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## **Jury could hand down Avery verdict today**

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**CHILTON** -- Jurors listening to the evidence in the Steven Avery case heard the long form of closing arguments Wednesday.

In an odd twist of scheduling, they'll hear a short form today. Manitowoc County Circuit Judge Patrick Wills curtailed closing arguments Wednesday after the lawyers' remarks advanced late into the day.

Attorney Dean Strang is expected to open today with a short closing argument for the defense and then special prosecutor Ken Kratz will get time for his usual rebuttal.

The jurors are then expected to begin their deliberation.

Kratz and defense counsel Jerome Buting each talked to the jurors for about 2½ hours Wednesday, putting their own cases in the best light and casting shadows across the aisle.

Kratz opened his closing arguments by thanking the jurors for their time and offering appreciation for their attention. The words "Why are we here?" projected on the screen where evidence photos were displayed over the four weeks of testimony.

"We're here because Steven **Avery** pleaded not guilty," Kratz said, telling the jurors the length of the case was not because there were questions about who killed Halbach, but rather because of the scope of the investigation.

"All the evidence points to one person," Kratz said. "I am going to argue at the conclusion of this case who that one person is. I bet you can guess who I am going to suggest is responsible."

**Avery**, 44, of Mishicot, is accused of killing freelance photographer Teresa Halbach on Halloween 2005 and burning her body to conceal the murder.

**Avery** is charged with first-degree intentional homicide, mutilation of a corpse and being a felon in possession of a firearm. If convicted, he faces life in prison.

### **Putting together the pieces**

Twenty-three days ago, Kratz told jurors in his opening statement that he was showing them the cover of a jigsaw puzzle box. His closing arguments, he said Wednesday, are to help the puzzle

pieces together.

"Cases are decided on facts, at least from the state's perspective," Kratz said. "We don't ask you to perform guesswork when deciding what happens.

"You know the funny things about facts is: Facts are stubborn. Facts don't change. You can twist them, you can beat 'em up, you can try to massage if you will the facts, but facts don't change."

Kratz said the first fact on which he wanted jurors to focus was Halbach's Toyota Rav-4 found by volunteer searchers on **Avery's** property on Nov. 5, 2005.

"Think how close he got to getting away with it," Kratz said. Volunteer searcher "Pam Sturm doesn't find this car ... we might not be standing here today."

The discovery of that Rav-4 not only changed course of this case from a missing person case to something else, "but the clues and secrets found in that vehicle changed the lives of everyone in this room," Kratz told the jury. "Look around. Everyone. Clues found in that vehicle changed everyone's lives ... yours included."

### **Securing evidence**

Kratz outlined the measures taken to secure Halbach's Rav-4 once it was discovered and called to light the handful of witnesses who said the sport utility vehicle was untouched while it was on the **Avery** property.

"Detective David Remiker looked at you, without apology, and didn't bat an eye when he told you nobody entered that vehicle because it was so important," Kratz said. "That's somebody we should give great credibility and great weight to."

Kratz spent several minutes detailing the role law enforcement officers played in recovering Halbach's SUV from the property and its transport to the State Crime Lab in Madison. Kratz also defended the fact that **Avery** and his property quickly became the focus of the bulk of the investigative efforts

"Law enforcement officers aren't stupid, either" Kratz said. "Law enforcement officers understand that when you have limited resources, you better direct your resources where you think this thing is likely going."

Wandering out from behind a podium and using a wireless remote control, Kratz illustrated his closing argument with computerized PowerPoint slides. As Kratz walked the jury through each witness's testimony, he projected a slide with the witness's photograph and bullet points about their testimony on the screen behind him.

### **Bloodstains, bullets, burn barrels**

Kratz said stains of **Avery's** blood found inside Halbach's SUV — which **Avery's** lawyers have alleged were planted — were a key discovery. Kratz said he was excited to hear how **Avery's** lawyers were going explain how the blood got there.

Kratz called **Avery's** burn barrel a "critically important piece of evidence." Also at issue is the lack of defense explanation how electronic devices thought to be Halbach's got into the barrel that **Avery** was seen using on Halloween.

He laid out for the jury which witnesses talked about the discovery, recovery and analysis of the burn barrel's contents. He also noted which witnesses connected Halbach's belongings to the devices — a Motorola RAZR cell phone, a Palm Pilot and a Canon digital camera — to the burned metal and circuit boards.

Kratz outlined for jurors the firearms evidence and linked it all up — connecting the bullet fragment with Halbach's DNA and shell casings found on **Avery's** garage floor to the .22-caliber rifle found hanging over **Avery's** headboard. Kratz pointed out that a State Crime Lab expert was certain that the bullet and casings came from that rifle "to the exclusion of all others."

### **Teresa's voice**

Kratz also played the message Halbach left on the answering machine of **Avery's** sister, Barb Janda, on Oct. 31, 2005, establishing that she would be there about 2:30 p.m. to take the photograph of the vehicle. Kratz reminded the jurors that **Avery** left Janda's name and phone number when setting up the appointment.

After the message ended, Kratz went to his computer and then flipped through some his notes, leaving Halbach's voice to linger in the air.

The voice mail and testimony about calls to and from Halbach's cell phone "paints a picture for you, it provides the time line for Teresa Halbach," Kratz said. "Not just for the phone, but by inference what's happening to her and when it's happening to her."

### **Teresa's remains**

Kratz shifted his focus to the recover of remains on the **Avery** property and the pit in which prosecutors allege Halbach's body was burned.

A rake and a shovel found near the burn pit were "instrumentalities of mutilation," Kratz said, used by **Avery** in "tending the fire and chopping up the body so that it is totally consumed by the fire."

Kratz asserted there's no question that the remains are those of Halbach.

