

Attorneys in Lisker Case Clash Over Evidence; Lawyers for convicted killer say his appeal should go forward. Prosecutors contend confessions leave no doubt about his guilt.

[HOME EDITION]

Los Angeles Times - Los Angeles, Calif.

Subjects: Evidence, Appeals, Attorneys, Disputes, Court hearings & proceedings, Murders & murder attempts
Author: Scott Glover and Matt Lait
Date: Dec 10, 2005
Start Page: B.8
Section: California Metro; Part B; Metro Desk
Text Word Count: 1175

Document Text

Capping a weeklong hearing into the 20-year-old murder conviction of Bruce Lisker, attorneys on both sides of the case clashed Friday over whether Lisker had amassed enough evidence of his innocence to move forward with his legal appeal in federal court.

Lisker attorney William Genego argued that he and his colleagues had "completely blown out" the prosecution's case and that Lisker should be allowed to proceed with his habeas corpus petition.

"There is nothing left of their case," Genego told the judge in his closing argument. "They don't have a case anymore."

Lawyers for the California attorney general's office countered that compelling evidence of Lisker's guilt remained and that his multiple confessions left no doubt that he killed his mother.

"How many times does he have to confess before he is to be believed," said Deputy Atty. Gen. Robert D. Breton, referring to confessions that Lisker has since disavowed.

Because he missed a filing deadline years ago, Lisker, in order for the court to grant an exception, must prove that he is most likely innocent of murdering his mother.

If Magistrate Judge Ralph Zarefsky decides that Lisker has met that threshold, Lisker may then argue that his constitutional rights were violated, which he must prove to have his conviction overturned.

Lisker, now 40, was convicted of fatally beating and stabbing his 66-year-old mother, Dorka Lisker, on March 10, 1983. He claims he came home to find his mother on the brink of death and called paramedics.

Police didn't believe he could have seen his mother through windows at the back of the house, as he claimed, and saw other inconsistencies in his story. He was arrested on the day of the slaying.

He proclaimed his innocence for more than a year but entered into a plea bargain in December 1984 as part of an agreement in which he would be allowed to serve his sentence at the California Youth Authority and be released at age 25.

Lisker admitted to killing his mother in interviews with correctional officials and a psychologist.

They were trying to determine if Lisker was fit for confinement in the youth authority. A judge ultimately determined that he was not and allowed him to withdraw his plea and go to trial.

His confessions, which he has since claimed were faked in an effort to get the reduced sentence, were not admitted as evidence. He was convicted and sentenced to 16 years to life in prison.

Genego spent the bulk of his hourlong summation assailing the evidence that prosecutor Phillip H. Rabichow used to convict Lisker 20 years ago.

Rabichow told the jury that bloody shoeprints at the crime scene all belonged to Lisker. But recent analysis by the Los Angeles Police Department and the FBI has proved that a bloody print in the bathroom did not come from Lisker's shoes.

"Mr. Rabichow says there would be other prints if he's innocent," Genego told the judge. "There are other prints."

Genego also noted a patterned bruise on the back of Dorka Lisker's neck, which an LAPD analyst said was a partial shoeprint "similar in size and dimension" to the unidentified print on the bathroom floor.

The FBI expert said she could not determine that the bruise derived from a shoe, but that a photo of the injury revealed that the spacing between its parallel lines was the same as the spacing between the lines in the print on the bathroom floor and a print outside the house.

Genego suggested that all three were made by an unidentified killer who stepped on Dorka Lisker's head, stepped on the bathroom floor and then fled along a dirt pathway on the side of the house.

He asked the judge to ponder "the statistical probability" that the injury and the two shoeprints could all have the same spacing and not be from the same source.

"It all fits," Genego said.

The lawyer also claimed to have refuted another key prosecution argument: that Lisker could not have seen his mother's body through a sliding glass door at the back of the house, as he claimed on the day of the slaying.

Genego said a demonstration by the attorney general's own expert proved that was not the case.

"They are doing our job," he told the judge.

Genego also pointed to evidence of an alternate suspect -- John Michael Ryan -- which was never presented to jurors at Lisker's trial.

Ryan was a friend of Lisker's who, among other things, lied about checking into a hotel at 11 a.m. on the day of the murder, just about the time Dorka Lisker was being attacked. He committed suicide years later.

"How does he know to tell [the detective] he checked into this hotel at 11 a.m.?" Genego asked. "You think he just pulled it out of the air?"

Breton and Deputy Atty. Gen. John Yang argued that much of the circumstantial evidence linking Lisker to the crime has not changed.

They portrayed him as a troubled youth who abused drugs, and who had an anger problem and a tumultuous relationship with his mother. The vicious "overkill" nature of the attack pointed to a killer with a deeply personal motive.

"This was family violence," Breton said.

Any problems with the evidence as it was presented at trial did not amount to an exoneration of Lisker, the attorneys argued.

The mystery print in the bathroom, for example, might have been inadvertently left by police as they secured the crime scene, rather than by an alternate suspect.

They suggested that the impression on the victim's head might have been caused by some tool or object other than a shoe. And, they argued, it was not possible to determine precisely where Dorka Lisker lay and there were places where she would not have been visible from the sliding glass door.

Breton characterized the new evidence presented by Lisker's attorneys as being of "doubtful reliability" and "dubious relevance." He rejected the notion that someone else committed the crime, calling the Ryan theory "a slipshod case for third-party culpability."

Breton also noted that Lisker declined to testify on his own behalf, both at his trial and the evidentiary hearing. He suggested that Lisker was afraid of being caught in a lie.

"Mr. Lisker has remained mute," Breton said. "He's no dummy."

Breton's focus, however, remained on Lisker's confessions. He recounted how Lisker confessed to the murder in an attempt to receive the plea deal, and later when he was up for parole from 1992 through 1996.

He said Lisker's claims that the confessions were fabricated to minimize his time behind bars were not credible. He urged Zarefsky to "see through all this smoke screen" and keep Lisker in prison.

There is no timetable for Zarefsky to rule on the matter. The decision could take weeks or even months, legal observers said.

Before leaving the bench Friday, Zarefsky indicated that he had his work cut out for him.

"If this were an easy matter, we wouldn't have come to this juncture," he said.

Credit: Times Staff Writers

Reproduced with permission of the copyright owner. Further reproduction or distribution is prohibited without permission.