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Doctor's Killer Tries to Make Abortion the Issue

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Pool photo by Dennis C. Enser

James C. Kopp, right, with his lawyer in New York in 2003. The state convicted Mr. Kopp of murder in an abortion provider's death.

By DAVID STABA Published: January 13, 2007

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BUFFALO, Jan. 12 — There is no dispute over how Dr. Barnett Slepian died. Yet eight years later his confessed killer — who is already serving 25 years to life in prison for murder — is on trial for a second time.

Dr. Slepian's killer, James C. Kopp, 52, has freely admitted that on a Friday evening in the autumn of 1998, he leaned against a tree behind the suburban home of the doctor, who performed abortions as part of his practice, and followed his prey

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James P. McCoy/Associated Press

Dr. Barnett Slepian, 52, was fatally shot in his home in 1998.

through the scope of a high-powered rifle.

Dr. Slepian, the married father of four young sons, entered the kitchen after returning home from a memorial service for his father, put a bowl of soup in a microwave oven and walked to a desk in the corner of the kitchen where he routinely put his keys, wallet and pager.

With that, Mr. Kopp, a longtime opponent of abortion whose beliefs earned him the nickname Atomic Dog among like-minded people, squeezed the trigger and fired.

The single shot broke the kitchen window and struck Dr. Slepian under his left shoulder blade, tore through his chest and exited from his right shoulder, then ricocheted past his wife and two of their sons, finally lodging in the fireplace of the living room, where a third son was watching television.

About an hour later, the 52-year-old doctor was declared dead.

Mr. Kopp, who traveled from his home in Jersey City to the Buffalo area weeks before the shooting to track Dr. Slepian and make meticulous preparations, including burying the rifle in a plastic sleeve behind the house so he could easily get to it, fled to Mexico, then France. He was captured there in March 2001.

In March 2003 Mr. Kopp was convicted of murder by an Erie County judge after an unusual proceeding in which he did not dispute the prosecution's version of events. Yet he insisted he was not guilty of murder because he did not mean to kill the doctor but only to wound him to prevent him from performing abortions.

Nonetheless, he is back in court because of the same crime.

The difference is that this time Mr. Kopp is not charged with the murder of Dr. Slepian, but with violating a 1994 law forbidding the use of force to prevent access to reproductive health care. The federal law was enacted in reaction to violent attacks on abortion clinics and health care workers, as well as escalating protests, like the 1993 demonstrations in Buffalo known as "The Spring of Life," which attracted thousands of demonstrators on both sides of the issue and led to hundreds of arrests.

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In this instance, Dr. Slepian's family and supporters of abortion rights pushed for this case to go forward, in part because unlike the state's murder conviction, the federal law carries a potential sentence of life in prison without the possibility of parole.

"Under New York State law, it's conceivable that someday a parole board could release him," said Charles Ewing, a professor at the University at Buffalo's law school. "As a practical matter, I don't think that would ever happen."

Professor Ewing said that although the filing of both state and federal charges is common in cases involving such crimes as bank robbery and child pornography, a conviction in one jurisdiction usually leads to a dismissal in the other.

"It seems in this case they're clearly trying to make an example by prosecuting him in both state and federal courts," Professor Ewing said.

The trial in Federal District Court has also provided Mr. Kopp, a former construction worker who is acting as his own attorney, the chance to try to discuss his views on abortion, even though Judge Richard J. Arcara has repeatedly ordered him not to.

The judge's pretrial rulings that the defense could not make the issue the centerpiece of its case, including his refusal to allow Mr. Kopp to show the anti-abortion movie "The Silent Scream" to the jury, have not stopped the defendant from trying.

"If I'm guilty, weakness is guilty," Mr. Kopp, a slight man in an oversize dark blue suit coat and glasses, said in his opening statement on Tuesday. "If I'm guilty, innocence is guilty. Those who can't protect themselves —"

Judge Arcara cut him off, the sixth time Mr. Kopp's opening was interrupted, either from the bench or by a sustained objection from the prosecution.

The judge ruled that references to Mr. Kopp's views on abortion he made in a rambling 90-minute presentencing statement in 2003 were "irrelevant" to this case. The decision prompted one man seated two rows behind Lynne Slepian, Dr. Slepian's widow, to shout, "Judge, what are they irrelevant to?" before he was escorted from the courtroom.

When Dan Herbeck, a reporter for The Buffalo News to whom Mr. Kopp gave a jailhouse confession in an article published in November 2002, testified about the article, Mr. Kopp made numerous attempts to bring up quotations related to his beliefs. Each time, the prosecution objected successfully, on several occasions before he even finished his

question.

Professor Ewing said Mr. Kopp's best chance to air his views could come in his closing statement, when lawyers are generally given more leeway than during testimony. The trial is expected to last about two more weeks.

"I don't think that this defendant feels there's a lot at stake in terms of winning or losing," he said.

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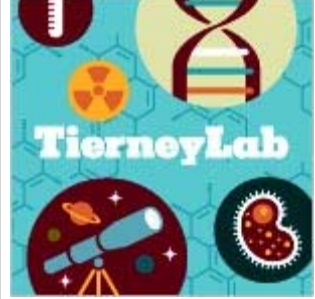
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