR JUNCO

THE CHILD: On April 28, 1989, the day after he was found in a box near a dumpster in the Tampa suburb of Temple Terrace, this 7-pound, 7-ounce newborn boy was photographed at Tampa General Hospital. Nurses called him Jack-in-the-box.

A GIFT ABANDONED

By SHERYL JAMES

DAY ONE

Jack-in-the-box

TEMPLE TERRACE

That day, Ryan Nawrocki was just an ordinary sixth-grader living an ordinary life. He was 11 years old, with blond hair that hung straight and heavy on his forehead. He was a stocky kid, and it was easy to imagine him carrying a baseball mitt or playing video games after dinner. That day, Thursday, April 27, Ryan strode across the street from his house in Wildwood Acres, a complex of shoe-box-shaped duplexes on streets that curl into other streets lined with more shoe boxes. He headed toward a small courtyard where his 16-year-old sister, Melissa, was doing laundry in a small community building. Walking along a worn foot path, he passed the dumpster and a large oak tree.

He heard something. A kitten?

His eyes followed the sound to a videocassette recorder box lying on the ground beneath the oak tree about 10 feet from the dumpster. The flaps of the box were closed but unsecured. Ryan walked over to the box. He opened the flaps.

It was a painful, jolting sight: a newborn baby marked with dried blood and a cheesy substance, lying on a bloody towel. The baby gnawed on its fist and cried again.

Ryan tore over to the laundry room.

"There's a baby in a box over there!" he told his sister.

"You're lyin'," she replied.

"No, I'm not!"

His sister peered at Ryan, unsure. Then she stopped stuffing clothes into the washer. "If you're lyin', I'm gonna kill you," she announced, walking out the door.

Moments later, she reached the box. *"Oh, my God."*

Melissa rushed across the street to her apartment. Inside, her mother, Lisa Nawrocki, was watching *Night Court* on television. She looked up as her daughter ran in. The girl was almost hysterical. Melissa told her mother what they had found.

Call 911, Lisa Nawrocki said. She told Ryan to bring the box over, but Ryan said, "I can't look at it! I can't look at it!"

His mother walked across the street, brought the box back and laid it on her living room floor. A licensed practical nurse, she checked the baby's vital signs. Melissa was too upset to speak plainly on the phone. Her mother took the receiver.

The baby was a boy, she told the 911 operator. His color was good, and he didn't seem to have any respiratory problems. His mother, whoever she was, must have cut his umbilical cord and tied the end off with blue thread or fishing line.

An ambulance was on the way, and Melissa ran next door to borrow a diaper from their neighbor, who had 1-year-old twins. Lisa carefully wrapped the child in it; the diaper nearly swallowed him, reaching from his kneecaps to his chest. It made him look even more pitiful, Lisa thought, as she picked him up and wrapped him in a plaid blanket.

She rocked and talked softly to the baby. The ambulance arrived within minutes — too soon for Lisa. She felt as if she could have held that baby forever.

The emergency services technicians, a man and a woman, came in. They checked the baby and fired off questions: Who delivered the baby? Did you name him? They seemed a little cold, Lisa thought. She placed the baby on the stretcher. He was sucking his thumb. The technicians put the stretcher into the ambulance and then drove off to Tampa General Hospital.

By then, things were hectic. Police lights flashed outside. Officers came in to interview the Nawrockis. Reporters and television cameras swarmed around with lights, microphones and notebooks. Neighbors streamed in. Everybody was asking questions. The same questions;

Who was the mother? The University of South Florida was nearby; was she a student, afraid to tell her parents, deserted by her boyfriend? How could any mother do such a thing? She oughta be strung up, someone said.

God only knows what was going on in her mind, Lisa Nawrocki thought. *I hope she gets help because she needs it. I'm going to wonder about this baby for the rest of my life. I hope whoever adopts him never tells him he was found by a dumpster. That's a heck of a way to start life: Your mother threw you away.*

■ ■ ■

Detective Dennis Hallberg of the Hillsborough County Sheriff's Office got to the scene soon after the baby was found. After talking to the Nawrockis, he and other deputies swung into action. Speed was important. A woman had just given birth. She was most vulnerable, most likely to be found, right now.

Hillsborough County Health Department clinics were asked to look out for any white, female walk-ins. Meanwhile, officers knocked on neighborhood doors. Have you seen any pregnant women recently? they asked. Do you know any women who are expecting?

Continued on next page

THE SERIES

Day One: Jack-in-the-box

■ On April 27, 1989, a boy finds an abandoned newborn in a box near a dumpster in the Tampa suburb of Temple Terrace. Detectives begin their search for the mother as an angry public asks: How could she do this?

Day Two: 'Love me, don't leave me'

■ On May 8, an anonymous call leads detectives to a duplex in Wildwood Acres Apartments, where the baby was found. The woman who answers the door is not quite what Detective Larry Lingo – or anyone else – expected.

Day Three: Taking the stand

■ In August, defense attorneys representing the baby's mother expect probation and court-ordered counseling. They end up with a three-day trial and Hillsborough Circuit Judge Harry Lee Coe III.

Day Four: Judgment Day

■ Why did the mother risk having a baby unattended? Why did she save him by tying off the umbilical cord – and then abandon him? At a September sentencing hearing, a psychiatrist tries to explain. Six weeks later, the mother talks about what happened.

ST. PETERSBURG TIMES
SUNDAY, APRIL 14, 1991

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Day One: Jack-in-the-box

Continued from previous page

One person said there was a pregnant woman who lived over on Marta Drive. The officers found her; she was still pregnant. Someone else saw a young woman holding a baby on the corner earlier in the day. The deputies found her — and her baby.

Detective Hallberg studied the scene, trying to reconstruct what may have happened: A white woman had a baby. She cut and tied its umbilical cord, preventing the baby from bleeding to death. She placed the baby in a box. In broad daylight, she put the box under a tree, alongside a path that people used to go to the laundry room, about 50 yards away in a courtyard.

Did she walk here? Drive? Was she alone? Was she a scared, young kid? A cold, selfish woman? Was she locked in a terrible relationship with the father? Did she plan all this? Did she panic? Was she somewhere watching right at this moment?

■ ■ ■

At Tampa General Hospital, they called him Jack-in-the-box. They put him under a warmer to stabilize him, fed him and gave him routine injections. They dressed him up. The nurses fell in love with him, all 7 pounds, 7 ounces of him, especially Tina Davis. She helped care for him that night and the next day. She had worked with infants there for three years, but she felt different about this one.

He was such a *gift!* She just couldn't believe it. She and her husband had been trying to conceive a child for a long time. And here, she thought, some woman had this baby and just walked away.

■ ■ ■

Later that Thursday night, around the corner from where the baby was found, at 5812 Mar-Jo Drive, Judy Pemberton, 42, quietly watched television. Cats and kittens played here and there in the two-bedroom duplex apartment.

At 10:30 p.m., Judy's live-in boyfriend, Russell Hayes, 28, came home from his job at a nearby restaurant. He was a big, red-headed fellow with a ruddy, boyish face and small, serious eyes. He asked Judy how she was feeling. She looked better than she had that morning. Her blond, shoulder-length hair was softly curled, and she wore her normal, loose-fitting clothes. But there were circles under her deep-set, blue eyes.

Judy said she was feeling much better. "I finally started my period," she said. The cramps were gone. She got up to fix Russell dinner.

Russell was relieved. For the past 24 hours or so, Judy had been suffering terrible cramps. She even called in sick to work, the first time she had done that in nearly a year. She told Russell she was going through menopause. She hadn't had a period in 11 months. This was all part of it. You missed periods, then you had one, then you missed more. Don't worry.

People had been worried about Judy, though. Russell knew that. A few people had even wondered if Judy were pregnant. One of Russell's outspoken aunts had asked Judy outright. Judy said no. About three weeks earlier, Russell's other aunt, Mary Duncan, who had raised Russell from the time he was 5, talked to Russell about Judy's condition.

"Russell, something is wrong with Judy. Is she pregnant?" Mrs. Duncan said.

"No, not that I know of," Russell said.

"Well there's somethin' wrong with her. She needs to go to the doctor. Would you please talk to her?"

When Russell talked to Judy, she said, "No, I'm gettin' tired of people askin' me that, no I'm not pregnant.' "

Then, last night, Judy was in terrible pain at the bowling alley. Her friends were worried about her because she could hardly bowl. One woman found Judy in the bathroom doubled over in pain. Judy was worried, too, and asked her sister-in-law, Marcie Gilbert, who was also the bowling alley manager, to take her to the hospital if she got worse.

"I'm cramping so bad I can't hardly stand it," Judy told her. "I feel like I want to start (my period), but I can't."

"Judy, *quit bowling,*" Marcie said. "If you're trying to start and having major problems, don't bowl." Marcie knew Judy had not had a period in months. She had asked Marcie often about menopause.

"Maybe it's a cyst," Marcie said. "Judy, let's go to the doctor tomorrow."

"I can't afford it," Judy said. "I can't afford to skip work."

"You can't afford to be dead, either. If you've got something going on inside your body, nobody can see it but a doctor."

When Russell picked up Judy that night, Marcie made him promise to take Judy to the hospital if she didn't feel better.

But Judy said she was all right. And now, as she fixed dinner, she seemed fine. The couple ate, and then fell into bed by 11:30 p.m. Both of them were dog tired.

Friday morning, Judy went to work. For the past year, she had been a general receptionist at Hallmark Packaging Corp., on nearby 39th Avenue N. She wore one of the same outfits she had worn often in the past year — a striped blouse worn out over a pair of slacks. When she got to the office, everyone was talking about the baby that was found by a dumpster in Wildwood Acres. They were outraged. Personnel manager Kim Clark and Hallmark president Vincent Tifer stood by Judy's desk, and they all discussed it.

"They should hang the woman by the damn neck," Tifer said.

"How could any mother do this?" said Kim Clark, personnel director.

Judy loved children. She had recently brought to work the cute clothes she bought for her little granddaughter. Judy agreed with Clark and Tifer. How could any mother do this?

■ ■ ■

The news about this baby was distressing not just because it was a disturbing crime, but also because it was getting to be such a common one. In the previous two years, news stories about babies left in boxes, garbage cans, trash bins, cars and baskets have popped up with numbing frequency. In the 10 months since this baby was found, five others have been abandoned in the Tampa Bay area, including a baby dubbed "Seminole Sam" who was left on the doorstep of a Seminole Catholic Church last week. Each case is tragically unique, and yet part of a phenomenon, ugly and terrifying, that people simply do not understand.

Last March, a baby was found dead next to a Tampa trash bin. The previous fall, a baby was left outside an apartment complex; he survived. Before that, another dead infant was found near a dumpster. The year before, a baby was found dead in a motel trash can. Across the state, near Fort Lauderdale, a police officer saved a baby thrown in a dumpster by sucking mucus out of its mouth; the same man had saved another baby a year before.

Some mothers have seemed more caring, leaving their babies in places where they would be found. One baby boy was left, wrapped in a quilt, in a Sarasota hospital parking garage. Another was left in a north Naples sheriff's department substation. One boy was left in an unlocked car in Fort Pierce. He was wrapped in a sweatshirt sleeve and blanket, and his mother left a note: "My husband is on drugs and because of it I became on drugs, too. I don't want to give my baby away, but he won't be brought up right. I cleaned him up. May God forgive me."

Across the country, it's the same thing. Mothers leaving babies in odd places, or just tossing them away. How many? No one knows. No one keeps count. No federal or state agencies keep track of how many babies are abandoned. Such cases are usually included in child abuse and neglect figures.

Only one organization — the Denver-based American Humane Association — has studied child abandonment to any degree.

The Association estimates that abandoned children make up about 1 percent of all child abuse and neglect cases. Using that measure and survey results from 20 states, the Association estimates that 17,185 children were reported abandoned in 1986. That figure includes all children up to age 18 abandoned by their parents in one way or another. In Florida, 2,226 children through age 17 were abandoned from June 1988 to July 1989.

Since reports of child abuse and neglect have risen 225 percent since 1976, the Association assumes that child abandonment parallels that increase. How many of these are newborn infants? That is impossible to guess. In a March 1987 article on baby abandonment, writer Jo Coudert found 600 newspaper accounts of babies who were thrown into dumpsters, toilets and other such places in 1986.

This was just a "pieced together" survey by one writer. How many other abandoned babies are not reported or written about? How many are never found at all and end up ignominiously in the nation's landfills?

■ ■ ■

At 10 a.m. Friday, April 28, the day after the baby was found, detectives Larry Lingo, Albert Frost and Michael Marino decided to search the dumpster. The garbage pickup was late that day. The dumpster had not been taped off as part of a crime scene. It had yet to occur to the detectives there was a connection between the baby, placed 6 to 10 feet from the dumpster under the tree, and the dumpster. If garbage trucks had come at their customary time, the dumpster would have been empty.

