

Man convicted of wife's murder in 1967 seeks new trial

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for his prison time and seek parole. He is trying to make an issue on his state of mind at the time," Chopp said. Merlo's attorney, Frank Lawrence of Livonia, refused to comment on the case. Lawrence said he decided about two weeks ago to avoid discussing the case "because it is not in my client's best interest."

Merlo won his new trial by arguing that the judge at his first trial gave the jury bad instructions. The judge told the jury Merlo had to be convicted of first-degree murder unless they felt he

had proved he did not intend to kill his wife when he entered the beauty shop. But in 1979, a new ruling was handed down that "said a certain type of instruction was not okay," Chopp said. "That (the 1979 ruling) is the only reason, according to Newblat, that Merlo is getting a new trial."

If Merlo had been convicted of second-degree murder — based on his argument that when he entered the shop he did not intend to kill his wife, but later did so after becoming enraged — he could be out of prison today on parole. Second-degree murder does not carry a sentence of life imprisonment.

IN ITS appeal, the Oakland County prosecutor's office is arguing two major issues. The first is that the judge's instructions to the jury in 1967 were "a harmless error. This didn't cause the jury to find him guilty," Chopp said.

The second argument is that "the law should not be retroactive" — meaning a 1967 verdict should not be changed because of a change in jury instructions in 1979, Chopp said.

"The retroactivity has to be dealt with," Chopp said. "This is not a totally resolved question in the U.S. Supreme Court."

Chopp is hoping the appellate court will rule on the prosecutor's appeal and request for stay of proceedings in time to prevent the trial from starting March 10.

But when Judge Newblat ordered a new trial for Merlo, he included a condition. If Merlo is not retried within 90 days of his order (Dec. 27), "he must be unconditionally released to go free. We won't let that happen, though. If we can't get a stay (of proceedings), we will retry it," Chopp said.

The Oakland County Prosecutor's office and the Farmington Hills Police Department were notified last year of Merlo's intention to seek a new trial.

"LOCATING THE evidence and the witnesses — preparing for the trial — is time consuming," said Conway, who, in 1967, was in charge of the Farmington Township Police Department. Detectives Bureau and handled the Merlo case.

"It can take an hour to locate a witness and six months to locate another," Conway said.

But Conway is prepared to go to trial if the prosecutor can't get a stay of proceedings and win their appeal. "We'll present our case and that's it."

Both Conway and Chopp acknowledge the hard work and expense involved in retrying Merlo. "The physical hurdles that have to be overcome — finding people, reconstructing the case. Also having testimony come out as it originally did. And the expense is enormous. The amount of money this man (Merlo) has received from legal assistance alone . . ." Chopp said.

"Mr. Merlo has been assigned not one, but two attorneys to go through this second trial plus a private investigator," Chopp continued.

The assistant prosecutor will ask Judge Mester to reconsider whether Merlo should have two public defenders.

RECALLING THE investigation in 1967, Conway said the case offered few difficulties. "We knew who he was. There were enough witnesses — six women and a little boy. So there were no problems."

Conway also recalls that the murder warrant for Merlo was issued at 12:45 p.m. the day he killed his wife. But immediately after the shooting, Merlo fled first to his hometown in Ohio and then to Philadelphia.

It wasn't only the Detroit-area newspapers who were carrying Merlo's photo

to in January 1967. Conway has a copy of a newspaper article — in the Jan. 21, 1967 edition of the Philadelphia Daily News — about a man called John Merlo (also known as Marlow). The article is about Merlo, a suspect in his wife's killing, who had been nabbed by police in Philadelphia for trying to

cash a stolen check and surprised police by confessing to the murder. When Philadelphia police nabbed Merlo at the bank, he pulled out his .32-caliber weapon and pointed it at the detective who was waiting that day for Merlo to enter the bank, according to the Philadelphia newspaper.

Stores remove capsules

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LOCAL A&P Food Store officials in Farmington and at a regional office in Southfield would not comment on the situation or the store's policy.

The company reportedly pulled all Tylenol from its store shelves in 26 states. The products were then reportedly impounded by officials for further testing. The second bottle was discovered in a Woolworth's store several blocks from the A&P where the first poisoned bottle was bought, according to news reports.

Affected lots and expiration dates in the two bottles are ADF918/587 (May 1987) and AHA090/467 (April 1987). "We will give any refunds to a customer requesting it," said Berl Faltbaum of Perry Drugs, with stores in Farmington and Farmington Hills, said.

All regular and extra strength capsules were pulled from the shelves as of Friday as a "precautionary measure." The capsules will remain off the

shelves until store management receives word from appropriate governmental agencies.

ARBOR DRUG store customers may also receive refunds, or make a substitution, if they prefer, according to Rebecca McLennan, representing Arbor Drugs Inc., with stores in Farmington Hills.

As of Friday "all capsules have been pulled until further notice," she added. "I feel sorry for Johnson and Johnson (manufacturer of the pain reliever). This is just sick."

Tylenol capsules were also pulled from shelves at Farmer Jack, both Maple Village Discount Drugs and Bel-Aire Drugs, all in Farmington. Customers can bring the product back for refunds at the above locations. Bel-Aire Drugs has accepted only unopened bottles for refund so far, a spokeswoman said.

The cyanide poisoning death is the first since seven Chicago-area residents died in 1982 after taking tainted Tylenol capsules, officials said.

Free dental exams for kids set

Drs. David Welin, Arnold Golick and Susan Carron, in conjunction with the Michigan Academy of Pediatric Dentistry and Children's Dental Health Month, will be offering a free dental examination of children for identification purposes from Feb. 17 to March 7.

The doctors, who are specialists in pediatric dentistry, will examine a child's teeth and list the findings on a dental chart. This chart will be pre-

sented to the parent at the completion of the examination. Identification dots will not be placed on the teeth. In order to remain accurate, the chart should be periodically updated as new teeth erupt into the mouth, and new fillings are placed.

The office address is 27650 Farmington Road. The telephone number is 553-3260. Appointments will be necessary for this examination.

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