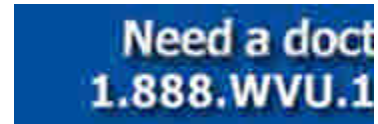


[Log In](#) | [Register](#) | [Forgot Password?](#)

Search for

The Herald-Mail



Home Arts & Living Opinion Sports Multimedia Cool Stuff Mobile THECalendar Cou
 Lifestyle Weddings & Engagements Entertainment Pulse

Pennsylvania

[EMAIL TO A FRIEND](#) | [PRINT](#)

No decision yet on charges in Pa. death

By JENNIFER FITCH
 JULY 25, 2009
waynesboro@herald-mail.com

MERCERSBURG, Pa. — If there were such a thing as a typical homicide, the killing of Donald Berkebile one year ago wouldn't be it.

The victim? A retired Smithsonian Institute curator with no close family and few friends.

The cause of death? Blunt force trauma to his head and neck.

The circumstances? Berkebile, 81, allegedly used a revolver to shoot birdshot into his neighbor's chest during a 7:30 a.m. argument between the two men. That neighbor, Bryan Kendall, told police he was acting in self-defense during the fight that left Berkebile dead.

Tuesday will be the first anniversary of Berkebile's death along a driveway he and Kendall shared in the 9300 block of Blue Spring Road in Montgomery Township, Pa.

A Pennsylvania State Police Crime Lab still has not released results of forensics testing the Franklin County District Attorney's Office says is needed before it can determine whether Kendall will be charged in the case. State police cleared the scene, interviewed Kendall and turned the case materials over to the district attorney's office last August.

The crime lab "keeps telling us they'll have it before a certain time. When we check in, they give us a new time," Assistant District Attorney Jeremiah Zook said.

Zook said it is the role of the district attorney's office to advocate for justice, regardless of whether a victim's family or friends are outspoken. In this case, they are not.

"That's not a factor for us," Zook said.



In February, Kendall sued Berkebile's estate for medical expenses, lost wages, and humiliation and embarrassment. Lawyers representing the estate responded testimony should not be accepted because it cannot be refuted by a dead man.

[View comments or add your own »](#)

RELATED STORIES:

- [Man sues estate of neighbor who died after fig](#)
- [Autopsy: 81-year-old Montgomery Township m injuries](#)

Berkebile's belongings were auctioned starting in October 2008. Included were a Conestoga wagon, antique firearms, hand grenades, an anvil, rare coins and toys from Berkebile's childhood.

Berkebile, a widower, identified several charities benefiting animals as the beneficiaries in his will.

The lawsuit filed by Kendall and his wife, Susan, provides the clearest picture thus far of what happened July 28, 2008.

Kendall, who was 40 when the fight occurred, alleges his neighbor had started a fire on one side of the lane and driven stakes into the other side. He says he encountered Berkebile standing in the middle of the driveway, yelling and pointing a finger at his approaching pickup truck.

Berkebile's cursing and screaming was nonsensical when Kendall stopped the truck, the plaintiffs state in the lawsuit.

"Mr. Kendall then put his hands up in the air and said, 'Don, what are you talking about?' ... (Berkebile responded) 'I saw you hit those rocks, you (expletive),' " the lawsuit states.

Kendall says in the lawsuit he fell and tried to "play dead" after being shot with .45/410 revolver, claiming he feared as he lay there that Berkebile would drag him into the fire. When Berkebile kicked Kendall's foot, Kendall said he grabbed and wrestled the older man.

Kendall was treated at Altoona (Pa.) Regional Health System for chest, forearm and liver injuries. He claims \$40,000 in medical expenses in the lawsuit.

Company

About Us
 Advertise With Us
 Careers
 Contact Us
 Terms of Use

Fine Print

The Herald-Mail Company
 100 Summit Ave
 Hagerstown, MD 21740

(301) 733-5131

© 1996-2009 The Herald-Mail Company

Sections

Arts & Living
 Blogs
 Business
 Celebrations
 Classified
 Cool Stuff
 Editorials
 Education
 Entertainment
 Forums
 Games
 Lifestyle
 Local / Tristate
 Magazines & More
 MD General Assembly
 Multimedia
 National / World
 Obituaries
 Opinion
 Photo reprints
 Pulse
 Real Estate
 Slideshows

Other H-M Sites

allHagerstown.net
 AutoFetch Online
 JobFetch Online
 Search the Tristate
 Shop the Tristate
 Washington County Living
 Washington County Weddings

Feeds and Alerts

Email Alerts
 Follow Us on Twitter
 RSS Feed

Sports
THECalendar
Videos