Instead, it was half full. Detective Marino, dressed in a suit, put on rubber yellow gloves and climbed in. He handed items of trash to the other detectives, who laid them carefully on the ground. For half an hour, they found nothing unusual. Then Marino found a box. It contained a clear plastic garbage bag. Inside the bag were two bloody towels, bloody tissue paper, bloody sanitary napkins, cat food cans, an empty Banquet Salisbury Steak TV dinner box, and directions for blond hair dye.

The box was a xerographic paper box with a half-square cut out on one side. On another side was an address label.

The address was Hallmark Packaging, 1212 39th Ave. N, Tampa.

The box provided one more piece, and many more questions, to the puzzle: The mother brought *two* boxes to the dumpster. She put one in the dumpster and the other on the ground. Did that mean she randomly left the box with the baby on the ground as part of the trash? Or did she make a conscious decision to distance the baby from the dumpster? After all, isn't it likely trash pickup workers would have grabbed the box on the ground? Or would they have *looked inside first,* to make sure someone wasn't throwing away a perfectly good videocassette recorder?

Why did she throw away the possibly incriminating box of trash? Didn't she realize someone might find it?

Detective Frost followed the first solid lead: Hallmark Packaging.

■ ■ ■

Hallmark Packaging is in a small, narrow office in a row of matching offices. It manufactures trash can liners and grocery sacks. Detective Frost arrived about 10:45 a.m. He walked into the small reception office and approached the window that separated the reception room from the rest of the company. Sitting at a desk behind the window was a blond woman with deep-set blue eyes. She looked to be in her 40s. Frost introduced himself and told the woman he was investigating the baby that was abandoned the day before at Wildwood Acres Apartments. He asked her what her name was.

Judy Pemberton, she replied.

Frost asked where the company put their empty boxes.

"I don't know," Ms. Pemberton said. "You'll have to ask the guys in the back, but most of us throw them out front, in the dumpster."

"Do you know if there are any pregnant women at the company?"

"None that I know of," she said. "There was one woman in the back who was expecting, but she already had her baby."

"*You're* not pregnant, are you?" Frost joked.

Ms. Pemberton laughed. "No."

They talked about 15 minutes. Halfway through the interview, Frost started to wonder about this woman, and noted in his report she should be interviewed again. Something wasn't right. It was the way she was answering his questions. Too fast, for one thing, or with another question. She avoided eye contact. She looked off across the warehouse or at her desk, especially when he mentioned the baby.

Plus, she didn't react the way most people might when a cop comes out of nowhere to ask about a baby abandoned so nearby. She didn't seem surprised, or particularly interested, or kind of excited the way people who aren't involved are. She didn't ask gossipy questions, like, Gee, what did it look like? Was it really in the trash? Any idea who the mother is?

She asked only one question, as Frost left his card, and turned to leave.

"How's the baby?"

■ ■ ■

In the corner office, Vincent Tifer, president of Hallmark, agonized over what he had to do that afternoon: fire Judy Pemberton. The company was automating, putting in computers, and Judy just didn't take to them. It was a shame. Tifer hated to let her go. She had been a reliable, punctual, hard-working employee, always willing if she didn't do something right to do it again. She was well-liked around the office. Tifer was so relieved the day before, Thursday, when she called in sick, which she had never done before. He was interviewing several candidates to replace her, and it would have been awkward with her sitting there. She had no idea that she was going to lose her job.

Tifer knew this would be hard on Judy. She had had some tough times. Two years before, she had left her husband of 21 years and her home in Colorado. She came with her 20-year-old daughter to Tampa, where she was born and raised. She soon learned her daughter was pregnant. Judy supported the family, and for a time, the father of the baby, on low wages she made working for a temporary office services company. Since her office skills were limited, Hallmark did not pay much either: about $5 an hour.

Later, Judy's daughter broke up with the boyfriend and then moved with her baby back to Colorado. They left behind a lot of unpaid bills.

At the same time, Tifer knew Judy was having health problems. She discussed it with the women there. She had missed a lot of periods and said she was going through menopause.

Not that Judy was one of these chronic complainers. She really kept to herself until she got to know you. Then, she opened up and talked about her life — especially about Russell.

Russell! When it came to Russell Hayes, Judy was a love-struck teen-ager. They had been dating about a year, living together since January. An 8-by-10 picture of him in his National Guard uniform dominated one corner of her desk. Sometimes, Tifer saw her staring at it, all lovey-eyed, as he described it. When she and Russell went to a carnival or fair, she would bring in a stuffed animal he won for her. At night, she would put all her stuffed animals near the picture and say good night to them.

It was obvious to everyone at Hallmark that Russell was good for Judy. They had fun. They bowled. They went out to eat often, which, she said, was why they both were gaining weight. Tifer got the impression it was the first time Judy had felt relatively carefree in a long while.

The last thing she needed, Tifer thought, as the work day drew to a close, was to lose her job. But he had no choice. After paychecks were passed out, Tifer asked Judy to come into his office. As gently as he could, he told her they had to let her go. He explained why.

Judy listened quietly. Tears trickled down her face. But, so like Judy, she didn't get emotional. She said she understood, and that it had been a pleasure working for him and the company. Then she left.

Tifer felt rotten.

■ ■ ■

In those first crucial days after the baby was found, progress on the police investigation was sluggish. The VCR box had an old serial number, so it would take time to trace where it was purchased. A couple of people called saying they had seen pregnant women near Wildwood Acres, one near a traffic accident, to no avail.

Human hair had been found, and there were fingerprints on the items found in the dumpster. DNA testing and other lab tests on these items would also take time. The baby had been featured on television and in newspapers in an attempt to solicit public involvement. The detectives knew that's what usually cracked these cases. Someone who knows the mother finally makes an anonymous call. Someone with a conscience. Someone who despite other loyalties cannot ignore that baby.

Hallberg, Lingo and the other detectives working the case waited for that call. The more time that passed, the less likely it would come.

■ ■ ■

Friday night, Judy Pemberton and Russell Hayes visited Raymond and Mary Duncan. The couple are Russell's aunt and uncle, but Russell thought of them as Mom and Dad. They had raised him since he was a little boy. He was very close to them. Judy had grown close to them, too. They were an affectionate family, and she seemed to soak in that affection, as if she had never known it before. The four spent a lot of time together at the Duncans' cozy, two-bedroom Tampa apartment.

In the year or so Russell and Judy had been dating, Mrs. Duncan had grown fond of Judy. At first, the 15-year age difference between Russell and Judy seemed more important, but the two seemed so well-suited. Russell enjoyed Judy's tomboyishness, her sarcastic wit, her interest in sports. Judy seemed both mother and girlfriend to Russell, dependent on him at times, lending her own shoulder at others. Russell seemed to understand her and accept her as she was. She had quite a temper sometimes. When she lashed out, cursing and saying things she didn't mean, Russell just let it bounce off.

This night, Mrs. Duncan was quieter than usual as Judy, Russell and one of Russell's aunts watched the 11 o'clock news. Mrs. Duncan put up a good front, but something was bothering her, deep. When the report about the baby was shown, Mrs. Duncan's eyes shifted from the TV to Judy. Judy was undeniably thinner than she was 24 hours before, Mrs. Duncan thought.

It's like she had a pin stuck in her. Her feet isn't swollen. Her hands isn't swollen. I'm a listener and a looker. And I can guess things. I just know.

What am I gonna do? I read every little thing about the baby, what they found. I never have seen anything that could connect me with it. All I can go by is a picture of the baby on television, and the circumstances what happened, and the weight loss. You don't lose that much weight overnight, see. I can tell.

Maybe I should go to her, but how would I do this? What if I'm wrong? I know in my heart I'm not wrong. I really in my heart know that's my grandbaby.

The baby looked rosy and chubby on television. The reporter was describing where and how the baby was found.

"I don't see how a mother could do that," Russell's other aunt said. "They oughta take and shoot that person."

Mary watched Judy. Judy was looking away from the television, and she was humming very softly.

Times photo — CHERIE DIEZ

THE HAPPY COUPLE: After a lifetime of bad breaks, Judy Pemberton knew she had found her man in Russell Hayes.

Times photo — VICTOR JUNCO

THE BOY AND THE BOX: Ryan Nawrocki, 11, heard a sound coming from a box near this tree. He thought it was a kitten.

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A GIFT ABANDONED

DAY TWO

'Love me, don't leave me'

■ Detectives Dennis Hallberg and Larry Lingo were frustrated. Ten days after a newborn baby boy was abandoned at a Temple Terrace apartment complex, they had few clues about the mother. A box of evidence, found in a dumpster near where the baby was abandoned, was addressed to Hallmark Packaging Inc. in Tampa. A detective who interviewed Hallmark's receptionist noted in his report that she acted strange and should be interviewed again.

By SHERYL JAMES

TEMPLE TERRACE

It was Tuesday, May 2, five days after the baby was found in Wildwood Acres Apartments. Mary Duncan and Judy Pemberton went for a walk in Lettuce Lake Park, near Wildwood Acres, where Judy lived with her boyfriend, Russell Hayes.

Russell had left Saturday to go to Starke for his two-week National Guard training. Mrs. Duncan, Russell's aunt, was growing more and more anxious. She couldn't understand why Judy was acting so normal, as if nothing had happened. Could Mrs. Duncan be mistaken? It was all so confusing. But she couldn't ignore what she knew in her heart: Judy had had a baby, and something, somehow, made her not want to see it or know it.

Mrs. Duncan felt torn in half.

Nobody knows the torture I'm going through. She's been over here so much before and after. I can't sleep at night. Raymond says, 'Somethin' wrong with you? What is it? 'I'm all right, I'll be fine.' "

If only I could see the baby's toes. All my family got that baby toe that turns inward like that. That's the first thing I want to see is those toes. But. . . .

And my boy's gone at the National Guard right now. If I could just talk to him. Maybe me and him could do something. But he's got another week to go.

■ ■ ■

Monday, May 8. Detectives Dennis Hallberg and Larry Lingo were discouraged. They had followed leads, dug through garbage and knocked on countless doors looking for the mother of the abandoned baby. They had come up with no more evidence than some cat food cans, some TV dinner packaging and directions for blond hair dye. And they were running out of time. It had been 10 days since the baby boy was found in the videocassette recorder box. The infant was in the custody of the Florida Department of Rehabilitative Services, living in a shelter home and completely shielded from publicity.

Chances of finding the mother seemed more remote as each day passed.

But then, at 3 p.m., the Hillsborough County Sheriff's Office received an anonymous call. It was perhaps only the third anonymous call they had received on this case — far fewer than they expected. The caller had information about the abandoned baby. There was a woman who recently had lost a lot of weight. She lived in the same complex where the baby was found, on Mar-Jo Drive. 5812.

Lingo followed up the lead. He had no reason to think this lead would prove any more fertile than the others. He pulled his car along the curb in front of the duplex, a brick rectangular building with a door on either end. The duplex on the left was 5810; the one on the right was 5812. There was a nice little garden with freshly planted flowers out front.

Lingo knocked on the door. No one answered. He knocked again. Nothing. He drove up the block to the apartment complex office and talked to the manager. He identified himself and asked to see the lease agreement of the tenants at 5812 Mar-Jo.

