

KEVORKIAN CONVICTED OF SECOND-DEGREE MURDER

Oakland County, Michigan March 26, 1999

Family Members Not Permitted To Testify After Prosecutor Drops Assisted Suicide Charge

A jury today found Dr. Jack Kevorkian guilty of second-degree murder. Kevorkian had been charged with first degree murder and assisting in a suicide of Thomas Youk, who was within weeks of dying of Lou Gehrig's disease.

Dr. Kevorkian had insisted on defending himself, a desire that was not new. During his four earlier trials for assisting in suicides, Dr. Kevorkian had constantly demanded that his defense strategy, which was usually either counter-productive, or impossible, be adopted. What was new was the absence of his longtime friend and attorney, Geoffrey Fieger, who would not agree to allow Kevorkian to defend himself. Kevorkian subsequently dismissed Fieger and replaced him with a former Fieger associate, a third year lawyer who had agreed to be Jack's "advisor", a position Fieger turned down, refusing, as he put it, "to assist Dr. Kevorkian in legal suicide." Those of us who had supported Jack over the years felt that coming to his aid would only lend support and encouragement to his desire to represent himself, which we believed would be disastrous.

David Gorosh, who replaced Fieger, had absolutely no control over Dr. Kevorkian. Jack was in the driver's seat, strategically, a position he had always wanted. Of course, he had no road map for overcoming what Oakland County Assistant Prosecutor John Skrzynski treated as an open and shut murder case. Skrzynski is an experienced prosecutor who had tried and lost the second assisted suicide trial against Kevorkian in 1996. Skrzynski knew enough about the emotional nature of the case that when Gorosh presented his witness list that included the deceased's family members, he objected on the grounds that their testimony had nothing to do with the case and was more prejudicial than probative. Judge Jessica Cooper ruled that the family could testify because their testimony was relevant to the assisted suicide charge, although not relevant to the murder charge. Upon hearing this, Skrzynski immediately dropped the assisted suicide charge. The judge then reversed herself, ruling that the family could not testify because the deceased's agreement to be killed was not a defense to murder. Gorosh sat by in silence, apparently not recognizing that the family members were eye witnesses to an event the prosecutor was calling murder. As such, they obviously had important testimony to give.

This failure on Gorosh's part was disastrous for the defense. In prior cases, the family's testimony had allowed the defense to create a circle of love around the deceased that jurors were reluctant to allow the State to enter. Had the family testified, they could have told the jury all the things that they said and did that made the event very different from murder. Skrzynski, for his part, remained vulnerable, as he repeatedly attempted to ask the jury to believe that Dr. Kevorkian is the same as any murderer, as if he had come in the night and poisoned a healthy man who he had never met.

In his three-minute closing, after presenting no witnesses, Dr. Kevorkian, glaring at the jury, yelled: "Do I look like a murderer?" The jury took over 20 hours to answer in the affirmative, although to second, not first degree murder. Ignoring the pleas of Mr. Youk's family for leniency, Judge Cooper sentenced Kevorkian, who is 70, to 10 to 25 years in state prison on April 14. He will be eligible for parole in 2006.



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Contact Dr. Louis Genevie at (212) 489-4949