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No decision yet on charges in Pa. death

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MERCERSBURG, Pa. — If there were such a thing as a typical homicide, the killing of Donald Berkebile one year ago wouldn't be it.

The victim? A retired Smithsonian Institute curator with no close family and few friends.

The cause of death? Blunt force trauma to his head and neck.

The circumstances? Berkebile, 81, allegedly used a revolver to shoot birdshot into his neighbor's chest during a 7:30 a.m. argument between the two men. That neighbor, Bryan Kendall, told police he was acting in self-defense during the fight that left Berkebile dead.

Tuesday will be the first anniversary of Berkebile's death along a driveway he and Kendall shared in the 9300 block of Blue Spring Road in Montgomery Township, Pa.

A Pennsylvania State Police Crime Lab still has not released results of forensics testing the Franklin County District Attorney's Office says is needed before it can determine whether Kendall will be charged in the case. State police cleared the scene, interviewed Kendall and turned the case materials over to the district attorney's office last August.

The crime lab "keeps telling us they'll have it before a certain time. When we check in, they give us a new time," Assistant District Attorney Jeremiah Zook said.

Zook said it is the role of the district attorney's office to advocate for justice, regardless of whether a victim's family or friends are outspoken. In this case, they are not.

"That's not a factor for us," Zook said.

In February, Kendall sued Berkebile's estate for medical expenses, lost wages, and humiliation and embarrassment. Lawyers representing the estate responded testimony should not be accepted because it cannot be refuted by a dead man.

Berkebile's belongings were auctioned starting in October 2008. Included were a Conestoga wagon, antique firearms, hand grenades, an anvil, rare coins and toys from Berkebile's childhood.

Berkebile, a widower, identified several charities benefiting animals as the beneficiaries in his will.

The lawsuit filed by Kendall and his wife, Susan, provides the clearest picture thus far of what happened July 28, 2008.

Kendall, who was 40 when the fight occurred, alleges his neighbor had started a fire on one side of the lane and driven stakes into the other side. He says he encountered Berkebile standing in the middle of the

driveway, yelling and pointing a finger at his approaching pickup truck.

Berkebile's cursing and screaming was nonsensical when Kendall stopped the truck, the plaintiffs state in the lawsuit.

"Mr. Kendall then put his hands up in the air and said, 'Don, what are you talking about?' ... (Berkebile responded) 'I saw you hit those rocks, you (expletive),' " the lawsuit states.

Kendall says in the lawsuit he fell and tried to "play dead" after being shot with .45/410 revolver, claiming he feared as he lay there that Berkebile would drag him into the fire. When Berkebile kicked Kendall's foot, Kendall said he grabbed and wrestled the older man.

Kendall was treated at Altoona (Pa.) Regional Health System for chest, forearm and liver injuries. He claims \$40,000 in medical expenses in the lawsuit.

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