

Medical examiner won't change woman's death certificate

Rubenzler died after breast surgery; manner listed as accident

By Brian Huber
Freeman Staff

WAUKESHA – Almost a decade after his daughter, Julie Rubenzler, died following a breast augmentation surgery, Don Ayer is still trying to set right what he sees as a wrongful determination of her manner of death.

Rubenzler, 38, died of brain damage from a lack of oxygen following a Sept. 25, 2003, breast augmentation surgery in Florida, during which she was given excessive levels of propofol – the same drug under suspicion in the death of Michael Jackson – in combination with other drugs. Her family flew Rubenzler back to Waukesha, where she died Dec. 26, 2003.

After Jackson's death and the attention paid to the anesthesia propofol, Ayer asked Biedrzycki to change the manner of Rubenzler's death from "accidental" to "homicide."

Ayer said the manner of her death was first listed as "pending" and then later changed to "accidental." On Friday, he met with Waukesha County Medical Examiner Dr. Lynda Biedrzycki, who declined Ayer's wish to change the manner to "homicide."

"We still say it's a homicide, but we can't find anybody who will agree with us. Anybody who looks at the facts on that case says hey, there's a homicide here, but we can't get anybody in the legal world or the medical examiner to agree with us," Ayer said Friday. "We're perplexed on this to tell you the truth."

The doctor who performed the surgery, Kurt Dangl, had his medical license revoked by the state of Florida in 2005, after an administrative law judge ruled that he administered excessive levels of the anesthetic propofol to Rubenzler; failed to log her medications properly and dispensed drugs that he was not permitted to do. Rubenzler was also given Demerol, a painkiller, as well as Versed and Valium, sedatives that can depress breathing, and the anesthetic Ketamine, according to the 2005 Florida



Rubenzler

decision where the license revocation was recommended. Ayer said he twice tried to have Florida authorities bring criminal charges

against Dangl for Rubenzler's death, but was told that while there was evidence of negligence, there was no proof of intentional harm. He said his goal in seeking to change the death certificate was "because there's an error on the death certificate. Julie did not die from an accident. That should be fixed."

Biedrzycki was unavailable for comment Friday, as she was testifying in the Chad Lurvey trial all afternoon.

But Ayer said she told him that she felt the standards for a crime weren't met, and suggested a review by the district attorney's office. Ayer said his family "just came to the conclusion it'd be just one more waste of time."

"Our family is grateful to Dr. Biedrzycki for taking the time to review the details regarding our daughter Julie's death. We still feel that Dr. Dangl's actions were criminal and we understand that Dr. Biedrzycki came to her conclusion based on the medical facts she has," Ayer said. "We don't understand why the Sarasota (Fla.) state's attorney would not take this case to the grand jury or why the Florida attorney general would not give us a second opinion. But Dr. Biedrzycki spent more time with our family in person explaining the decision than any officials in Florida, so we are grateful for that."

Ayer said he plans to publish a book later this year chronicling Rubenzler's story, under the working title of "The Who's Next Club: A Parent's Diary of a Cosmetic Surgery Disaster."

He also plans to work with officials in other states to bring awareness to the use of anesthesia-related deaths and other complications in non-hospital settings, he said.

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LURVEY TRIAL

Medical examiner describes victims' wounds

By Steve Van Dien
Freeman Staff

WAUKESHA – In Friday's session of Chad Lurvey's double-murder trial, Waukesha County's medical examiner described the wounds of Brian Lazzaro and Andrew Long in detail, and defense attorney Stephen Hurlley attacked the credibility of Lazzaro's former fiancée, who testified for the prosecution.

Lurvey, 37, formerly of the Town of Ottawa, is charged with the 2002 murders of Lazzaro and Long, both 25. Lurvey admitted storing cocaine and marijuana on his property for Long, whom he said was selling them. Both the defense and prosecution maintain that Lazzaro was Long's drug supplier.

Long and Lazzaro went missing after meeting with Lurvey on Aug. 24, 2002. During that meeting, Lurvey said, he had given Long \$5,000 for a drug-related debt and gave Lazzaro several pounds of cocaine. Twelve days later, Long's and Lazzaro's bodies were found in a private lake on the Lurvey family's property on Highway 67, in the Town of Ottawa. Both bore multiple wounds from a 12-gauge shotgun and their throats had been cut. The bodies were wrapped in blankets and chains, according to court records.

Tracy Lazzaro, who had been Brian Lazzaro's fiancée and had taken his surname legally after his death, told District Attorney Brad Schimel about confronting Lurvey with a group of relatives and searching his property on Aug. 31, 2002. He let them search his house, but they found nothing of Lazzaro's or Long's, she said. The search party did not go to the lake where the bodies were subsequently found, she said.

On cross-examination, Hurlley repeatedly accused Tracy Lazzaro of "helping" and



Lurvey

"encouraging" her fiancée's drug trade, which she denied. The defense then established that she had given false statements to investigators about her fiancée's drug dealing after he went missing and again after his body was discovered. On re-direct examination by Schimel, she said she had sought and received immunity from prosecution on drug-related charges in exchange for her testimony and had been truthful since then.

Waukesha County Medical Examiner Lynda Biedrzycki, who performed the autopsies on Lazzaro and Long, used a pair of male mannequins to depict their wounds. Each had a similar wound in the upper chest and neck area from a shotgun fired at close range, which had caused massive internal bleeding and lung damage. They also had shotgun wounds on their arms and legs, Biedrzycki said. Long's throat bore several slashes and Lazzaro had been stabbed four times in the front of his neck. The wounds, Biedrzycki said, were consistent with those made by a single-edged blade such as a jackknife.

