

## Farmington Hills attorney argues

## Autopsy ruling was incorrect

By JACKIE KLEIN  
SOUTHFIELD—A former Oakland County assistant prosecutor has rebutted a ruling by District Court Judge S. James Clarkson that religion is not a basis for stopping autopsies when cause of death is questionable.

Jeffrey Faintuck, now a Farmington Hills attorney, said Clarkson erred in overruling a police agreement not to have an autopsy performed on the body of Mrs. Helen Silver, 46, of Southfield, who died two days after a Feb. 17 auto accident in the city.

Members of Mrs. Silver's family asked that in accordance with Jewish law an autopsy not be performed, said Faintuck. "It was upon my advice that the body was recalled from the medical examiner's custody by the officer and the autopsy was called off."

"I TOOK the witness stand in the case, but Clarkson wouldn't permit me to testify. But I told the officer unless the body was released, someone was going to get sued."

Mrs. Silver was a passenger in the car of Mrs. Elizabeth Roehman of Oak Park when the accident occurred. Clarkson dismissed charges of negligent homicide against Mrs. Roehman this month because "cause of death of the victim has not been accurately determined."

According to state law, said Faintuck, county medical examiners shall perform post mortems in cases of sudden, violent or unexpected deaths or when the victim had no medical attention during the 48 hours prior to death.

"The law provides an exception to this rule when an attending physician is able to accurately determine the

cause of death," Faintuck said.

"According to Clarkson's opinion, two physicians testified they couldn't accurately determine the cause of Mrs. Silver's death and one doctor said there was a 15 to 20 per cent chance of another cause of death than pulmonary embolism."

"THE STATE law specifically states that the quantum of proof where an individual is an expert called by either party and where the expert is a medical doctor of some type is 'can you make an accurate determination and state to the court

with reasonable medical certainty what the cause of death was?"

"Percentages are irrelevant when there is reasonable certainty of cause of death. The defendant in this case should have been bound over to Oakland County Circuit Court on the charges."

FAINTUCK's remarks conflict with Clarkson's contention that "the duties of the medical examiner were usurped by the police officer who failed to notify the county medical examiner of the death by unnatural causes of the deceased."

He also disagrees with Clarkson's opinion that state law is not in opposition to Israeli law.

Clarkson quoted an article by a rabbi which states where there is a possibility of saving a human life, dissection of bodies doesn't technically constitute a desecration of the dead.

Israel law, he said, permits post mortems when the cause of death is unknown or when criminal aspects are involved.

Faintuck said he has represented clients in at least three cases involving autopsies and the law.

## Flags lowered for victims of auto crash

By JACKIE KLEIN  
SOUTHFIELD—The flag flew at half mast at Southfield-Lathrup High School this week for three students who were killed Friday in one of the city's worst traffic fatalities.

The student victims were Michael Goode McMahon, 16, 2850 Lathrup Village, Lathrup Village, Norman J. Schlotter, 17, 1629 Meadowood, Southfield, and Sally Olds, 15, 18344 Wiltshire, Lathrup Village. A fourth victim, Lesa Hibbett, 16, of Pontiac died early Sunday morning in Beaumont Hospital.

THE COLLISION was the city's 11th fatal accident this year in which 17 persons were killed.

According to Southfield police, McMahon was driving the three passengers home from a party about 11 p.m. Friday when his car left the roadway on the west side of Baledwood, a half mile south of Thirteen Mile Road.

Police said the driver lost control of the car, which crossed to the east side of Baledwood, left the roadway and crashed into a central culvert in front of a driveway at 3040 Baledwood. The car, a 1970 Plymouth Duster, turned over.

According to the secretary of state's office, McMahon received a ticket in June in a rear-end collision in Birmingham and another in an injury accident in Southfield in July.

McMahon, who had been driving less than a year, accumulated six points, one for a speeding violation 10 days after his license was issued. He was scheduled for re-examination and instruction.

Southfield police said there was no evidence to indicate the driver had been drinking but autopsies have been performed on all the victims except Miss Hibbett.

POLICE SAID results of the autopsies will help determine the cause of the accident.

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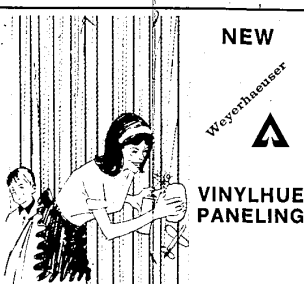
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