

# Kevorkian trial to continue despite prosecutor's appeal

BY PAT MURPHY  
STAFF WRITER

Despite a second federal court ruling that physicians can help terminally ill people commit suicide, the Oakland County prosecutor vowed to continue the prosecution of Dr. Jack Kevorkian.

"There's a lot of confusion at the federal court level," prosecutor Richard Thompson said Wednesday. "But we are bound by Michigan law which the U.S. Supreme Court refused to review. Therefore we're going to continue the prosecution of Dr. Kevorkian because it is the legally correct thing to do," Thompson said after a ruling by the Michigan Supreme Court halted jury selection for the Kevorkian trial in Oakland Circuit Court.

The state's highest court Tuesday instructed the Michigan Court of Appeals to review "the appropriateness" of preliminary jury instructions. The order came shortly before 5 p.m. Tuesday as Judge David F. Breck was supervising the selection of jurors who will decide Kevorkian's fate.

"I don't expect jury selection to resume until early next week," Thompson said. "My office will

file additional briefs today, and the court of appeals can act quickly. But it will take a few days."

The other court ruling Tuesday — this one by the federal court of appeals in New York — attracted a lot of attention but actually has less impact, Thompson said. In that ruling, federal judges struck down the Empire state's ban on physician assisted suicide. That ruling was similar to one in March by federal jurors who struck down the law against assisted suicide in the state of Washington.

Both rulings seem to call into question Michigan's common law ban on assisted suicide and the wisdom of prosecuting Kevorkian. Kevorkian's attorney, Geoffrey N. Fieger Tuesday said the continued prosecution of his client was ridiculous.

But there is no doubt about the appropriate course of action as far as Thompson is concerned. . . particularly since the U.S. Supreme Court had the opportunity to review Michigan's law and let it stand.

It was Fieger who appealed the matter, Thompson noted, refer-

ring to the 1994 case the U.S. Supreme Court refused to review. That refusal, he said, matters here.

The federal appeals court decisions in New York and California are not binding in Michigan, Thompson said. "They create confusion," he said, "because the California ruling involved a question of due process, and the New York case raised the question of equal protection under the law."

Thompson is confident the U.S. Supreme Court will eventually look at the issue of state laws against assisted suicide. He's equally confident about the outcome. "There's no doubt in my mind," he said, "the high court will say the Constitution doesn't speak to the issue of assisted suicide and it's a state matter."

If the country's highest court were to do otherwise, Thompson said, it would be acting in the capacity of "super legislature" and assuming a role rightly reserved for the individual states. "The highest court isn't suddenly going to say there is this constitutional right to assisted suicide," the prosecutor said.

See **RULINGS**, 10A



Well-wisher: Wishing Dr. Jack Kevorkian of West Bloomfield luck in his prosecution under Michigan's common law is Janet Good of Farmington Hills.

## Prosecutor comes under fire

BY PAT MURPHY  
STAFF WRITER

Jury selection in the trial of Dr. Jack Kevorkian could resume as early as Friday, depending on how quickly the Michigan Court of Appeals responds to an order to review jury instructions.

"I'm not concerned the prosecutor took his appeal," Oakland Circuit Judge David F. Breck said Wednesday, "because the timing is unfortunate."

The timing inconveniences jurors and it disrupts court time allotted to the Kevorkian case. "I'll find cases (for that time)," said Breck. "But I expect to resume jury selection Friday."

The ruling — handed down

Tuesday — infuriated Kevorkian who has made no attempt to hide his contempt for Michigan common law or the prosecutors trying to convict him.

"The (Michig.) Supreme Court is the enforcing agent for the inquisition," the 67-year-old retired pathologist said after the high court's ruling was announced.

Earlier in the week, the West Bloomfield resident wore early American garb into the courtroom and displayed a hand-written scroll that he said summarized parts of the common law under which he is charged.

Kevorkian ridiculed that law and distributed copies of a letter of Thomas Jefferson, dated July

14, 1813. That letter, according to Kevorkian, shows that Jefferson advocated suicide for some cancer patients.

"If I'm a criminal for assisting in suicide, Thomas Jefferson was also a criminal," Kevorkian said. "He knew a lot more about common law than these clowns," he said, gesturing toward the prosecution team headed by Lawrence Bunting.

Bunting was the target of a Kevorkian barb earlier in the day when Breck suggested the prosecutor should get a copy of the Thomas Jefferson letter. "Can he read?" Kevorkian quipped, glancing at Bunting.

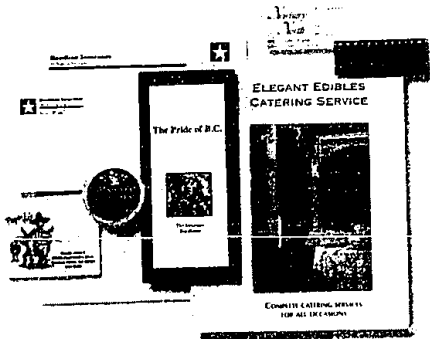
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