



## Blows to head, neck killed man

By ROSCOE BARNES III Staff writer

The Mercersburg man killed Monday in a struggle with his neighbor died of "blunt force trauma to the head and neck," according to Franklin County Coroner Jeffrey R. Conner.

In a written statement issued Tuesday, Conner said Donald Herbert Berkebile's injuries "... occurred from physical force induced by another person."

Conner said Berkebile, 81, was involved in a fight over property at 7:30 a.m. Monday. The incident occurred in front of 9399 Blue Spring Road, in Montgomery Township.

Conner reported the death as a homicide or "death at the hands of another person."

He added: "Any information involving the altercation must be obtained from the Pennsylvania State Police, Chambersburg."

State police reported Monday that the fight involved Bryan E. Kendall, 40, of Mercersburg. Kendall told Public Opinion that Berkebile shot him in the chest with a pistol he had concealed under his clothing.

He said he pretended to be dead. And when Berkebile put his pistol back into his holster, Kendall said he jumped Berkebile and wrestled

with him until Berkebile was knocked out.

Kendall then called 911 before collapsing. He was later flown to Altoona Regional Hospital for treatment.

According to Lt. Wade Lauer, commander of Pennsylvania State Police, Chambersburg, Kendall was hit with birdshot pellets.

Berkebile was issued a five-year permit to carry a concealed weapon on Jan. 22, 2007, according to Franklin County Sheriff Dane Anthony.

No charges have been filed in the case, according to the Franklin County District Attorney's office.

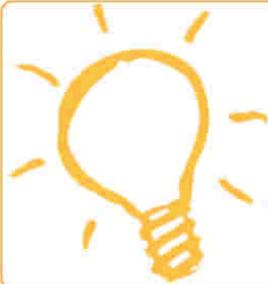
Jeremiah Zook, assistant district attorney, said Tuesday that the decision to file charges has not been made: "Once we have gathered all information, we will sit down with state police and review everything. At this point, the investigation is on-going."

Kendall's attorney, Steve Kulla of Mercersburg, said Kendall acted in self-defense.

"I can't tell you what the state police will do or how the district attorney will act, but hopefully no charges will be filed," he said. "We are confident that no criminal activity was engaged in on the part of Mr. Kendall."

"He's been cooperating with state police and will continue to cooperate," he said. Kulla said Kendall was still in the hospital Tuesday.

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Kendall and his family are "devastated by what has happened and absolutely regret the death of Mr. Berkebile," he said.

In addressing claims about Kendall having a short temper, Kulla said he wouldn't comment because it's irrelevant to the incident.

"This was an act of self-defense," he said. "There was no other choice but to defend himself. Mr. Kendall was not armed and never used a weapon in defending himself."

According to the Pennsylvania Consolidated Statutes Crimes and Offenses (Title 18) Section 505:

"The use of force upon or toward another person is justifiable when the actor believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion."

However, the use of deadly force is not justifiable if a person "with the intent of causing death or serious bodily injury, provoked the use of force against himself in the same encounter."

According to the crimes code, the use of deadly force also is not justifiable if a person "knows that he can avoid the necessity of using such force with complete safety by retreating..."

Betty Stenger, a Mercersburg council member, said she knew little about Berkebile, but that their paths had crossed.

"I remember he was an interesting man," she said. "We had some dealings with him a long time ago when he put his house on the National Register of Historical Places."

Berkebile was not active in the community. However, he had an interest in history, she said.

Berkebile was a retired carriage curator from the Smithsonian Institution in Washington. He lived 27 years in the 1770 farmhouse that he and his wife restored.

Richard Hornbaker of Mercersburg said Berkebile restored a log church in Blairs Valley in the mid-80s: "Being a curator, he seemed to be well aware of the restoration project he did. He was a very friendly man."

Over the years, Hornbaker said he visited Berkebile several times at his Blue Springs home.

"We mostly talked about historic things, restoration things," he said. "He also was interested in local history and where his family came from. He appeared to be quiet, but once you got to know him, he was a friendly kind of man."

-- Senior writer Jim Hook contributed to this report.

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