A DNA expert testified that a piece of tissue collected with the bone fragments matched seven segments of Halbach's profile, meaning there was a 1 in 1 billion chance of someone else being a match. Kratz also reminded jurors that a forensic dentist said the dental fragments he examined were consistent with Halbach's records and "as close of a match that you can get when working with only one tooth."

"The state believes, the state argues that it is Teresa Halbach's remains that were recovered just a few feet behind Steven **Avery's** garage," Kratz said.

### **Frame-up and evidence planting**

Buting told the jurors he was "honored and privileged to defend Mr. **Avery** in this very serious case" as he began his closing argument Wednesday.

And after the usual pleasantries, Buting launched his arguments alleging a conspiracy to frame **Avery** for Halbach's slaying.

"Let me make one thing very clear right here at the outset," Buting said. "We do not and have never claimed the police killed Teresa Halbach, but in that respect they have that in common with Steven **Avery**."

"However, the person or persons who did kill Teresa knew exactly who police would really want to blame for this crime."

"And they were aided in that respect by widespread media publicity — as early as Friday morning Nov. 4 (2005), the morning after she was reported missing — that identified Steven **Avery** as one of the last people to have seen her."

Buting argued investigators were motivated to frame **Avery** because of his \$36 million lawsuit against Manitowoc County for a wrongful conviction in a 1985 sexual assault case that ultimately was overturned through DNA analysis.

"I believe when the Manitowoc officers saw this, they very badly wanted to believe he was guilty and this was their way out," Buting said. "From that point forward, they had this investigative bias focused on Steven **Avery** that was then skillfully exploited by the real perpetrator of this crime."

### **Avery's position consistent**

Buting noted that **Avery's** position on this has never wavered in 16 months.

"He told anybody that had a camera and anybody who talked to him that he was not guilty, that he was being framed and that the police planted his blood," Buting said.

Buting worked piecemeal through evidence that Kratz had just spent over two hours reinforcing for the jury.

Buting suggested that it's not a stretch to believe law enforcement officers framed **Avery**.

"We have offered a theory of defense and that's what it is — a theory," Buting said.

"If someone frames you, you are obviously not going to be there to see how exactly it happened: where, how, when, the kinds of things that Mr. Kratz is going to argue that we haven't presented," Buting said.

"There's no videotape showing how this was done," he said. "There's no cop who in a Perry Mason moment breaks down on the witness stand and says, 'Yes I did it, I did it. You got me.' This is real life. That doesn't happen."

### **Seeking fair treatment**

Buting told jurors they have to allow the defense the same leaps when it comes to interpreting the evidence that the prosecution gets.

"You're entitled to reasonable inferences, however, we're entitled to the inferences that can be drawn from circumstantial evidence just as much as they are ... so you ask yourself, 'What would it look like? What would a case look like if somebody was being framed? ... you're going to see it would look a lot like this case.'"

It's also easy for people to believe **Avery** is guilty, despite a presumption of evidence.

"How, after all of this evidence comes out and police, who better than anyone else would know how to plant evidence, do you get back the presumption of innocence?" Buting said. "How do you get the community and ultimately a jury such as you to believe in our system of justice?"

### **Back to bone fragments**

Buting said there was plenty of evidence suggesting the bone fragments found on **Avery's** property had been moved. Buting argued it defied logic for **Avery** to have burned a body somewhere else and return the remains to his own backyard.

Burned remains were located in a burn barrel in the yard of **Avery's** sister next door and in a quarry near the **Avery** salvage property. Analysts determined it was not clear if the quarry bones were even human, but they appeared to be charred to the same extent of the human remains found in the burn pit and the burn barrel.

Buting suggested that the burn barrel was used by someone to transport the remains from a burn site somewhere else and then dumped in the burn pit behind the garage.

That accounts for some of the remains being found in the barrel, he said.

"And when you realize that this is what may have happened here, then you realize why it's so important," Buting said. "Because if that body was burned elsewhere and then moved and dumped on Mr. **Avery's** burn pit then Steven **Avery** is not guilty, plain and simple because no one would burn a body somewhere else and then move the remains and dump them in their own backyard. No one would do that. No one."

Buting said that theory is bolstered by the testimony of Bobby Dassey, **Avery's** nephew and the brother of Brendan Dassey, who also is charged in Halbach's death and goes to trial April 16.

"Sometime the truth comes out in little drips and drabs when no one is expecting it," Buting said.

Bobby Dassey, **Avery's** nephew who lived next door, said he thought there were three burn barrels in his yard. There were four there when prosecutors arrived on Nov. 5.

### **Blood vial's broken seal**

Buting continued the planting theory by noting that the vacuum seal was broken on a blood sample during **Avery's** post-conviction relief efforts from the 1985 conviction. He also argued

that bloodstains found inside Halbach's Rav-4 that prosecutors alleged was from active bleeding was "also consistent with active planting."

Wednesday was the 28th day of the **Avery** proceedings, which included a week of jury selection in Manitowoc County. The case is being tried in Calumet County to combat a conflict created by **Avery's** \$36 million lawsuit filed in federal court in 2004.

**Avery** was convicted of sexual assault in 1985 but released in 2003 after DNA evidence exonerated him. **Avery** sued Manitowoc County, its sheriff's department and a handful of officials for wrongful conviction, eventually settling for \$400,000.

Although Brendan Dassey, 17, is charged in Halbach's disappearance and death, very little of mention of Dassey's alleged role made it into evidence during testimony in **Avery's** case.

Sixteen people — eight men and eight women — were selected as jurors from Manitowoc County to hear the case against **Avery** and have been bused daily to Chilton for the trial. One was excused after court last month because a family member had died. Two jurors were dismissed by agreement of the attorneys Wednesday to bring the total to 13. Twelve people ultimately will decide **Avery's** fate.