

Sedita vows to consider evidence in 2nd autopsy DA could prosecute in Wienckowski case

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By Lou Michel

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Erie County District Attorney Frank A. Sedita III says he and a top staff member will conduct a comprehensive review of a second autopsy on Amanda L. Wienckowski, which has determined that someone killed her.

If the evidence shows that Wienckowski was a homicide victim, Sedita said, he will not hesitate to prosecute whoever is responsible.

Sedita declined to comment on Antoine J. Garner, the last person known to have seen Wienckowski alive, but the district attorney did offer insights on previous and current allegations against Garner.

"It's not that I'm gun-shy about prosecuting Mr. Garner. Indeed, Mr. Garner was indicted in 2009 for sexual assault, and we took that case to trial, and unfortunately a jury of 12 citizens from this community acquitted him," Sedita said.

"Recently this office once again secured an indictment against Mr. Garner for another assault. In this case, we intend to take this matter to trial. We will prosecute Mr. Garner or any other individual who is responsible for a crime. But we must have the evidence to do so."

Garner, 25, has told The Buffalo News that he has never harmed anyone and that he is innocent of all charges against him.

Sedita, in the meantime, said he and James F. Bargnesi, chief of the district attorney's Homicide Bureau, will review the second autopsy, which was made public Tuesday.

"I have no doubt that once the death certificate for Amanda is changed to homicide that the district attorney will vigorously and relentlessly prosecute the perpetrator," said Steven M. Cohen, the attorney from Hogan Willig who is representing relatives of Wienckowski in their efforts to have the Erie County Medical Examiner's Office reclassify her death as a homicide.

At present, Wienckowski's official cause of death remains accidental due to an overdose of drugs, but a West Coast pathologist hired by the family says the 20-year-old former Kenmore resident was beaten, raped and strangled before her body was discarded in an East Side garbage tote nearly three years ago.

Erie County Chief Medical Examiner Dianne R. Vertes has requested additional information from Dr. Silvia O. Comparini, who conducted the second autopsy after Wienckowski's body was exhumed in February 2010 and brought to her Los Angeles medical office.

Vertes is awaiting the information before determining whether to consider the family's request, said Kevin P. Montgomery, spokesman for the Erie County Health Department.

"The information will put her in a better position to comment further on this," Montgomery said Wednesday.

Comparini's findings, Cohen said, put the local medical examiner on notice that her office is under scrutiny.

"It is either corruption or incompetence. There are no other alternatives that I see," Cohen said.

At a news conference Tuesday to announce the findings of the second autopsy, Leslie L. Brill, Wienckowski's mother, was consoled by Lynn M. DeJac, the Buffalo woman who spent more than 13 years in state prison after being wrongfully convicted of strangling her daughter.

DeJac was freed and her murder conviction overturned after DNA evidence found on her daughter's body indicated that someone else had killed her. Findings from an old Erie County autopsy were later revised from manual strangulation as the cause of death for 13-year-old Crystallynn M. Girard to a more likely cause of a cocaine overdose.

Cohen said that there are other cases involving "bizarre findings" by the Erie County Medical Examiner's Office that make him question the professionalism of the office.

Brill on Wednesday urged local authorities to pursue a homicide investigation into her daughter's death.

"The second autopsy report and previously collected DNA are sufficient to prove someone killed my daughter," Brill said. "These last three years have been total hell. I'll never have Amanda back, but she at least deserves to be able to rest. Whoever is responsible should be prosecuted to the fullest."

Wienckowski's naked, frozen body was bent into a "horseshoe" position with her head and feet touching the base of the tote. Police found her body after receiving a tip Jan. 9, 2009, to check garbage cans outside a church at Spring and Clinton streets.

Garner was taken into custody but never charged. Authorities say Wienckowski was driven to his Spring Street house for a paid sexual encounter Dec. 5, 2008, and then went missing.

At the time, Garner was wanted for an assault on another woman that had allegedly occurred at the Spring Street home. He was later acquitted in a jury trial.

Garner is now in the Erie County Holding Center awaiting trial on an alleged attack of a 43-year-old woman last June in a vacant house on Jewett Avenue. He is accused of trying to choke her and of striking her in the head with a blunt object.

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