



Breakfast Seminar - 2016

BS1 Death in a Bathtub: The Defense of Drew Peterson

*Jeffrey M. Jentzen, MD**, University of Michigan, 300 N Ingalls, NI2D19 - SPC 5452, Ann Arbor, MI 48109; and *Mary E.S. Case, MD**, 6059 N Hanley Road, St. Louis, MO 63134

After attending this presentation, participants will better understand the courtroom procedures for admission of evidence and expert witness testimony. In addition, attendees will learn the factors involved in injury identification and analysis with an emphasis on the investigation of drowning.

This presentation will impact the forensic science community through the multidisciplinary reconstruction of one of the most riveting cases in recent American trial history. The presenters will detail the factors and evidence that influenced their decision process and assist future prosecutors, judges, and death investigators in the courtroom procedures.

In 2004, the body of Kathleen Savio, the third wife of policeman Drew Peterson, was found dead in the bathroom of her suburban Chicago home. Her body was found lying in an empty bathtub with a small laceration to the left back of the scalp. Froth oozed from her nostrils. There were some bruises to her left side. Toxicology analysis was negative for intoxicating drugs and alcohol. The initial investigation concluded that the death was the result of drowning and the coroner certified the death accidental. In 2007, Peterson's fourth wife, Stacey Peterson, disappeared — her body was never recovered. In light of Stacey Peterson's disappearance, authorities reopened the investigation into Savio's death. Savio's body was disinterred in 2007 and re-examined in two separate autopsies performed by a group of forensic pathologists. The pathologist identified areas of hemorrhage over the left hip region, not appreciated at the initial examination. In light of the additional evidence, the experts concluded that Savio's death was a homicide.

In criminal cases, there is a constitutional dimension to hearsay. The Sixth Amendment gives criminal defendants the right to confront witnesses; since a hearsay statement is made out of court, there is no opportunity for the defendant's criminal defense attorney to cross-examine the witness, and thus no confrontation. This means hearsay statements are harder to get into evidence even via the traditional hearsay exceptions when they are used against a criminal defendant.

Prosecutors collecting evidence identified the fact that Stacey Peterson had confided with family and friends implicating her husband, Drew Peterson, as her murderer. Unable to question the dead witness, Stacey, prosecutors petitioned the Illinois legislature to create a new exemption to the hearsay rule, which became known as "Drew's Law." The law allowed for the admission of evidence in cases where the witness was not available to testify due to the actions of the defendant. Meanwhile, defense experts unsuccessfully attempted to exclude testimony related to Stacy Peterson's disappearance in a 2010 evidentiary trial.

The trial into the death of Kathleen Savio began in August of 2012. For more than six weeks of grueling testimony, the media provided the day-to-day revelations of the case. Five forensic pathologists testified in the case that called into question the cause and manner of death. All the pathologists agreed that Savio died of drowning. The pathology testimony rested on questions of the pathological findings of concussion, postmortem artifacts, orientation of injuries, and causes of accidental drowning.

In light of new legislation, the prosecution was allowed to present incriminating verbal testimony against Drew Peterson. Peterson was eventually convicted and sentenced to 38 years in prison for his role in death of Kathleen Savio. The jurors said that the most convincing testimony was the hearsay statements allowed into evidence under the new "Drew's Law." Prosecutors successfully fought to have statements made by Stacy Peterson and Savio to acquaintances admitted into evidence. In February 2013, the defense was denied a new trial. The trial left numerous questions unanswered and created a precedent of allowing indefensible hearsay testimony.

This presentation will provide courtroom presentation of evidence, expert testimony, the role of the medical witnesses, and criminalistic's evaluation in the trail of Drew Peterson. Participation of attendees is encouraged and will bring to life the tension of the courtroom in this precedent-setting prosecution.

Drew Peterson, Bathtub Drowning, Drew's Law