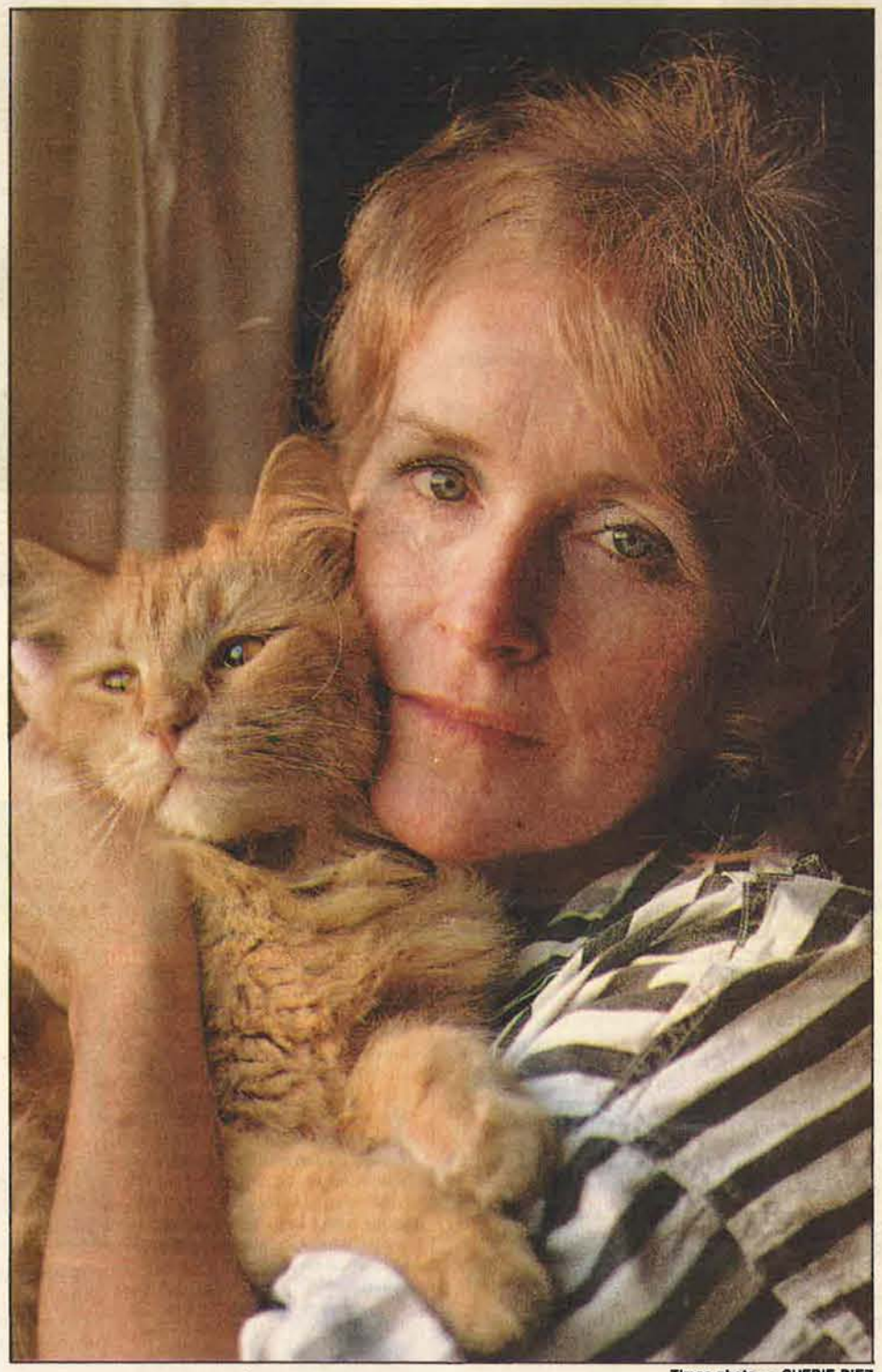
He checked the tenant's name: Judy Pemberton. He checked how long she had been living there: since June. He checked her employer.

Hallmark Packaging.

He thanked the manager, left, and drove slowly back to the duplex.

Hallmark Packaging. The same company that was on the label of the box found in the dumpster. Lingo knew the connection could not be coincidental, that he had, in all likelihood, found the mother. He went up to the duplex door again and knocked. This time, the door swung open.

Judy Pemberton? Lingo asked. Yes, the woman said.



Times photo — CHERIE DIEZ

A FELINE FANCY: Judy Pemberton has always loved cats. Now, she has two, including Morris, above.

Lingo was a little taken aback by the woman's apparent age. After years as a detective, little surprised him. But this woman was clearly older than the mid-20s to mid-30s the detectives had estimated the mother to be.

Lingo introduced himself and told her he was investigating the baby that was abandoned down the street April 27. Can I talk to you? he asked.

She agreed and stepped aside. Lingo stepped into the small living room. He immediately saw some clues. A videocassette recorder. Three cats and four kittens playing about everywhere. Judy Pemberton was short, a little plump around the middle. She wore a striped jump suit. And she had blond hair.

She politely answered Lingo's questions. No, she said, she did not live here alone, she lived with her boyfriend, Russell Hayes, who was at National Guard camp right now. Yes, she had been alone here since he left a week ago Saturday.

Her eyes avoided Lingo's. Yes, she had heard about the baby being abandoned, but she knew nothing more about it.

Her weight shifted from one foot to the other. She hesitated before answering the questions. Lingo gingerly moved into more personal territory. How was her health? Had she been sick recently or experienced any weight loss?

Yes, she said, she had lost about 10 pounds due to a diet and the start of her monthly period.

That was strange, Lingo thought. Bringing up something as personal as her monthly period.

Was there any unusual bleeding from this cycle?

No, she answered in a small, flat voice. Nothing unusual. Her period had ended three weeks ago.

Lingo couldn't quite read this woman. She was quiet — given the situation, this was no surprise. But she also seemed strangely compliant, as if she did not suspect why he was here. She did not seem to mind his questions. She answered them in a voice that did not project or rise and fall the way most people's speech does. She might have been answering a survey about laundry detergent.

Lingo asked about her job. Yes, she had worked for Hallmark Packaging until the previous Friday, when she was let go because they needed someone who could operate computers.

A kitten jumped up on the kitchen table. Judy retrieved it and put it back on the ground. Did Judy remember a detective coming to Hallmark the day after the baby was born, asking about a box that had been found? Yes, she remembered. Yes, she did bring a box home from work for her kittens, but she had placed it in the dumpster on her street, not the one three blocks away on Kitten Drive.

It was 4:10 p.m. Lingo asked her if he could search her apartment.

Well, go ahead, she said. Again, passivity, as if she were half sleep-walking. She signed a consent form. Lingo headed toward the bedrooms. She did not follow him. She did not talk. She did not sit down.

Lingo started with the master bedroom. The waterbed was unmade. Lingo saw a few blood stains. Either she hadn't changed her sheets in three weeks, or she was lying about when she had her period. Lingo searched the spare bedroom. He saw a box cut out on one side like the one they had found in the dumpster. It was filled with cat litter. In the bathroom, he found blue and white towels, matching those found in the dumpster. He also saw an open box of sanitary napkins.

He went to the refrigerator. He opened the freezer. Banquet TV dinners. Salisbury Steak.

It was all right there. Paint by numbers. Lingo excused himself and went to his car. He radioed Hallberg. Hallberg, out at MacDill Air Force Base, made it over to Mar-Jo Drive in about 10 minutes. Lingo and Judy stood in stone silence waiting for him.

When Hallberg arrived, Lingo showed him what he had found. They checked the VCR make and serial number: RCA, number 504620465.

A match.

All this time, Judy remained standing. She didn't act upset, angry or fearful. A little nervous one moment, almost nonchalant another. Lingo didn't tell her what he had found in the apartment. She didn't ask.

Lingo retraced his steps around the house with Hallberg: They looked at the sheets, the box, the towels, the frozen dinners. Judy walked with the detectives. They finished in the bedroom. All three faced one another, standing in an awkward triangle: the two taller men, Lingo with silver hair, Hallberg a sandy blond, both wearing suits; and Judy, much shorter, her eyes cast anywhere but at the detectives' faces.

Kittens tumbled everywhere. Hallberg explained to Judy what they had found in the dumpster. He said that the towels matched the towels in her house. The box they had found was like the one in her house.

A kitten darted into the room. Judy stood with her arms at her side. A few minutes later, another kitten dashed by. Hallberg kept talking. Judy kept watching the kittens or looking away.

Hallberg finished.

The silence between them grew heavier with each moment. Finally, Judy raised her eyes. She looked at Hallberg, then at Lingo, back to Hallberg, back to Lingo. Then she seemed to sigh, almost visibly, Lingo thought.

One hand twisting in the other, she said, "Well, I might as well tell you, the baby is mine."

■ ■ ■

It was now 4:50 p.m. Judy quietly led the small procession back into the kitchen. She offered the detectives something to drink. They declined. They made small talk. A kitten scaled Hallberg's leg. Hallberg gently, rather stiffly, detached it. A moment later, a kitten jumped up on the counter. Judy gently rescued it.

Hallberg advised her of her constitutional rights and asked her to sign an interview consent form. She signed. Then she just started talking, in the same flat voice. Lingo relayed her story in his written report:

"Pemberton advised Detective Lingo on the 27th of April she woke up with pains and thought it was her normal menstrual cycle starting. She stated she had not had a regular period for a while and felt she was going through the change of life. She said she stayed home and did not go to work on the 27th. She stated at approximately 5 p.m., she had a sharp pain, went into the bathroom and the baby "just popped out." She said she attempted to clean him up, and her, and tied the umbilical cord with blue sewing thread. She then cut the cord with a pair of scissors and put the afterbirth into the toilet. She said she then attempted to stop her bleeding. She then put the baby in a box and the other towels and used pads in plastic garbage bags and put them in the box marked Hallmark Packaging. She then took both boxes to the dumpster. She put the box with the evidence in the dumpster and placed the baby on the ground outside of the dumpster. She then returned home and later went back to the dumpster to make sure someone had found the baby. She said she saw the police there and left. She didn't tell Russell about it that night, and he did not know that she was pregnant. The following morning, she did go to work and remembered the detective coming by asking about the box with Hallmark Packaging on it. She said she did not remember if she told him at that time that she lived in Wildwood Acres or if she told him she had any knowledge of a box.

"She advised she did not even realize she was pregnant herself until she had the baby. She said she was glad we came to her house because she was wanting to tell someone about it, and had someone not arrived at her house, she would have gone and told someone within the next couple of days. She said she worked for an OBGYN (obstetric and gynecological) clinic in the past as a medical assistant and had been familiar in assisting in a birth. She apparently just acted out of experience when she tied the baby's cord and cleaned him up. Then she said she would like to have the baby back, and guessed she just panicked when she had the baby, and didn't realize what she was doing."

■ ■ ■

Judy was arrested. The detectives started packing up the VCR, the towels, the box. A crime lab technician came to collect the evidence. Hallberg then led Judy to his car. They drove to the Hillsborough County Sheriff Office's Criminal Investigations Bureau, off I-4 and Buffalo Ave.

On the way over, Judy kept any emotions she may have had beneath the surface. She asked Hallberg what would happen to her. Hallberg said she would be taken to the county jail and probably charged with child abandonment. Beyond that, he was not sure.

She said nothing else. They reached the sheriff's office. Judy told Hallberg she did not want to make any more statements before

Continued on next page

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Day Two: 'Love me, don't leave me'

Times photo — CHERIE DIEZ

THE FATHER: Russell Hayes says he never knew his fiance, Judy Pemberton, was pregnant. He was at the Florida National Guard's Camp Blanding in Starke when Judy was arrested. Here, he poses next to his collection of sports mugs.

Continued from previous page

talking to an attorney. She asked to use the phone. She said she wanted to call her boyfriend's aunt and uncle. Hallberg led her over to a desk. He dialed the number for her.

She was silent for a moment. Then Hallberg heard Judy say in plaintive tones, "You know that baby that was found? He was mine." Silence, then "I don't know, I just panicked."

Judy's contradictory behavior mystified Hallberg: First she says she wants an attorney, then, with Hallberg right next to her, she admits to the crime all over again.

He heard her voice — shaky now, pleading. "Love me, don't leave me," she said.

She hung up the phone.

And then she began to cry.

■ ■ ■

It was midnight, May 8. George Cochran, 32, could not sleep. It was all catching up to him. Everything had happened so fast, only now was he able to catalog it, and he was having a hard time.

One: The baby found by his best friends, the Nawrockis, was abandoned by his next-door neighbor, Judy Pemberton.

Two: Judy, a woman who had seemed as innocuous as her kittens, as ordinary as anybody in the mall on a Saturday afternoon, had had a baby next door — maybe even while he was home — and put it in a box and left it by a dumpster. This was a woman who was pregnant nearly the entire time he had known her.

Cochran had been interviewed by newspaper and television reporters all evening. He and his wife, Megan, saw the TV report of Judy being escorted to jail. Megan choked up a little.

Late that night they had met a couple who said they were Russell's mom and dad. The woman spoke with a Southern twang. She asked about the cats and the plants. She was so nice. Upset. She chattered. She worried that she hadn't said the right things earlier to the reporters. "I hope they don't twist our words," she told the Cochrans. "We love Judy. Judy said she flipped out, she just lost it. We need to support her."

They talked out front for 30 minutes. The Cochrans said they would keep an eye on Judy's place.

Now, it was all settling in on Cochran. Megan was asleep. His sons, 6 and 4, mercifully had slept through everything that evening. Cochran sat down, and began to sort his feelings out in writing.

It's May 8, 1989, 12:00 midnight. I can't sleep tonight because I try to figure the whole thing out. I lived beside a woman for about a year and didn't even know she had been pregnant. It makes me wonder how observant I really am or how naive and stupid I can be.

But then I start to wonder what kind of person has lived beside me for so long. I wonder how a woman who generally seemed to like children could just abandon a newborn like that. I speculate how a woman who just witnessed new life in a litter of kittens could just throw away a life. How can a woman who cared for animals like she did totally disregard a human life?

Why didn't she look pregnant? Why didn't she say she was pregnant? Was this a calculated move? If she just "flipped out," could she have at any time? How could she have wrapped a baby, tied the umbilical cord and taken it to the dumpster, only hours after having it? Did she have help? And what about the flower bed?

I recall the flower bed being put in around the same time the baby was found. I didn't think anything about it at the time. But now, I wonder if she expected the baby to die and the flower bed is a memorial. The baby wasn't actually put in the dumpster, but beside it. Did she intend that someone should find the baby? After all, she did take enough care to clean the baby and tie off the umbilical cord. Therefore, the flower bed could be a remembrance.

