

Mother of woman found frozen in garbage tote sues county officials

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By Dan Herbeck

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Amanda Wienckowski's frozen body was discovered in a garbage tote eight years ago.

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Amanda Lynn Wienckowski's mother has filed a lawsuit accusing the Erie County Medical Examiner's Office and the District Attorney's Office of mishandling the investigation into the young woman's death eight years ago.

Wienckowski's frozen body was discovered in a garbage tote, and prosecutors, relying on the medical examiner's report, said the death was not a homicide.

Leslie Brill Meserole said she filed the lawsuit because she feels county authorities "took the easy way out" by calling the death an accidental drug overdose and refusing to file charges against a Buffalo man the family believes is responsible. The lawsuit was filed

Monday in Erie County Court.

“I don’t think my daughter ever had a fair shot in her life, and now that she is dead, she is still being victimized,” said Meserole, also known as Leslie Lynn Brill. “I think her killer was a major player in the world of drugs and human trafficking ... For some reason, they are covering up for him.”

Meserole says a team of county medical examiners committed “an act of fraud” by “falsely certifying” that Wienckowski, 20, died of a drug overdose and that she also had a history of chronic hepatitis.

The City of Tonawanda resident accused the DA’s Office of compounding that fraud by refusing to file charges against Antoine Garner, who lived across the street from where the body was found Jan. 9, 2009.

She also told The News she has asked the FBI and State Police to conduct a new investigation into the death of her daughter, who was found upside-down in a garbage tote on Spring Street in Buffalo.

| DA declines to reopen case of woman found dead in garbage tote

Buffalo police and three district attorneys – Frank A. Sedita III, Michael J. Flaherty Jr. and current DA John J. Flynn Jr. – reviewed the evidence, but none prosecuted Garner.

Flynn said in an interview last week that he sympathizes with Meserole and does not blame her for continuing to pursue the matter, but added that he does not believe there is enough evidence to prosecute Garner or anyone else. Flynn said he met last week with Meserole’s attorney, Frank S. Falzone.

“I told him that I believe this case has been thoroughly investigated, and that it has been reviewed by a committee of experts, and that we have no proof that this death was a homicide, or that it was an intentional act,” Flynn said last week. “I would reopen the investigation, but only if we had strong, credible new evidence, such as a confession or an eyewitness who saw a murder committed.”

“Unless we can prove murder, there is a five-year statute of limitations on this case, which has expired,” Flynn added. “We have no evidence of murder.”

Although police believe Garner, now 30, was the last person to see Wienckowski alive, he never has been charged with any crime in connection with the young woman’s death or how she ended up in the garbage tote.

Since 2013, Garner is serving an 18-year state prison terms for other violent crimes, including choking and assaulting a prostitute during a sexual encounter, raping a 16-year-old girl and carrying out a home invasion in Clarence.

Joseph A. Agro, Garner's former defense attorney, now works as a top aide to Flynn in the DA's Office, but Flynn said Agro has no involvement in the case. No one in the DA's Office is covering up for Garner, Flynn said.

If the District Attorney's Office ever does file charges against Garner, Agro will be recused, Flynn said, adding that he would appoint a special prosecutor if needed.

Police said Wienckowski had been missing for several weeks before her body was found. Investigators said the young woman suffered from heroin addiction and, at times, had worked as a prostitute. She disappeared after getting a ride from Lewiston to a residence on Spring Street for what authorities described as a paid sexual encounter. Her relatives disputed that claim, and also said that, shortly before she disappeared, Wienckowski had stopped using drugs.

After her body was found, police called Garner a "person of interest" in the investigation.

In 2013, retired Homicide Detective Mark J. Lauber, who had interviewed Garner, said he and other detectives believed that Wienckowski was choked to death during rough sex with the stocky Garner and did not die of a drug overdose. Lauber told The News that a county toxicologist told him that medical examiners listed the death as a drug overdose because they could find no other reasonable explanation.

After an autopsy, medical examiners listed the cause of death as accidental drug overdose, Meserole and her family hired an out-of-town pathologist to investigate the death, and he listed it as homicide by strangling.

Then-DA Sedita hired another pathologist to investigate, and he said the cause of death should be "undetermined."

Meserole said this week that she is outraged, hurt and upset that Flynn, who took office in January, refused to meet with her in person last week.

"After what my family and I have been through, I think the district attorney should give me the courtesy of meeting with me," Meserole said. "Sedita met with me."

Flynn confirmed that he declined to meet with Meserole. He said he felt it was more appropriate to meet with her attorney.

“I did agree to meet with Mr. Falzone, and we spoke for a substantial amount of time,” Flynn said.

County officials have repeatedly denied any wrongdoing by either the medical examiners or the DA’s Office.

The Medical Examiner's Office, the DA’s Office and Sedita individually are named as defendants in the lawsuit. Sedita is now a state judge. He told The News in 2011 that his office had prosecuted Garner before and would not be reluctant to prosecute him in the Wienckowski case if the evidence was sufficient.

“We will prosecute Mr. Garner or any other individual who is responsible for a crime. But we must have the evidence to do so,” Sedita said in 2011.