The bodies' decomposition was consistent with having been in the lake for at least a week and perhaps longer, she said.

Under Hurlley's cross-examination, Biedrzycki said her examination could not establish whether the murders took place indoors or out, whether there had been more than one shooter or the number of shots fired.

The prosecution is expected to complete its case during a four-hour court session Saturday.

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Charles Auer/Freeman Staff

From left: Tim O'Brien, president of Tim O'Brien Homes, Waukesha County Executive Dan Vrakas, U.S. Department of Housing and Urban Development Region V Administrator Antonio Riley, Waukesha Mayor Jeff Scrima, Waukesha Redevelopment Authority Chairman Mike Ward, and Jennifer Andrews of the Waukesha Planning Division dig up a little gravel during the ground breaking for the new Dunbar Oaks subdivision on West Avenue between Dunbar Avenue and Prospect Court.

Tim O'Brien homes breaks ground at former YWCA

Dunbar Oaks will be site of three affordable green-built homes

By Sarah Pryor
Freeman Staff

WAUKESHA – The former Waukesha YWCA building site at 320 North West Ave., will soon be the home of affordable, green-built housing, thanks to a cooperation between the Waukesha Redevelopment Authority and Tim O'Brien Homes, according to a press release from Tim O'Brien homes.

Contractors broke ground Friday for the first of three single- and two-family homes in the Dunbar Oaks Revitalization neighborhood, whose purpose is to offer affordable, energy efficient homes, as well as reinvest in one of the city's oldest neighborhoods.

"This is a significant development adding to the quality and the revitalization of the city of Waukesha," said Community Development Director Steve Crandell. "This is a unique opportunity to build new homes that will add value to a long-established neighborhood and revitalize a blighted property."

Each home will be "green-built," meaning builders will utilize National Association of Home Builders (NHB)-certified environmentally responsible building practices.

In 2009, Waukesha received a \$904,000 U.S. Department of Housing and Urban Development (HUD) grant to help finance the project, which will fea-

ture a 3-kilowatt solar electric system in each single-family home, producing about one-third of the home's electrical demand.

According to the press release, each 1,700-square-foot home will cost less than \$208,000.

"We are providing an opportunity to introduce solar energy to interested consumers that previously would not have been able to afford it," said Tim O'Brien, president of Tim O'Brien Homes. "We are honored to be part of this project to bring affordable green homes to the city of Waukesha."

The Dunbar Oaks neighborhood will contain eight single-family homes and three two-family homes at its completion, the release states.

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Bonds, notes and refinancing to be discussed in Waukesha next week

WAUKESHA – At its Tuesday meeting, the Waukesha Finance Committee will discuss resolutions for the sale of several million dollars worth of notes and bonds.

The committee will discuss the sale of about \$11,465,000 in general obligation promissory notes, about \$5,790,000 in note anticipation notes and about \$2,590,000 in taxable general obligation refunding bonds.

According to staff comments along with the agenda, the borrowing this year can be broken down into three items: the approved Capital Improvement Program (including the sewer utility collection system, relocation of Fire Station

No. 2, and the homes purchased in the College Avenue area for flood mitigation purposes), refinancing bonds issued in 2001, (which will save the city more than \$270,000 in interest rates) and refunding a

short-term note anticipation note issued in 2008, to fund several TIF districts.

Finance Committee will meet at 7 p.m. Tuesday, in Room 207, of City Hall, 201 Delafield St.

– Sarah Pryor, Freeman Staff

IN BRIEF

Lt. Gov. Kleefisch to appear at Fiesta Waukesha

WAUKESHA – Lt. Gov. Rebecca Kleefisch will appear at Fiesta Waukesha from 11 a.m. to noon today, her office announced Friday.

Fiesta Waukesha is located in Frame Park. The event runs through Sunday.

Get ready for fun at the Delafield Block Party

DELAFIELD – The Delafield Block Party is a community celebration that promises two days of fun and festivities. Sponsored by the Delafield Chamber of Commerce, the Delafield Block Party will begin at 5 p.m. July 8, with a showcase of area restaurants providing a specialty food court, beverage tents and main stage entertainment all evening. Delafield Block Party has no cover charges.

A local favorite, Higbee and Higbee live band, will perform from 5 p.m. to 7 p.m. The ever-popular Mike Miller and Piles of Rhythm takes the stage for the street dance from 8 p.m. to midnight. The Block Party Rock Stage is located in the city parking lot at Main and Hopkins streets.

From 4:30 p.m. to 7:30 p.m. July 9, Loose Change will perform, and The Eddie Butts Band will play for the street dance from 8 p.m. to midnight.

For more information, call the Delafield Chamber of Commerce at 646-8100 or visit www.visitdelafield.org.

Annual Kettle Moraine Days this weekend

EAGLE – The 49th annual Kettle Moraine Days will take place this weekend at Village Park in Eagle, with music, a pancake breakfast, a car show and more.

Today's events include a pancake breakfast until 11 a.m., and a classic car show from 10 a.m. to 4 p.m. A team softball tournament and horseshoe tourney are scheduled, with a fireworks display set for tonight.

A parade takes place at noon Sunday. A tractor show, live music and midway are part of the festivities as well.

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