Times photo — CHERIE DIEZ

THE NEIGHBOR: George Cochran, who lived in the adjoining apartment, stands in front of the duplex where the baby was born.

■ ■ ■

Tuesday, May 9, 6 a.m., Florida National Guard's Camp Blanding in Starke. Russell Hayes was training out in the field. They had just finished maneuvers when his first sergeant came up to him. Their conversation was short and explosive: Do you know anything about your girlfriend having a baby? No, Russell said. Call home, she said.

Russell dialed the Duncans' number. "What's the matter?" Russell asked. He knew, but he had to hear it from his aunt. "Did Judy have a baby?"

"Yes, son, she did," Mrs. Duncan said gravely. She told him everything. "Judy's in jail."

Russell started to cry. He didn't know anything about this, he said. He was hurt, he was shocked, he was mad, he was hurt.

"So am I," Mrs. Duncan said. "Try to calm down. I've talked to Judy. She said she didn't know what she was doing, she didn't know why she did it. Just get home, and we'll work this thing out."

Russell's first sergeant drove him back to Tampa. It was a quiet ride. They arrived at the Duncans' by 1 p.m. Russell was still in his uniform, dirty from his field exercises. Only Mrs. Duncan was home. They embraced. Why did she do it? Russell asked over and over. He hadn't even known she was pregnant.

"Did you see any blood afterward?" his aunt asked.

"No, I didn't," Russell said. "I wasn't home when she had it."

He didn't know what to do.

Mrs. Duncan told him to take some Tylenol and a warm bath. She fixed him a sandwich. But neither Mrs. Duncan nor Russell Hayes could ignore the irony of the situation.

One day in 1966 in Lakeland, when Russell was 5 years old, his mother left him with a babysitter. She was going to visit someone, she said.

She didn't come back. Not that day. Not the next day. Or the next day.

Russell's mother had abandoned him.

The babysitter called the police. Eventually, Mrs. Duncan's brother — Russell's father, who was separated from his wife — picked up the boy and brought him to the Duncans'. He said he couldn't care for the boy himself. Would the Duncans take him?

Raymond Duncan agreed, but on one condition: If we're going to raise him, we're going to raise him as our own son. Russell's father agreed. And so, in a more benevolent way, Russell's father left him, too.

But Russell's father could not have chosen better parents. Raymond Duncan is a down-to-earth man, kind, calm and logical, not the kind to hold a grudge. He was a groundskeeper for the city of Tampa, until he retired a few years ago. Now, he is a groundskeeper for Myrtle Hill Garden of Memories Cemetery.

Mary, oval-faced and talkative, is the self-ordained nursemaid of her family. Through the years, she has taken care of many family members.

Russell was a blessing for the Duncans. They had wanted children very much. Mrs. Duncan became pregnant once, but she miscarried after four months.

But little Russell had serious problems at first. He hovered in corners and trembled. He didn't eat well. The Duncans fed him with love. They took him to amusement parks and fairs, and picnics. But he remained withdrawn. Mrs. Duncan worried and waited.

The Duncans bought Russell a swing, and hung it on the pecan tree out in the yard. One day, Russell fell off the swing and hit his head. Mrs. Duncan rushed out to him. He cried and cried. She cleaned up the gash on his head, soothed him and held him close.

That was the turning point. Russell clung to her that day; he wouldn't let go. He's been like a son ever since.

The Duncans, neither of whom graduated from high school, were proud of Russell. He graduated in 1980 from Tampa Bay Technical Vocational School; he spent four years in the U.S. Army, and then joined the National Guard. He was a hard worker, always holding down a job. Right now, he made pasta and did other jobs at an Italian restaurant in Tampa.

Though Russell had had other girlfriends, he and Judy seemed made for one another. In December 1988, six months after they met, Russell asked Judy to marry him. They were on a cruise to Mexico. He gave her a diamond ring. The couple started living together in Judy's apartment in January 1989 and planned to marry a year later. Because Judy was 42, they did not plan to have children. Neither thought birth control was necessary.

Now, everything seemed out of control. Russell talked to Judy briefly on the phone. But the detectives told him to stay home until they could interview him. He wasn't allowed to see the baby, who was in HRS custody. Meanwhile reporters showed up, asking searching questions. Russell had never been interviewed by the media before. He answered the questions, all of them, in honest, short sentences. He was hurt, shocked and angry.

Reporters showed him a videotape of the baby — his son. "He's great," Russell told reporters. "I saw him, and I knew he was mine. I'm so happy he's healthy."

But Russell did not feel like a father. How could he? He had known about the baby for only a few hours. He didn't know what to feel. He didn't know what to do.

"Are you going to leave her?" a reporter asked about Judy.

After being raised with the Duncans' unconditional love and optimism, he had learned to support first and ask questions later. This is our problem, he thought, and we'll work it out somehow.

He answered the question without hesitation. "No."

■ ■ ■

Tuesday night, Marci Gilbert, Judy's sister-in-law, talked by phone to Judy, who had spent the night in jail.

"Get me out of here," Judy said.

Marci told Judy she was doing everything she could, but so far, Judy couldn't get out. Judy, charged with child abandonment, a felony, and child abuse, a misdemeanor, had been denied bail in a hearing on Monday, the night she was arrested. Marci told Judy she had contacted the public defender's office, and two lawyers there were taking her case.

"Right now," Marci said to Judy, "I need to know some details: Did you do it?"

"I guess I did. They're telling me I did."

"Did you do it deliberately?"

"I don't remember anything about what I did."

"You don't remember anything about birthing that baby?"

"I don't want to talk about any of it," Judy said. "I just want out of here."

Wednesday morning, May 10, Mary Duncan, Russell Hayes and Marci Gilbert met at the Hillsborough County Courthouse Annex in Tampa for Judy's bail hearing. They walked into courtroom No. 8 — the courtroom of Hillsborough Circuit Judge Harry Lee Coe III. They waited while Coe heard several other cases. Finally, Judy's case was called.

Judy came through the back door. She wore blue prison clothes. She and Russell's eyes met and held. It was the first time they had seen each other since all this had happened. A few moments later, Russell, Mrs. Duncan and Marci advanced up to Coe's bench. Russell embraced Judy, and the two stood, arm in arm. They said nothing.

Coe set bail at $6,000. Marci got the bond, using her home as collateral. About 8 that evening, she and Russell went back to the jail. After spending two days and two nights in jail, Judy — who had never seen a courtroom before, much less the inside of a jail — was released.

Marci could see that Judy was tired, anxious and irritable. Marci and Russell were drained and exhausted. Marci suggested they get something to eat. Judy resisted. She was afraid people might recognize her and taunt her. Marci assured her that wouldn't happen.

They went to the Frisch's on 56th Street and sat unnoticed at a back table. Judy barely touched her food. Marci took charge, but she went easy. She asked Judy whether she wanted to hire a private lawyer. Judy told her she didn't have the money to do that. Marci also suggested Judy get some counseling Judy said she would.

Marci surveyed her sister-in-law and tried to make sense of all this. She had first heard about it on the 11 o'clock news the night Judy was arrested. The news floored her. But when Marci looked back, she realized there had been clues.

A few months before, Marci teased Judy about gaining weight, joking, "Are you pregnant?" And Judy nearly screamed, "No! I'm tired of people asking me that!"

Then there was that Wednesday night at the bowling alley, when Judy was in such pain, as if she wanted to start her period but couldn't, she said. Of course she couldn't — she was in labor!

Judy had called Marci Friday, the day after she had the baby.

"Well, I started," Judy said.

"You did? Is everything normal?"

"Well, it's a little heavy, but not bad."

Judy stopped in the bowling alley later that Friday and then on Sunday, when she bowled as usual. *How in the world could she have seemed so normal?*

■ ■ ■

There was little public sympathy for Judy Pemberton. Hallmark Packaging received nasty, anonymous calls just because Judy had worked there. People drove by Judy's duplex, honked and pointed. The Cochrans were asked what it was like to live next to a baby killer.

The emotional reaction to what had happened was strong enough to split families. Marci Gilbert was the only member of Judy's family — five siblings and their families — who remained loyal to her, but it was at some expense to her marriage. Marci's husband, Alan, had no sympathy for his sister. As a result, he and Marci lived with a tense truce.

Mary Duncan faced great hostility from the Duncan family. She spent hours on the phone trying to explain and defend Judy's actions and her loyalty to Judy, largely to no avail.

Times photo — JIM STEM

THE ARREST: Judy Pemberton is led into custody. Through most of the ordeal, she kept her emotions hidden.

Women at the bowling alley where Russell and Judy bowled every week were drawn into the fire, too. A couple of them had wondered whether Judy was pregnant, and even laughed when, after the baby was found, Judy came in the bowling alley looking unchanged. "Well, it's not Judy's!" they joked. But the women had to admit they never really thought Judy was pregnant. Bonnie Tschuddy agreed to testify to this in court. She argued with her son, himself the father of two children, who could not accept his mother would defend Judy. Irene Staving also said she never guessed Judy was pregnant. When she was 42 — Judy's age — and the mother of five children, she went to the doctor complaining of a chest cold.

The doctor told her she was four to six months pregnant.

■ ■ ■

On May 18, Judy and Mary Duncan and her husband, Raymond, drove to the W.T. Edwards District Administration Office for HRS, an imposing, five-story white building on Dr. Martin Luther King Jr. Blvd.

They pulled up to the curb. They got out of the car and approached the doors. Judy was quiet and tense. Mrs. Duncan was excited. She was also disappointed Russell wasn't here for such an important meeting. He said he couldn't get off work. Mrs. Duncan wondered if he was afraid. Or maybe he just wasn't ready.

The small group stepped inside the building. They took the elevator up to the third floor. They turned right, toward a big waiting room. They sat down. They waited for 20 minutes. They didn't talk much.

Finally, they were called into a small room with baby toys and chairs. Another woman and child were there. Judy slowed down, then stopped at the doorway.

"I don't know if I can do this or not," she said.

"Well, you do what you think you can do," Mrs. Duncan said.

A man came into the room, smiled, and handed to Mrs. Duncan a 3-week-old baby wearing a blue suit.

Mrs. Duncan beamed. "He looks just like Russell did when he was a baby!" she said. Then, unable to wait any longer, she checked his foot.

"Look at that toe!" she said. "See? Just like I said."

Judy inched into the room. She watched as Raymond Duncan took the baby. The baby began to cry. He instinctively handed the baby to a woman: Judy.

Judy took him in her arms.

She smiled.

"He's a cute little angel."

For an hour, they played with the baby. Mrs. Duncan watched Judy closely. She could see the hurt in her face. But she held up, Mrs. Duncan thought. *Judy's just not well right now. She knows she don't need the baby right now. She's admittin' to all of that. She's not doin' like some people — I'm all right. She knows she's not. And when you can admit somethin's wrong with you, you're already on the road to recovery. That's what I've always heard.*

"What are you going to name him?" a social worker asked.

Mrs. Duncan thought that was a good sign. "Either Russell Raymond or Raymond Russell, we aren't sure which," she said.

Later that day, Judy told a *St. Petersburg Times* reporter that they loved the baby, that he cried when Raymond Duncan held him, "but as soon as Mary or I took him back, he just hushed right up.

"He trusts us, I guess."

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A GIFT ABANDONED

DAY THREE

Taking the stand

■ The baby was abandoned in a box near a dumpster on April 27, 1989. On May 8, an anonymous call led detectives to Judy Pemberton, 42, who was arrested and charged with child abuse and abandonment. She went to jail and was released on bail. She returned home to Russell Hayes, the baby's father. Meanwhile, the baby stayed in state custody.

By SHERYL JAMES

Times photo — CHERIE DIEZ

THE CAREGIVERS: Russell Hayes' aunt and uncle, Mary and Raymond Duncan, were looking forward to the possibility of getting temporary custody of Russell and Judy Pemberton's baby, Rusty.

TEMPLE TERRACE

It was a strange, tense time for George and Megan Cochran. Their neighbor, Judy Pemberton, had been arrested, accused of abandoning her baby in a box next to a dumpster. She went to jail, was charged with a felony and released on bail awaiting trial. Now, she was back home again. Life was supposed to return to normal. But for the Cochrans, normal was not recognizable anymore. What should they think of Judy? What should they say to her?

George Cochran couldn't stop thinking about what his neighbor had done. He poured out his confusion in a diary, asking questions everyone else was asking, too:

May 11. I don't know why this whole thing bothers me, but I've become obsessed with it. I tape everything that goes with it. My God, I even write down all this stuff. Why can't I let it go? Do I really have to know why she did it? Do I have to voice my approval or disapproval? Why must I understand it all?

