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AMSEC 14 – Ethel Durkin Murder

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ETHEL DURKIN

Ethel Durkin was murdered by Richard Eberling. An injury occurring on November 15, 1983 was initially believed to occur during a fall in her home. Five years later, Mrs. Durkin's body was exhumed and an autopsy performed. The ruling on cause of death was changed to homicide.

Richard Eberling was the only person in the home of Ethel May Durkin on November 15, 1983, when she fell. Richard who was paid to coordinate care for Durkin, had been agitated because of disagreements about whether or not a nurse, Linda Newton, was going to work in the Durkin home or not.

Durkin was taken to the hospital. She lived for six weeks and died on January 3, 1984. Because of a tube in her throat, she was unable to speak at anytime while in the hospital. The death was ruled an accidental fall based on an "examination," but not autopsy.

In 1982, Richard had Patricia Bogar sign a blank piece of paper with Ethel Durkin's name on it. He planned to make a will naming himself a beneficiary and promised Bogar ten percent of the take. He had obtained Durkin's signature by saying that he was going to get her handwriting analyzed. Bogar then moved to Florida. After Durkin died on January 5 or 6, Eberling had Bev Scheidler who allegedly owed him money, type a fake will and had Dale and Bev Scheidler sign it. The will gave Richard 70 percent of the estate and named Obie Henderson as executor and gave him four to five percent of the estate. Bev Scheidler then presented it to Frances Feighan, attorney for Durkin, at the wake. Eberling also gave her a fur coat from the corpse at that time.

The will looked different to others. The heirs -- all cousins and nieces and nephews -- objected, but no one could prove anything, so ultimately they settled. The will was first accepted for probate based on false testimony of Dale and Bev Scheidler in 1984. After objections, it was settled in 1987. Attorneys state that Richard Eberling and Obie Henderson bled the estate in the interim. For example, Obie Henderson (executor) sold the house to Richard who fixed it up, charged the estate for repair costs, and then resold it for \$120,000 profit. Also, a burglary that was reported from the house, later deemed to be false, and the proceeds went into Henderson's account.

After the estate was settled, Pat Bogar appeared and demanded her ten percent. Richard said no, and reminded Pat of a false burglary that he had helped her to commit. She got mad and went to the police. Bogar was given immunity. The Scheidler's later told all. Bev Scheidler also stated that Richard Eberling had told her that he had hit Ethel Durkin. Richard Eberling was tried and convicted for murder and other charges including forgery and grand larceny in Cuyahoga County in July 1989. His conviction on murder and all other major charges has been upheld on appeal to the Ohio Supreme Court.

- Exhibit 65 News media articles
- Exhibit 66 Coroner's verdict January 3, 1984
- Exhibit 67 Autopsy report September 10, 1988

ETHEL DURKIN HOMICIDE
CHRONOLOGY OF EVENTS

1. Around 1960, Eberling started washing windows for Durkin, whose husband died in 1957.
2. Durkin's sister, Myrtle Fray, hated him (ref: niece Arline Campbell and cousin Willis Corlett).
3. Myrtle Fray is beaten to death in her bed on Saturday night/Sunday morning May 20, 1962.
4. Sarah Bell Farrow, Durkin's other sister, is critically injured in fall down stairs at Durkin home where Farrow was living, moved from hospital to nursing home where she died on March 10, 1970.
5. Eberling continues working for Durkin through the 1970's, doing more and more, taking a bigger and greater role in the household.
6. Beginning in 1978-1979, Durkin is increasingly physically unstable. She has many falls. She needs full-time nurse.

- a. Linda Newton, a cousin in her 30's, becomes an on-duty paid caretaker.
 - b. Other caretakers are hired.
7. After a serious fall in 1981, Durkin gives Obie Henderson, Richard Eberling's friend, power of attorney, and places Richard Eberling in charge of the nurses. Richard Eberling says he has a life care contract with her, but none is ever found. Richard Eberling is paid by the hour for work, including taking Durkin to dinner.
8. In the two weeks preceding Durkin's fall (which was November 15, 1983), there is trouble. Many nurses have been in and out. Newton and Eberling are the only two continuous workers.
 - a. On November 1, Newton quits, saying she can't work with Eberling.
 - b. Durkin begs Newton to come back. She arranges this without talking to Eberling.
9. Newton is supposed to return on November 15. Durkin calls her the night before, tearfully, and says that Eberling won't allow it.
10. The next day, Eberling is agitated, according to Nila Arrington; so is Durkin. They argue at about 3-5 p.m.

