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## Victim to Be Heard at Husband's Trial

By Carrie Antlfinger

MILWAUKEE – Julie Jensen will essentially testify from the grave when her husband's murder trial begins this week.

Shortly before her death in 1998, Jensen told police, a neighbor and her son's teacher that she suspected her spouse was trying to kill her, court documents show. She gave a letter to the neighbor that said that if she died, Mark Jensen should be the first suspect.

"I pray I'm wrong + nothing happens ... but I am suspicious of Mark's suspicious behaviors + fear for my demise," she wrote.

Until recent years, using such evidence in court was virtually unheard of because of constitutional guarantees that give criminal defendants the right to confront their accusers.

But the Wisconsin Supreme Court created new rules, prompted by a U.S. Supreme Court decision that laid the groundwork for her accusatory letter and statements to police to be used as evidence in the trial.

At a hearing this summer, it was determined the letter and statements to police should be allowed at trial. Jury selection begins Thursday; opening statements were scheduled for Monday.

The hearing gave a glimpse of what both sides would argue.

The prosecution alleges that Mark Jensen, now 48, poisoned his wife with at least two doses of ethylene glycol, commonly used as antifreeze, so he could be with his girlfriend, now his wife. They argue he got the information on poisoning from doing Web searches.

The defense counters that a depressed and disturbed 40-year-old Julie Jensen did the Internet searches and poisoned herself \_ to frame her cheating husband.

Special Prosecutor Robert Jambois wouldn't comment on his case. Defense lawyers didn't return a call for comment.

Julie Jensen was found dead in her Pleasant Prairie home in Dec. 3, 1998. Mark Jensen was not charged until 2002, and legal wrangling over evidence delayed the trial.

In March 2004, the U.S. Supreme Court overturned a 1980 case that laid out complex rules about when statements can be used without the opportunity for cross-examination. The court said the case complicated a part of the Constitution that guarantees a criminal defendant the right to confront his accusers.

Kenosha County Judge Bruce Schroeder then ruled the letter and voice mails to police were inadmissible, but testimony of the neighbor and teacher could be allowed. Prosecutors appealed and the state Supreme Court ruled previously inadmissible testimony could be used if a judge determined the defendants' actions prevented the witnesses from testifying.

After the hearing this summer, Schroeder decided it was reasonable to believe that Mark Jensen's actions prevented his wife from testifying.

Marquette University Law Professor Dan Blinka said the U.S. Supreme Court decision overturned 24 years of precedent, leaving states and lower federal courts to make sense of the new rules.

Each state has had to deal with the new rules, and their decisions on how to interpret them vary, he said.

"Every criminal prosecution features some use of hearsay evidence against a criminal defendant and the problem for prosecutors and for trial courts and for defense lawyers is to figure out what the boundaries are," he said.

Among the witnesses expected to testify is Tadeusz Wojt, the neighbor Julie Jensen gave the letter to and one of several people she talked to about her marital problems.

During a hearing, he described Julie Jensen as a perfect mom who spent most of her days with her two sons, jumping and laughing in the yard and swimming in the pool.

Wojt said that about two weeks before her death, she told him and his wife that she found syringes in their bedroom. She said the next day her husband tried to force her to drink wine. She suspected he was trying to get her drunk so he could inject her with something, he said.

"He was like going after her from one room to another, pushing her to drink it, to drink it," he testified.

One of Julie Jensen's four brothers, Paul Griffin, said he expects closure from the trial. "I am very strongly confident that the right outcome will happen," he said.

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