There are no neat answers to those questions. Mothers who have abandoned their babies offer insufficient, often unconvincing explanations. Some say they don't remember the act or don't understand it, says Dr. Robert Sadoff, a forensic psychiatrist at the University of Pennsylvania School of Medicine. Sadoff has treated 25 women who have abandoned their babies. Most were young white women who were poor and had little education. All of the babies died.

The women often deny they are pregnant, even to themselves, Sadoff says. Then they may experience a traumatic, unattended birth, which can trigger certain conditions — a post-partum psychosis or a dissociative reaction — that result in an irrational act, such as abandoning the baby. Later, the mothers may say the babies, like their pregnancies, were not real to them. They deny what they have done until they are pushed to accept responsibility, Sadoff says.

"If you ask them, 'Do you realize you are killing a human being?' they say, 'No, I'm just getting rid of something.' But if you push them, 'Do you realize you flushed your baby down the toilet?' they realize it."

■ ■ ■

Judy's friends and family searched for answers.

Russell Hayes was mystified. He lived with Judy and never dreamed she was pregnant. He wondered whether he was partly to blame for the abandonment because he was not at home when Judy gave birth. He couldn't get Judy to talk about what she had done. She said she panicked, she didn't know why she had done it — that was all. Perhaps knowing how the subject upset her, Russell dropped it.

Mary Duncan, Russell's aunt, thought Judy might have been afraid she and her husband, Raymond, and Russell would disapprove of her if they knew she was pregnant. Maybe she thought she would lose her new-found family.

Marci Gilbert, Judy's sister-in-law, had known Judy for 16 years. Judy had a bad temper and a sharp tongue at times. She could be self-centered and immature; she acted more like 22 than 42, especially with Russell. But Judy was not a baby killer.

Tampa psychiatrist Michael Maher looked for answers, too.

On July 20, Judy met the fourth and final time with Maher. Judy's lawyers had asked Maher to evaluate her and to testify later in court if necessary. Maher had counseled three other women who had abandoned babies and testified in two trials.

Maher surveyed the blond, quiet woman sitting in his office. The summer obviously had taken its toll on Judy. She wasn't getting any sleep. She looked exhausted. Her looming trial and sentencing haunted her. She swayed from being sweet and loving to blowing up at the slightest provocation, usually when the baby or her case was mentioned. At the same time, Judy and Russell had serious financial problems. Judy was in no condition to work. One of their cars was repossessed. Bills piled up. They had no medical insurance. Judy had not seen a doctor since the birth.

Maher had made some observations about Judy. Sitting in his office, she looked calm. But beneath that thin layer of calm, she was, Maher believed, immobilized. She could not think for herself. She was deceptively passive, answering Maher's questions fully but asking none of her own. She was neither hysterical nor distraught; she didn't cry or beg for help. She didn't seem remorseful.

But Maher thought she was very sorry and angry at herself for what she had done. She was terrified, and her only defense was her hostility.

Maher thought that Judy had experienced an unacknowledged pregnancy, literally a lack of conscious awareness that she was pregnant. Most women begin their pregnancies with conflicting emotions but soon resolve them. But a few women — teen-agers especially — deny their pregnancies until the day they give birth. If a woman is alone when she gives birth to a baby she doesn't consciously expect, she may react by distancing herself from the baby — and by abandoning it. That's what Judy did, Maher thought.

Judy also mentioned to Maher that about 11 months before the baby was born, she had missed two menstrual periods. She took an over-the-counter pregnancy test; the results were negative. This likely reinforced her conclusion that she was in menopause, not pregnant.

But the real mystery, Maher thought, was why Judy denied the pregnancy for so long.

He looked at Judy's past: The end of a 21-year marriage. Her move from Colorado to Tampa. The financial struggle to support herself, her 20-year-old daughter and newborn grandchild. Then meeting and falling in love with Russell Hayes and beginning to enjoy life for the first time in years. Within a few months, the unplanned pregnancy. The pregnancy itself dramatically different from her first pregnancy 20 years before — no morning sickness or notable weight gain.

Maher hypothesized that Judy pushed the unthinkable out of her conscious mind. This set up the unexpected birth.

He also noted that it was after her daughter was born that Judy's husband apparently started leaving her alone often. Had Judy subconsciously felt abandoned because she had a baby?

Still, Maher knew there had to be deeper reasons for the denial, reasons that only long-term therapy could uncover. But he wondered: Judy was the youngest of six children. Her mother was 37 when Judy was born.

Describing this, Judy casually told Maher, "I was a late-in-life baby. My mother thought she was all done having children. Then I came along."

■ ■ ■

Times photo — FRASER HALE

THE PSYCHIATRIST: Michael Maher evaluates women who have abandoned babies. Judy Pemberton, he thinks, was not consciously aware she was pregnant.

During the summer of anticipation and preparation for the trial, Russell and Judy anchored each week around their hour visit with the baby at the W.T. Edwards District Administration Office in Tampa, operated by HRS. They called him Rusty now, short for Russell.

Judy cradled Rusty, she cooed, she bought him clothes and talked about Cub Scouts and Little League baseball. She was ready to mother him, she insisted. She could handle it. But she was moody and volatile. She would get mad if she had to wait for the baby or if she wasn't the first to hold him. Once, she stomped out of the building.

She also had seen a counselor, as Maher had suggested. But she thought the counselor insinuated she was lying, and she stomped out of his office, too.

Clearly, thought Marci Gilbert, Mrs. Duncan and HRS workers, Judy would be unable initially to care for her child, no matter what happened in court. HRS was strongly considering giving temporary custody of Rusty to the Duncans. When Russell and Judy were ready, perhaps they could gain permanent custody of their son.

Mrs. Duncan was delighted. She had spent her life taking care of other people. Now, just as her house seemed empty, she was going to have another baby. *I guess the Lord says, "You still gotta take care of somebody,"* she thought. *The Lord knew why I never had no kids; he was gonna send me all I can handle.*

■ ■ ■

Aug. 14, Hillsborough County Courthouse Annex, Tampa. Judy stood outside Courtroom 8 with Russell, Mrs. Duncan and Marci Gilbert. She hovered in a small alcove behind a bench. Her arms were folded, her face was a tense mask. The others surrounded and talked to her in low, gentle tones.

She was here for a pretrial conference. Judy was charged with child desertion, a third-degree felony — a serious charge, but the lowest of the six felony grades. Luckily, her baby had survived. If he had died, Judy could have been facing a murder charge.

Judy's lawyers were assistant public defender Brian Donerly, a veteran who usually handles high-profile murder cases. He had assisted in two other baby abandonment trials. He knew that such cases elicited strong emotion, making it hard to get a fair trial.

Andrea Wilson had six years' experience in the public defender's office. She handled most of the interviews with Judy. Wilson was skeptical of Judy's story at first, but grew to respect and believe her. Judy was straightforward, cooperative, occasionally wry and sarcastic and seemed to hide nothing. But each time they met between June and August, Judy was more agitated, exhausted and terrified. To calm Judy, Wilson often switched to safe topics: How's Russell? How's the baby?

Today Donerly and Wilson had to decide how to plead Judy's case. The best scenario: Judy would plead guilty. Psychiatrist Maher would testify. The judge would sentence Judy to probation and counseling.

But before they chose this route, Donerly and Wilson wanted some assurance from Hillsborough Circuit Judge Harry Lee Coe III that he would be lenient. Sentencing guidelines indicated Judy should be sentenced to probation, one year in jail or a combination of jail and probation. But Coe could give her the maximum sentence, five years in prison. And he had a reputation for giving harsh sentences.

Around the courthouse, Coe is known as "Hangin' Harry." The Florida Supreme Court recently has overruled three of Coe's sentences imposing death sentences against juries' recommendations.

Coe is tall, wiry, with wavy dark hair, sharp features and a blunt courtroom manner. Once a pitcher for the Tampa Tarpons minor league baseball team, he still aims straight and hard, right down the middle. Intolerant of theatrics, long-winded explanations and soft sentences, he is known as a bottom-line kind of judge. If you commit a crime, you deserve to go to jail.

Bottom line, even Judy admitted she had abandoned her baby.

At 9:30 a.m., Wilson and Donerly stood with Judy in front of Coe. Wilson began talking about unacknowledged pregnancy. She described a recent news story about a woman who was with her

Continued on next page

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SUNDAY, APRIL 14, 1991

WINNER OF THE
1991
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FEATURE WRITING

Day Three: Taking the stand

Continued from previous page

husband at Walt Disney World, complained of back pains, went to a clinic and gave birth to a 6-pound baby.

"Dr. Maher obviously can tell you more about the way this happens than I can," Wilson said.

"Is she pleading guilty or not guilty?" Coe asked bluntly.

"Well, Judge, we wanted to see if we could get some indication of —"

"No. I'm not going to plea negotiate the case."

Silence. Wilson seemed a bit taken aback. She tried again. "Is there anything else that you would like to know about the circumstances and —"

"Well, I would want to hear from anybody that wants to be heard. But I'm not going to plea negotiate it. She's either guilty or not guilty, and I'll do what I think is appropriate after I hear from everybody."

"Your honor, we felt that it would be better for everyone involved if we could try to work the case out, we hope —"

"I'm not going to plea negotiate it."

Trial was set for Aug. 21.

■ ■ ■

Aug. 21. Judy sat with Donerly and Wilson at the defense table in court. She wore a black and white polka-dot skirt and blouse, nylons and black flat shoes. Her hair was pulled away from her face, which gave her an unexpectedly girlish look.

This was the first day of her trial. Everything was going dismally for the defense.

Donerly and Wilson had thought they had only one plea option: Not guilty by reason of insanity. They had filed the necessary motions, with Maher's diagnosis: Judy Pemberton suffered from post-traumatic stress syndrome, resulting from the traumatic, unattended birth. The syndrome is characterized by mood swings, memory loss, confusion, depression, lack of sleep — all symptoms Judy had exhibited.

Judy's legal defense was built around Maher's theory and the testimony of Judy's bowling partners, who said Judy had not looked or acted pregnant.

For 20 minutes, Donerly and Wilson argued with Coe about the insanity defense. Judy sat staring at the floor. At one point, she began shaking so violently the bailiff had to bring her a chair. Finally, Coe ruled out the insanity defense, saying Donerly and Wilson filed their motions too late. Donerly thought Coe was just using a technicality; lawyers using the insanity defense rarely meet filing deadlines, and judges rarely disallow the defense on that basis.

Coe also ruled that whether Judy knew she was pregnant was irrelevant. And he limited the kinds of questions the defense could ask potential jury members. For instance, Wilson was unable to ask whether jurors understood menopause.

The rulings smashed Judy's defense. Maher was out. The bowling partners were out. Extended discussion of menopause was out.

The prosecution had 11 witnesses testifying. Donerly and Wilson were left with only one.

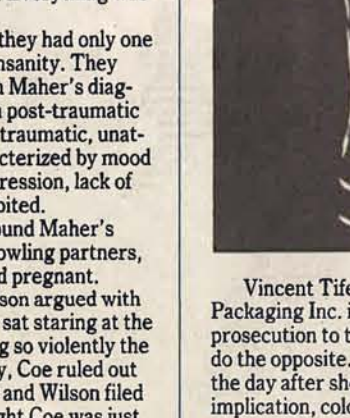
Judy.

■ ■ ■

Aug. 22. Judy hunched over the defense table, her head in her arms or slightly raised, a pile of crumpled tissues in front of her. Wearing a blue print Western style dress, white stockings and white boots, she was soon to testify, all alone, in her own behalf. She did not look equal to the task.

Sometimes she looked like an old woman. Other times, she looked like a little girl. Maher had earlier prescribed 10 mild tranquilizers to help Judy sleep. She had decided to take some to get her through her testimony, and the drugs' effects were obvious. Judy's eyelids drooped, her body sagged, and she seemed remote — not quite connected to everything that was happening.

Donerly and Wilson did not know Judy would take the tranquilizers, but they figured it was better for her to be tranquilized than hysterical on the stand. Her erratic behavior during the past several weeks worried her lawyers. Earlier in the hallway, Judy leaned against Russell, muttering, "I'm going to prison," or asking Wilson, "Am I going to prison today?" Then, without warning, she called Coe "a bastard." Her lawyers knew these outbursts could dash any hope for sympathy. Who, they wondered, would testify: the friendly Judy or the hostile one?



Times photo — CHERIE DIEZ

THE JUDGE: Hillsborough Circuit Judge Harry Lee Coe III is known as "Hangin' Harry" around the courthouse.

Assistant State Attorney Rolando Guerra called one witness after another: detectives Dennis Hallberg, Larry Lingo, Albert Frost and others from the sheriff's office. The Nawrockis also testified, one at a time: 11-year-old Ryan, who found the baby, Ryan's sister, Melissa, and his mother, Lisa. All testimony was brief and straightforward, explaining how the baby was found in a videocassette recorder box under a tree near a dumpster; how another box containing bloody towels and other evidence was later found in the dumpster; Judy's arrest and confession, how nurses called the baby "Jack-in-the-box." The defense did not cross-examine most witnesses.