- a. Eberling takes nurse Arrington home about 5:30 p.m.
 - b. Eberling returns to the Durkin house.
 - c. At 7 p.m., rescue squad is called.
 - d. Durkin is face down on the floor.
11. Durkin is in the hospital for six weeks with injury to neck, injury to throat, face injury. She is unable to speak.
12. Durkin dies January 3, 1984. She is examined by the coroner, but no autopsy is conducted. Cause of death is determined to be an accidental fall.
13. Durkin's will names Eberling as beneficiary of 70 percent of estate and Henderson five percent plus executor.
- a. The witnesses to the will are Patricia Bogar, Dale Scheidler, Bev Scheidler.
 - b. Bogar moved to Florida in May 1982.

14. Will is probated.

- a. Heirs feel Eberling and Henderson are bleeding the estate.
- b. Will is contested.
- c. Bogar not involved in will process.
- d. Dale and Bev Scheidler testify that the will is real.

15. A probate settlement is reached in April 1987.

- a. Eberling gets about \$500,000 from estate, plus other assets making a total of about \$750,000.
- b. Includes purchase of house, sold at a profit of \$100,000.
- c. Also burglary at house, yields \$17,000, later found phony.

16. Eberling and Henderson move to Tennessee.

17. In September 1987, Bogar demands a ten percent cut of Eberling's proceeds from the estate. Eberling says no.

- a. Bogar calls the Lakewood Police (Kremperger).

18. Investigators find phony will.

- a. Bogar signed blank paper.

Eberling had helped her with phony burglary.

- b. Bev Scheidler typed after Durkin dead on January 5-6, 1984.

- c. Bev and Dale Scheidler signed as false witnesses.

Eberling helped with phony burglary in April 1984.

Eberling gave fur coat from body of Durkin to Bev Scheidler.

- d. Testing by Dr. Phillip Bouffard shows signature on will was there before typing.

19. In July 1988, an indictment for falsifying the will is issued. Also perjury, burglaries.

- a. Eberling and Henderson arrested in Tennessee.

- b. Search premises in Tennessee.
20. Investigators find murder.
- a. Bev Scheidler says that Eberling said to her, "Durkin didn't fall, I pushed her."
 - b. Body of Durkin exhumed.
 - c. Autopsy finds a bruise on back of neck; decided hit and fell forward - ruled homicide.
 - d. Scheidler was with Henderson on November 15, 1983, when Durkin fell, Henderson answers the phone and says, "what's done is done."
21. October (or November) 1988, indictment for murder.
22. July 1989 trial.
- a. Prosecutor - George Rukovena
Judge - Donald Nugent
Attorney for Eberling - Everett Chandler and partner

Attorney for Henderson - Dave Patterson

Original attorney replaced - Dan Gaul, John McDermott

- b. Eberling convicted of everything; upheld on appeal - incarcerated Lebanon
- c. Henderson convicted of murder, will forgery, and other charges. Murder and will forgery thrown out on appeal 1993.
 - Resentenced to 15 years.
 - Incarcerated Warren

23. Post-conviction

- a. Original judge, Nugent, elected to a higher court and Callahan appointed to replace him.
- b. Appeals
 - 1. Eberling rejected
 - only possibility left, post conviction relief in Ohio (equivalent of state habeas corpus)

- federal habeas

2. Henderson see 22. b. above

- Murder, will forgery overturned.
- Still in prison on theft charges.
- Callahan resentenced Henderson to 15 years for theft.
- A shock parole request was rejected; a shock probation request is either pending or forthcoming; many technical questions.
- Attorney Bev Pyle, public defender
- Donald Green (Pyle left after winning appeal)

c. Restitution - this portion of the sentence was remanded for reconsideration on appeal before Callahan.

d. Will - in Probate Court still

1. Marvin/Rich Koblentz attorneys handling for executor.
2. Robert Steely, attorney for some heirs.
3. Assets being sold or are dissipated.

e. Bankruptcy action in federal court.

Richard Eberling placed into involuntary bankruptcy to prevent him from selling home in Tennessee; engineered by Koblenz. Eberling serving life sentence plus two consecutive sentences of 5 to 15 years and 13 years.