Guerra referred often to the table full of evidence: the VCR box Judy had placed her baby in, the box that contained the towels, photos, maps and other exhibits, all drawing a clear picture of events.

Judy quietly cried or stared off into space. She stuck her tongue out at a photographer. At one point she took her engagement ring off, gave it to the bailiff, whispering something. The bailiff found Russell, seated toward the back of the courtroom, and gave him the ring. Russell tried to catch Judy's eye, but she did not look at him.

Throughout everything, Russell, Mrs. Duncan and Marci Gilbert sat together toward the back of the courtroom, looking as if they were at a funeral.

THE TRIAL: Judy Pemberton consults with her attorneys, Assistant Public Defenders Brian Donerly and Andrea Wilson, left.

Times photos — VICTOR JUNCO

THE ANGUISH: Loyalty had its price. Mary Duncan (left), severely criticized by friends and family for standing by Judy, seemed overwhelmed at one point during the trial. Judy (above) spent much of her time in court staring or crying quietly.

Vincent Tifer, Judy's former boss at Hallmark Packaging Inc. in Tampa, was subpoenaed by the prosecution to testify against Judy. He had wanted to do the opposite. Tifer testified that Judy went to work the day after she had a baby and seemed normal — by implication, cold and remorseless.

Wilson cross-examined, asking one question. Did Judy look pregnant the day before she had the baby? No, Tifer said.

As Tifer stepped down, he said in a loud voice, hoping the jury would hear, "Good luck, Judy!"

Within two hours, the prosecution rested its case. Coe called a brief recess. Judy, Mrs. Duncan, Marci Gilbert, Michael Maher, Donerly and Wilson retreated to the public defender's office upstairs. This is where they went during breaks — away from the noisy crowd, and, especially, the media.

During the breaks in her three-day trial, Judy usually just lay down on a couch. One time, when the couch was being used, she curled up on the floor in Wilson's office with her head behind a filing cabinet. She cried, or asked, "Why are they treating me like I'm a monster?"

Another time, as Judy sat with Marci, Russell and Mrs. Duncan, she cried and said, "I don't know how any of you can love me after what I did."

That, Marci knew, was Judy's way of saying, "I'm sorry."

Russell was strong for Judy. When she was upset, he took her by her shoulders and said, "Judy, it's going to be okay." But he was scared, too. Shortly before Judy testified, Russell sat alone in the near-empty courtroom, before the trial resumed. He rubbed his face with his hand and shook his head. His face reddened.

"I just don't know what I'm going to do," he said.

■ ■ ■

"The first witness we intend to call," said Donerly, as the trial resumed, "is the defendant, Judith Pemberton."

The bailiff took Judy's arm. Judy shuffled to the stand. She took the oath in a barely audible voice. She sat down.

Andrea Wilson asked gently, "Judy, would you tell us your name, please?"

Judy started to cry. "Judith Pemberton."

"You need to speak up so we can hear you, Judy."

Judy sobbed. "I can't. I can't."

"Try again," Wilson said. "Tell us your name?"

Wilson was relieved. Judy finally gathered herself and answered basic questions. Her address, age, whether she had children.

Wilson asked Judy to describe her pregnancy with her daughter 20 years ago. Judy said she had all the signs. "The classic morning sickness, swelling feet. They got very large and very large stomach, very large breasts. In fact, I was quite sick during the whole pregnancy. I gained water to the extent that I had to take cholesterol and water pills to get rid of it."

"How long were you in labor?"

"Oh, about 24 hours."

"Did you know right away when you went into labor?"

"Oh, yes."

Wilson talked about May 13, 1988, when Judy met Russell Hayes.

"I remember exactly," Judy said. "It was at the bowling alley, and he was wearing black slacks and a black sweater, and I adored him at first sight. I knew he was right."

Wilson tried to establish that Judy and Russell had a stable, loving relationship, and that Judy thought she was in menopause. She also established that Judy had taken an over-the-counter pregnancy test.

"Of course," Wilson said, "we all know now that you (later became) pregnant . . . did you ever feel that you were pregnant?"

"No, I didn't get big enough."

"Did you gain weight?"

"Some, yes, but I was also eating an awful lot because the man I was married to before was very much against gaining weight. He was a physical fitness — I hate to use the word 'nut,' — but he was very fanatical about physical fitness and any weight gain was a no-no."

"Was your relationship with Russell a little different?"

"Yes. He doesn't care. I mean, you know, he isn't exactly skinny himself, but he doesn't care."

Everyone in the courtroom laughed. Russell turned scarlet, and lowered his head and he and Mrs. Duncan laughed. It was the only jovial moment in the trial.

Wilson compared the difference in symptoms. During Judy's first pregnancy, "Did you feel her move inside you?"

"Oh, yeah, you could see my stomach was undulating. She was just turning."

"Kicking?"

"Oh, yes, especially in my right ribs. She made them very sore."

"Did you feel any movement the second time?"

"With Rusty? No."

Judy clutched a tissue in her hand, and occasionally raised it to her nose.

"Do you remember having the baby?" Wilson asked.

"I remember some — some pains, but when he came out, there he was. I don't remember having him but all of a sudden there he was."

"What did you think?"

"I didn't know where he came from."

"Did you know that it was your baby?"

"He must have been. He was attached to me. I don't remember, you know. I don't know. He was there."

"What did you do?"

"I cleaned him up as much as I could and tied the umbilical cord and wrapped him up."

"What were you thinking while you were doing those things?"

"I don't know. I don't think I was thinking. I was acting almost on instinct, I think."

"After you cleaned him and wrapped him, what did you do?" Wilson asked.

"From that point, I don't know. It's very unclear."

"Judy, how is it possible that you were pregnant and didn't know it?"

"I don't know. I have no idea."

"When you look back on what happened to you, do you see it clearly?"

"No. It's a dreamlike state."

"What do you mean?"

"It doesn't seem real."

"Do you see yourself in these dreams?"

"I see somebody in that dream, but I don't know if it's me."

■ ■ ■

Assistant State Attorney Rolando Guerra is a solid, stocky man with dark, perfectly trimmed hair and a confident, square-shouldered walk. Before he began cross-examining Judy Pemberton, he put the VCR box next to her on the stand, so close that the box crowded her.

This was the worst part of everything for Russell. He was so afraid for Judy up there. She hadn't been pushed very hard yet. Russell knew that was about to change.

Guerra grilled her on details of the birth, questioning her previous testimony that she didn't remember most of what happened that day.

You deliver the baby, tie the umbilical cord, clean the baby up, clean yourself up, Guerra began. "What did you do with the baby?"

"I put him on our bed."

"And you found the box. You open it up and you put the baby in the box?"

Judy nodded.

"Correct? You took — "

"So they say," Judy said.

Guerra showed her the towel. This is the one she wrapped the baby in, correct?

"I can't recall. I don't know. I suppose it is."

Judy said she didn't remember any of her actions, putting the baby in one box, the other items in the other box. Guerra kept trying.

"After you put the baby in the box, and you got that box of garbage, you went looking for the keys to your car, right?"

"I don't know."

"You don't recall that?"

Judy shook her head. "I don't recall a lot of that time."

When Detective Frost interviewed her at Hallmark Packaging the next day, Guerra asked a few minutes later, "You knew by that time you had had the baby?"

"I wasn't sure," Judy said.

"You weren't sure at that point?"

"No."

"Well, of course, you didn't have it any more, right?"

"I didn't think I had it in the first place, not knowing I was pregnant."

The day she was arrested, Guerra said, Judy denied knowing about the baby, but "when they told you all the evidence that they had against you, you finally told him, 'It's my baby,' didn't you?' "

"I guess they shocked it out of me. I don't know. I was — "

"They shocked it out of you?"

A few minutes later, Guerra picked up a photograph. "This is your kitchen?"

"Yeah, it looks like it."

"When those kittens were born in that kitchen, you didn't put them in a box and throw them in a dumpster, did you?"

"Objection, your honor!" Wilson said. "He is goading the witness, and it's totally irrelevant."

Coe overruled the objection.

"You didn't get rid of those little kittens when they were born, did you?" Guerra repeated.

"Oh, no, sir."

Guerra asked why Judy didn't call anyone. She didn't know.

"That baby wanted you, didn't it?" Guerra demanded. "You held it?"

"Only enough to clean it up."

"And then you just got rid of it and threw it like trash by the dumpster, right?"

"No, sir. I laid it on the bed to make sure it was taken care of."

"Just long enough to go get your kittens food, right?"

"Pardon?" The sarcasm was wasted on Judy.

"I have no further questions."

Judy's ordeal on the stand was over. For a moment, she sat there. Then, unnoticed by nearly everyone, including the jury, she slowly stretched out her fingers and caressed the VCR box.

Judy's testimony covered familiar ground. But one item never came up: The dumpster was a central image in this case. Guerra worked on that, implying that putting a baby near a dumpster was the same as putting it in the dumpster. The defense had even filed a motion to prevent him from saying that the baby was placed in the dumpster.

But both sides missed the fact that the dumpster had not been taped off as part of the crime scene, that detectives did not at first connect the baby and the dumpster.

As the media waited in the hallways, Judy ranted in an adjacent room. She hated Guerra. She hated Coe. "Why won't they let me say what I want?" she shouted. "I'll go talk to those reporters! I'll tell them a few things!"

Judy giving television interviews in this condition was a worst-case scenario for Donerly and Wilson. They finally calmed her down and she went home. But she still fumed. In all the news stories and that day in court, everyone kept calling the baby "Jack-in-the-box," the name given to him by the hospital nurses.

That evening, Judy called the television stations. "Quit calling my baby Jack-in-the box," she said. "That's not his name.

"His name is Rusty."

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A GIFT ABANDONED

DAY FOUR

Judgment Day

■ Judy Pemberton abandoned her baby in a box April 27, 1989, at her apartment complex. She said neither she nor the baby's father, Russell Hayes, knew she was pregnant. Judy's lawyers had hoped to use an insanity defense at her trial. But on Aug. 21, Hillsborough Circuit Judge Harry Lee Coe III ruled out that option. On Aug. 22, Judy appeared as the only witness in her defense.

By SHERYL JAMES

TEMPLE TERRACE

Aug. 23. Trial Day No. 3.

Assistant State Attorney Rolando Guerra tossed the videocassette recorder box on the floor in front of the jury. Thud.

"We know that on April 27, Judith Pemberton deserted her child," he began in his closing arguments. "The only person you didn't hear from was that baby in that box . . . dumped off with the night's trash. You didn't hear the anger, fear, the terror he felt when his own flesh and blood threw him away."

Defense attorneys Brian Donerly and Andrea Wilson appealed to the jury's sense of compassion. "The point of this case," Donerly began, "is not that she did so, but why she did so."

About 11:30 a.m., the six-member jury, four women and two men, filed out of the courtroom to decide whether Judy was guilty of wilfully and intentionally deserting her child.

Donerly and Wilson considered one hour the cutoff point. If the jury was out that long or longer, the defense had a chance for acquittal, however faint. But if the jury came back in 15 minutes . . .

Donerly was much more optimistic about an appeal than he was about the verdict. Judge Harry Lee Coe III had stripped Judy of her insanity defense and her witnesses. She was left to testify alone. These and other factors made for a strong appeal case, Donerly thought.

Judy simply assumed she was going out the back door. To prison. Her supporters had stopped telling her everything would be okay. The group waited in the hallway, making small talk as the jury deliberated.

Fifteen minutes.

Thirty minutes.

Forty-five.

At one hour, Donerly came by. The jury still out after an hour was a good sign, he said. No one smiled.

As she waited with Judy, Marci Gilbert, Judy's sister-in-law, realized any doubts she had about Judy's story about the birth were gone. Marci had taken the same kind of tranquilizers Judy took the day she testified. She knew: You can't lie under those. Your mind don't work. She couldn't have been lying. She was so doped, and her answers were there, over and over. Guerra would rephrase the question and her answers were always there. I wish Coe would have let me talk. I would have asked him, "Your honor, how can anybody lie drugged up?"

Marci still did not know why Judy abandoned her baby. But she considered Judy's background. Marci had cared for Judy's mother for 10 years before she died. The woman once told Marci how difficult it was having a sixth child at 37. As a child, Judy did things for attention. She held her breath until she passed out. Once, she cut up a bed sheet. Judy was 20 years younger than her oldest sister. Judy competed — unsuccessfully, Marci thought — with her sister's children for her mother's attention.

Marci's observations seemed to give weight to psychiatrist Michael Maher's speculation: Judy's mother never really formed an emotional attachment to her last child. Maybe she went through the motions, but she was detached.

The way Judy seemed now.

■ ■ ■

One hour, 20 minutes. The bailiff motioned. Everyone filed back into the courtroom. The jury came in, and the verdict was read aloud: Judith Pemberton was guilty as charged.

There was little reaction in the quiet courtroom. Judy seemed only half-aware of the verdict. Sentencing was set for Sept. 22.

Coe allowed Judy to stay out of jail. She went home, facing another 30 days of uncertainty: Her fate was now in Judge Coe's hands.

■ ■ ■

Sept. 22, 8:30 a.m. Judgment Day.

Judy meandered near Coe's courtroom, waiting. Wearing red pants and a red and white striped blouse, she seemed resigned, almost cheerful, talking calmly to her friends.

She joked that her breakfast that day might have been her last good meal. "Have you ever seen that crap they serve in jail?" she asked one of her friends. When a television cameraman showed up, she said, "Great. Here comes my public." When Guerra walked by, she said, "He deserves an Academy Award for his performance."

Russell Hayes was not doing as well. He sat on a bench down the hallway, his head in his hands. Judy went to him. He leaned against her, and she gently rubbed his back.

"He's falling apart," she said to Mary Duncan, Russell's aunt, a few moments later. As Mrs. Duncan started toward him, Judy stopped her. "He wants to be alone, he really does. He's been so strong for so long. I said, 'Well, fall apart.' I've done enough falling apart. It's his turn."

Judy knew a pre-sentencing investigation recommended 18 months in prison. There was little hope that Coe would impose a lighter sentence. She did not want to go to prison, she said. She wanted to be with Rusty, now 5 months old. "The baby needs his mother. And I need him."

By now, Mary and Raymond Duncan were so sure they would get temporary custody of Rusty, Mrs. Duncan had furnished the second bedroom in their Tampa apartment with a baby bed, clothes and toys. Judy and Russell bought things for the baby, too. Russell showed off pictures of his son. One showed Rusty asleep on Judy's shoulder.

It was time, Mrs. Duncan thought, for him to come home.

Moments before Judy's case was called, she and Russell stood together in the middle of the busy hallway. They embraced and spoke in low tones to one another.

The bailiff gestured. Judy stiffened. Crowd around me, she told her friends, leaning forward slightly. They circled around her and moved into the courtroom. She hated those television cameras.

■ ■ ■

Judy had one last, faint hope for leniency. Witnesses not allowed to testify at trials often are allowed to testify at sentencing hearings. Tampa psychiatrist Michael Maher, who had evaluated Judy and other women who had abandoned their babies, was permitted to present to Coe his theories about unacknowledged pregnancy and about Judy. The first day of the trial, Coe had disallowed an insanity defense built on Maher's testimony.

As Maher spoke in clear, declarative tones, occasionally gesturing neatly with his hands, the courtroom grew exceptionally quiet.

Maher explained how some women, under very special and unusual circumstances, could continue through their pregnancies without a "conscious awareness of her pregnancy."

Coe was skeptical but intrigued.

A partial account of the exchange between the psychiatrist and the judge revealed two opposing views of the crime:

"Do you think that is a reasonable possibility in a 7-pound, 7-ounce child, with a thin defendant?" Coe sked. "She would not know that she was pregnant?"

"Yes, I do," Maher said. "It's my opinion that she had no awareness until after the actual delivery." Other women who experienced unacknowledged pregnancies often had at least some vaginal bleeding, some semblance of menstrual periods, during their pregnancies. Judy Pemberton did not — but, at 42, she thought she was in menopause.

Judy's lack of awareness of her pregnancy, Maher continued, "sets the stage for a traumatic delivery. . . . She identified her menstrual cramping and thought, 'Well, maybe I am going to have my period again.' She gave me no indication whatsoever that it even occurred to her that she might be going into labor at that point.

"At approximately 4 o'clock in the afternoon, I would estimate, she went into the end stages of labor and delivered this infant after going to the bathroom, expecting to relieve herself.

"Given that she had no conscious awareness of this pregnancy until that time, that put her in a state of psychic shock that I would characterize technically as a severe dissociative reaction — somewhat similar to psychosis but not exactly the same, the sort of reaction people describe in a near-death situation, where they feel they are out of their body looking at what is happening as an observer."

"What do you call this lack of memory?" Coe asked.

"Dissociative reaction."

"When she says she doesn't remember, is that the dissociative reaction?"

"Yes, basically."

"Can a dissociative reaction be selective? Can you remember one thing and not remember another?"

"Yes. A dissociative reaction includes an element of amnesia . . . but even more prominent, a confusion about the events."

"Well, I'm trying to understand," Coe said patiently. "She cannot remember having a child and not remember leaving it at the dumpster, but yet remember going to the store . . . and a week later does remember the child. Does that all make sense to you?"

"Yes, and I think I can explain in the context of circumstances that were forcing her to accept that this was not a dream, this was reality, and that her internal awareness was developing. . . . As that process continued, she was developing an acceptance of the infant."

Coe frowned. "When did this happen? When?"

"Probably a couple of days prior to when she was arrested, but really when she was arrested, when the police came to her home (and) confronted her with the evidence."

"How can you then explain this?" Coe asked. "It looks selective to me. There is no consistency there. . . . She does something that is very logical but then something that is very unlogical. . . . She ties off the cord but yet dumps the baby. She dumps the baby but yet goes back to check. You know . . . her reactions seem to say she can have it both ways."

"It fits the pattern of these situations," Maher said. "The person suffering will often wander around the area, will return to the area out of some feeling that that is necessary."

"But still did nothing to correct the situation?"

"Yes."

Maher explained that Judy was suffering from post-traumatic stress disorder, the result of an "out of the ordinary experience, not simply losing a job or something like that. It's also associated with thoughts and memories and confusion and anxiety about the traumatic event, disturbing dreams about it, that sort of thing.

"She has a mild form of this disorder, and she is recovering from it quite well. . . . She has to accept the ultimate responsibility for this. In my opinion she is doing that."

"Well," Coe said, raising his arms, "given all that you say is true, why wouldn't she come in here and say, 'I did it and I am sorry?' Why is she trying to alibi out of it? Why wouldn't she say, 'There is no excuse for it and I am sorry,' if that is the truth?"

"Because — " Maher began.

"Why didn't she take the stand and say, 'This happened and I am sorry that it happened and it's terrible and I will suffer the consequences?' Why wouldn't she do that if she is such a fine person?"

"I don't know, but I can tell you a very important part of that, which is — "

" — 'Let me tell you why I did it,' " Coe interrupted. " 'I did it because of the disassociative reaction, I was not in my right mind, I shouldn't have done it that way. I am sorry I did it that way, and I am ready to suffer the consequences?' "

"Because she doesn't know it and understand it that clearly yet. . . . When I have talked to her about this in my office, she blames herself and feels guilty and denigrates herself because of this. It's clear to me she feels responsible . . . but

Continued on next page

Times photo — CHERIE DIEZ

THE COUPLE: Russell and Judy Hayes, who have been married since Jan. 6, 1990, are trying to get their lives back to normal.

Photo courtesy of JUDY and RUSSELL HAYES

THE CRUISE: Russell Hayes and Judy Pemberton were photographed on a cruise to Mexico in December 1988. At the time, Judy was five months pregnant.

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Day Four: Judgment Day

Continued from previous page

because of her confused memory, lack of awareness, because of her lack of conscience — "

"Well, I am not quite sure. Here we are having it both ways. Does she remember this or not today?"

"Not in the way you and I would remember an event in our past. She remembers it still with this veil of dreamlike confusion. . . . "

"How can she then say to the police, first, 'I know nothing about it, it wasn't my child,' and then, 'Yes it's my child?' "

"Because her memory of it changed during that period of time."

"It seems to change for the best."

Donerly saw that Coe seemed to be losing patience. Donerly interjected, "Judy, in terms of showing regret, I think she has."

"When? When? When?" Coe asked, leaning forward. "Point it out to me."

"In my office, crying, collapsed on a couch. . . . In her sessions with Dr. Maher and in multiple conversations with me and Mrs. Wilson over the last months," Donerly said.

Judy stood, leaning weakly against Russell or Marci. "I'm going to faint," she whispered to Marci. "I'm going to prison."

Later, Wilson, attempting to show the extent of Maher's belief in Judy, asked Maher whether he would recommend that Judy have her child "now, sometime or never."

"Sometime," Maher responded, "probably after appropriate evaluation."

"How can you say that?" Coe shouted, leaning forward again. "How in the world? That escapes me. Somebody can do something like that, even assuming there is a justification for it, and you can say, 'Let them have another shot at it?' "

The courtroom rang with laughter.

"Yes." Maher held his ground.

"Is there any possible way to say she wants that child? . . . Why doesn't she react by loving the child?"

"She had very, very strong, opposite feelings."

"Why? Why? Why? It's very simple. She didn't want the child because it was very disruptive of her life. She had enough reason to reason that out."

"Well," Maher said, "I would say that she had an irrational fear that the child would mean that she would be abandoned."

Could Maher predict, yes or no, whether the baby was emotionally harmed by having spent the first hour or two of his life by a dumpster, abandoned by his mother?

No, Maher replied, he could not predict.

"So," Coe said, "it wouldn't bother you if we took every child out of Tampa General Hospital and put them by the dumpster for two weeks. You don't think they would be harmed at all?"

"Sir, I would certainly not agree with that."

"Of course not."

Maher testified for about 20 minutes. Then everyone else was heard. Guerra argued for Coe to exceed the recommended sentence based on the vulnerability of the victim — a newborn infant left "with no food, to the elements, animals. . . . "

The defense and the baby's court-appointed guardian pleaded for a more workable situation. Judy would be devastated by prison; it would serve no purpose to put her behind bars. Or if she did go to prison, she probably would not serve more than a year. Then she would probably reunite with Russell. Russell could gain custody of his child right now. So Judy, in effect, would have her child with no controls, no guidance from HRS, no court-ordered counseling.

After everyone had made their recommendations, there was a moment of silence. Judy stared at the ground. Coe began to speak.

Maher's presentation was excellent, he said. But "I don't believe for a minute that she (didn't know she was) pregnant, and I do not believe for a minute that she did not know what she was doing."

Russell bowed his head and leaned forward on one arm.

"She most certainly knew what she was doing. It was a cold, calculated act," Coe continued. "Only when confronted with overwhelming evidence did she admit the child was hers. There are circumstances and factors that justify me going outside the guidelines — the nature of the crime, the emotional trauma at a young age, the breach of trust. . . . All of this dictates that she receives the maximum possible sentence. I find myself hard pressed to find any compassion for somebody that thinks more of their cat than they do of their own child.

"I sentence her to five years in the Florida State Prison."

Russell turned and ran out of the courtroom.

Donerly and Wilson quickly asked that Judy be allowed to report to jail the next Tuesday, so that she could attend Rusty's custody hearing on Monday. Coe asked for Russell. Russell composed himself and came back into the courtroom. Coe established that Russell was a Tampa native and resident and would help assure Judy would not leave town.

"Well, I certainly commend you, sir," Coe said. "You have stuck by her and your child, and I commend you. Nothing that has been said or done here reflects on you."

Coe agreed to let Judy stay out of jail.

Court was dismissed.

People flooded the courtroom. Russell fell into the arms of a friend, sobbing. Judy collapsed on a bench, buried her head in her arms and said, "I'm not gonna go to any prison, because I'll be dead by this weekend, you can guarantee it."

There was no trace of the calm, rational Judy of an hour before. She didn't listen to anyone who tried to comfort her. She refused to get up for 10 minutes. Then Russell guided her out of the courtroom. When she got into the hallway, she stopped dead in her tracks. Russell tried to coax her forward. She yelled at him. She pulled away from him, he pulled her back. She wouldn't move her feet, so they slid along the floor, her body slanted away from Russell. A television cameraman filmed it all.

Other cameras waited outside. Judy wouldn't leave the building. She threatened to kill herself. She shouted at Russell, who finally surrounded her against a wall between his arms.

"You're acting like a child!" he yelled. "I've been here all along, haven't I? And I'm gonna be here for you!"

Judy escaped and ducked into the elevator. She retreated to Wilson's fifth-floor office, then returned several minutes later. She finally walked toward the door. In her little-girl voice, she stared ahead, and said, "Judge Coe said I knew what I was doing, but I didn't."

■ ■ ■

Nov. 9, 1989, 5 p.m. Three small bowls lie scattered on the concrete floor outside her apartment door. They are for her cats and any other cats that come by, for she cannot turn away a stray animal. On that, even her critics agree. Right now, the bowls are empty. There are no cats in sight.

Judy Pemberton answers the door, wearing an oversized orange Florida Gators sweat shirt and royal blue sweat pants. Russell sits cross-legged on the living room floor, absorbed in a Nintendo game that Judy gave him for Christmas 1988. He looks up, smiles, says hi, and goes back to the game.

"He's addicted," Judy says, grinning at him.

She shows off their new home, a two-bedroom, third-floor apartment they moved to last summer. It is clean, orderly and modestly furnished, except for some antiques handed down from Judy's family: an imposing four-poster bed and vanity that swallow the small spare bedroom; a 1920s-era couch with velvet upholstery and curved, wooden legs; a 1922 Singer sewing machine.

In the kitchen, scores of decorative magnets pepper the freezer section of the refrigerator. In the living room is Russell's collection of sports mugs, neatly lined on shelves. Small, framed photographs of family members fill a small table nearby.

One photo shows Judy and Russell next to a sign reading "Bermuda Star Line, Vera Cruz." It was taken as they left on a Mexico cruise at Christmas, 1988 — when, she says, she was five months pregnant and did not know it. Judy is wearing the same striped jump suit she wore the day she was arrested.

"I threw it out," she says. "I would have burned it, but I didn't have any gasoline."

The remark is evidence of the stress of the past six months. Judy still faces five years in prison, but Coe released her on her own recognizance while her case is appealed, which could take up to two years.

Times photo — CHERIE DIEZ

AFTER THE TRIAL: Judy Hayes poses in the spare bedroom of the apartment she shares with Russell and her cats, Baby and Morris.

On Sept. 23, Hillsborough Juvenile Judge Vincent Giglio granted temporary custody of the baby, Russell Raymond Hayes, to Mary and Raymond Duncan. The court allowed Judy and Russell unlimited, supervised visits with the baby. Giglio also ordered them to take parenting classes, which they attend weekly. He did not address whether Judy and Russell can get custody; HRS says it is possible one day. After the hearing, Russell beamed. Judy jumped up and down. "I get to see my baby every day!" she said.

All of that is now six weeks past. Judy and Russell are trying to get on with their lives. Russell still works at the restaurant making pasta and doing other jobs. Judy has a part-time minimum wage job. The couple never had a great deal of money. But the long legal ordeal and Judy's inability to work for several months have depleted their finances.

Judy and Russell share a 1987 Chevy Sprint with a broken back window covered with plastic. Bill collectors call. They have no medical insurance; Judy has yet to see a medical doctor or psychiatrist. She says she can't afford it.

Judy's family, except for her sister-in-law Marci Gilbert, still shun her. "They don't understand why I did such a thing. I don't, either," she says. "My family, this is the way they are: They have to make up their own mind at their own pace. I've just learned to stay away from them."

She introduces one of her cats, Morris, an orange tabby, cradling him in her arms for a moment. She looks around for Baby, and finds him in the bathroom cupboard. "There you are!" she says, gently picking up the black cat. "This is his favorite hiding spot."

Judy sinks into an easy chair and tucks her bare feet beneath her. Lamp light falls kindly on her face. She wears little makeup. Her eyes are deep set and close together, the rims a bit red. Freckles that refuse to fade with age cover her face. She is plump, as she was during her pregnancy.

Russell gets up. "Why don't you stay?" she asks. It is more like a polite plea. Russell says "No," softly, then goes into the bedroom. A 5 o'clock news program blares on the television. Judy gets up, clicks off the TV, then returns to her chair.

She is suddenly nervous, knowing the conversation will veer from antiques, cats and bowling to the abandonment. She says she is afraid talking will hurt her case, her chances of getting custody of Rusty. She also is shell-shocked by the media attention she has received.

But beyond that, there appears to be in her a mountain of resistance about the abandonment, a sense that despite all that has happened, she has yet to emotionally confront and resolve what she did. She admits to the crime, she expresses remorse, but as she sits talking, her words seem weightless. She seems robotic. Her occasional hostile remarks when anyone mentions the baby suggest she still denies, hoping that if she denies long enough, all of this will go away, and life can be as it was before this thing happened to her.

She answers questions with full eye contact, but her answers seem flat, lacking emotion. Her voice is girlish, a voice you can imagine talking to stuffed animals.

She grew up in Temple Terrace, less than two miles away. She was a tomboy, always closer to her father and three brothers, who spoiled her, than her mother and two sisters. In high school, she was the kind of student you can't quite remember years later. "I went to school and went home," she says. "I kept to myself." Her father died 16 years ago; her mother died a few months before Rusty was born.

Judy graduated from King High School in 1964. She joined the Navy in 1965. She did well; she was a hospital corpsman (a medic) and reached the rank of E-5 (E-8 is the highest enlisted rank). While in basic training at Parris Island, S.C., she met Russell Pemberton, a Marine. They married in 1966.

Pemberton was "good lookin', very good lookin'," Judy says. "He was one of the beautiful people." But the marriage was unhappy, almost from the beginning. "Families, birthdays and Christmas, they mean a lot to me," she says. But not to Pemberton. "His opinion of birthdays is it's no big deal being born. Christmas is no big deal because it's Christ's birthday, not yours. I rarely got a present from him. With Mother's Day, he'd say, 'You're not my mother.' Things like that, that's really, you know, gee whiz."

Their daughter was born in 1969. Three years later, the family moved to Europe for seven years. Pemberton, a career Marine by then, left the family frequently on military trips, sometimes for long periods of time. Their relationship was unhealthy for Judy, but for years, she denied it.

The marriage ended one night in September 1987 in a scene Judy barely describes. She only says that when her husband packed up to leave for his girlfriend's for the night, "I said, 'This is ridiculous, I'm outta here.'

"I couldn't understand why I stayed in that relationship so long. Then it dawned on me," she says, her voice childlike and trusting. "Well, obviously, I had to wait for Russell to grow up. I didn't know that, but they say God has a plan for us. That was mine. That's the only thing I can figure."

Sitting there, her hands resting in her lap, Judy seems every bit her 43 years. She is mature, rational, ordinary. Yet six months before, she left her baby in a box by a dumpster. She looks mystified by this. She frowns slightly, as if trying to discern why someone else she doesn't know did that. She still says she remembers only bits and pieces about the day the baby was born. She slowly shakes her head when asked why she cleaned up the baby, tied the umbilical cord — and then left him, possibly, to die.

Did she mean for him to be found?

She just doesn't know.

"There must have been some part of me that wanted not to (throw the baby in the dumpster)," she said. "I feel at that point in time there were probably two Judys that existed, like you see in cartoons, the angel on one shoulder and the devil on the other. Maybe that's part of it. I'm sure there is a bad part in me somewhere."

Psychiatrist Michael Maher, who evaluated Judy after the abandonment, pointed out to Judy that she risked her own health. The day after she gave birth, she went to work, and four days later she bowled with a 15-pound bowling ball. "I coulda died," she said. "I mean, that's scary."

Her two nights in the jail were just as scary, she says. "People coming and going, loud noises. Other people sat across the jail, they would look at me, and talk to each other and point. I just stayed to myself, I thought, 'They make one move toward me, I'm gonna go up to the guard.' They would bring newspaper articles up to me, but I wouldn't look at them, 'cause I just wanted nothing to do with them."

She doesn't remember much about testifying. She doesn't remember caressing the VCR box that was placed next to her on the stand. She listens to her statement to the police the day she was arrested read aloud. Nooo, she shakes her head again, at the part saying she checked later on the baby. "I'm pretty sure I didn't say that. I was just going to do laundry."

But when shown the police report, she responds, "Yeah, I suppose it's possible. . . . "

She does remember sticking out her tongue at a photographer. "That, believe it or not, is the extent of my bad nature — sticking my tongue out as I walk away from a fight."

What makes the least sense is that she abandoned the child of the nicest man she had ever known, a man she lived with and would soon marry. Why? She shakes her head, again. "It was an awful thing to do, an awful thing to do to Russell, you know. As crazy as I am about him, why wouldn't I be crazy about his child?

"I've often thought — well, you've seen that rocking chair," she gestures toward the spare bedroom, "I've thought, if I could have just had any sort of sense about me, any awareness, knowledge of what was going on, and be sitting there in the rocking chair when Russell came home — what a sight that would have been. He probably would have passed out, I'm sure. That would have been terrific, if it just would have happened that way. Or if someone had been around. But you know, I was there all by myself.

"How could something like this happen to a person? Not know you're pregnant? Some people say, 'Well, at your age, you weren't married, you wouldn't have Russell's child.' That's absolutely ridiculous, the way I feel about him? I wouldn't have cared diddly squat what anybody else thought about it."

Since Judy abandoned her baby, five other women have abandoned their babies in the Tampa Bay area. Two babies were found alive in dumpsters by passers-by. Another was left, wrapped carefully in aprons, outside a New Port Richey nursing home.

On Oct. 23, Claire Moritt, an 18-year-old freshman at Hillsborough Community College, locked herself in the dormitory bathroom and gave birth to a full-term baby boy. The baby was later found dead in the toilet. Her friends in the dorm did not know what had happened until it was too late.

Judy followed news accounts about Moritt, who is charged with first-degree murder. Her trial is scheduled to begin in March in Tampa.

A year ago, Judy would have condemned Moritt, just as Judy has been condemned. Not now.

"I thought, 'I hope they're not too tough on her.' Since I've been all through this, I've learned that when something like this happens, don't judge them. There can be a lot of circumstances that can lead up to it. Anymore, I don't judge. I'm more tolerant of a lot of things. And people."

Is she a criminal? "Obviously, I must be. I did the act. But I'm not a bad person. I'm not the monster that most of the media made me out to be. There's a lot more to me than the things you saw on TV."

Moritt's baby died. "Mine lived. He could've died, yeah. I see him every day, the thought of that happening is just. . . . " She pauses. "It's just not acceptable at all."

■ ■ ■

It is nearly 7 p.m. Judy and Russell are going to the Duncans' nearby to see Rusty, as they do most every night. Judy, instantly at ease with safer subjects, shows a flowery greeting card, handling it as if it were a treasure. Inside, Russell's small handwriting asks, "Will you be my wife?"

Judy then flips through a pile of photos. She stops at one.

"This is my favorite," she says.

Rusty is lying on the couch, Russell is leaning over his son. They are laughing, looking into one another's eyes.

"We're pretty sure he's gonna grow up to be a terror," Judy says. "Russell says he's gonna grow up to be mean and ornery. I said, 'I hope so.' I just like ornery children, it shows a lot of spirit.

"I call him Sugar Bear. He's my Sugar Bear. I'll walk in and say, 'Hi Sugar Bear,' and he's all smiles. He reached for me one time a couple weeks ago. Oh God. It was wonderful."

Judy says she hopes Rusty never has to know about the day he was born. She hopes that by then, no one will remember it. But when she and the Duncans took the baby to the bowling alley, someone called Channel 10. The TV station contacted HRS, which determined there were no violations.

Yes, it's possible someone will say something. Or Rusty will ask questions.

"I'd just tell him there was a big mistake made," Judy says. "You know. Something happened."

■ ■ ■

On Jan. 6, 1990 Judy Pemberton and Russell Hayes were married in a small, civil ceremony. The guests were a friend of Russell's, Raymond and Mary Duncan and Russell Raymond Hayes.

EPILOGUE

Times photo – ROBIN DONINA

In many ways, 18 months later, things seem frozen in time. Judy's case is still on appeal. Raymond and Mary Duncan still have temporary custody of Russell Raymond, who will be 2 on April 27. Russell Hayes continues his steadfast loyalty to Judy. "We're still crazy about one another," Judy says. "We miss each other when we go to work. We tell each other 'I love you' about a dozen times a day." Russell is serving his two-week National Guard training in Starke.

Today Russell and Judy Hayes are trying "to get our lives back to normal," Judy says. She works at a fast-food restaurant. Russell works as a supervisor at a Tampa restaurant. At least once a week, they visit their son at the Duncans' home in Tampa.

The past 18 months have been difficult. Russell and Judy have had severe financial problems. Both of their cars were repossessed. For a long time, they couldn't afford a phone. Judy has not sought the counseling recommended by a psychiatrist who evaluated her after her arrest. She says now that Russell's insurance may pay for it, she plans to begin. They have a phone and a car once again.

Though there is tension at times between the Duncans and Judy and Russell, the four have managed to negotiate a reasonable coexistence focused on little Russell. The Duncans are putting money away for the boy's education. Judy and Russell are also saving money for his college education through a stock plan at the company where Russell works, Judy says.

"We want him to go to Notre Dame," she says.

Little Russell is doing fine, says Mary Duncan.

"He's talking! Yesterday, I said, 'Wanna go outside?' and he said, 'Who, me?' He goes down the slide all by himself now. He can almost do a somersault, and ride his tricycle."

THE WRITER

■ Sheryl James, 39, is a writer for the *Times* Floridian section. A native of Detroit and a graduate of Eastern Michigan University, she wrote for the *Greensboro* (N.C.) *News & Record* before coming to the *Times* in 1986. She lives with her husband and daughter in St. Petersburg. The information in this series was gathered from interviews, court files, transcripts and police records. Some quotes are taken from transcripts; other conversations and thoughts are taken from people's recollections.

■ Sandra Thompson, assistant managing editor/newsfeatures, edited the series.

■ Rick Holter, newsfeatures designer, coordinated the visual presentation.

■ Copies of this section will be available for 25 cents plus tax at *Times* business offices starting Monday.