

Retrial for man in wife's slaying starts Monday

Prosecutors will have to do without key evidence

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From the moment Farah Fratta fell mortally wounded to the driveway outside her Atascocita home, detectives had little doubt about the person most likely responsible for her death. Her estranged husband, Robert, all but arrived at the sheriff's office for questioning with "prime suspect" stamped on his shirt.

He frequently had spoken to others about wanting his wife dead, police say. He behaved suspiciously on the night of her death — Nov. 9, 1994 — and in the days immediately after. He seemed so blase and uncooperative that detectives concluded he was behind her death long before they had enough evidence to prove it.

In time, that evidence arrived, mostly in the form of confessions from two supposed co-conspirators, Howard Guidry and Joseph Prystash, and a corroborating statement from Prystash's girlfriend. To no one's surprise, Fratta was convicted and sentenced to death, as were the two co-defendants.

But the case against him fell apart on appeal, and suddenly a slam-dunk conviction began to look like a challenge. On Monday, jury selection will begin in Fratta's new trial. This time prosecutors will have to make do without the confessions or key portions of girlfriend Mary Gipp's testimony.

Retrials seldom pan out much better for capital murder defendants than the first ones, but Fratta's case could prove different. The judge who reversed his conviction, U.S. District Judge Melinda Harmon, was emphatic about the poor quality of the state's case against him absent the confessions:

"The trial evidence showed Fratta to be egotistical, misogynistic and vile, with a callous desire to kill his wife," Harmon wrote in her 2007 opinion. "The evidence strongly suggested that Fratta was somehow involved in his wife's death . . . Only the inadmissible statements by Guidry and Prystash and Ms. Gipp's hearsay-laden testimony neatly tied that circumstantial evidence into a coherent prosecutorial theory of capital murder as alleged in the indictment."


The 5th U.S. Circuit Court of Appeals agreed with her, which means prosecutors this time around must produce more evidence if they want to get a conviction that will stand up on appeal. Or perhaps if they want a conviction at all.

"A reasonable jury could very well acquit Mr. Fratta of capital murder," said James Rytting, who represented Fratta on appeal. "The state's case is particularly weak when it comes to proving Mr. Fratta paid anybody to commit murder."

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'Circumstantial evidence'

One of his new trial lawyers, Vivian King, is similarly unimpressed by what she has seen since being appointed to the case last year.

She said she would not be shocked if prosecutors tried to find a way to get the confessions and Gipp's statement into evidence despite the appellate opinions because of the dearth of solid evidence.

"It's all circumstantial evidence, and I don't see a lot of it," King said.

Prosecutors Mia Magness and Denise Bradley declined to speak about the case.

The notion that Fratta could go free is troubling to many who are familiar with the circumstances of his wife's death or the publicity surrounding it.

Testimony at his trial and in proceedings related to the divorce painted a sordid picture of sexual deviance, physical abuse and calculated murder. He had no qualms about expressing his desire to see her dead or reservations about showing a friend an account of her daily activities for use by a potential assassin. He calmly mentioned to another that there was no way he would let any other man "play with" the breast implants he had insisted she get as a condition of continued marriage.

Fratta's appeal, however, highlighted a prosecution that was troubled in its own way. It relied on the statements of Guidry and Prystash

and the testimony of Gipp, but the first two were not available for cross-examination after invoking their Fifth Amendment rights.

Harmon ruled that the conglomeration of hearsay testimony — including an illegally obtained confession from Guidry — should not have been admitted, and that Fratta was denied the right to confront his accusers.

What evidence is left

The original lead prosecutor, Kelly Siegler, said she tried to cut a deal with Prystash, the middleman and getaway driver, to secure his testimony in the trials of Fratta and Guidry. Prystash refused, and because his conviction has not been overturned, there is no incentive for him to testify against Fratta this time around and no ethical way to induce his cooperation.

"There's no legal way to offer a deal, even if he would take it," Siegler said.

That leaves a modest assortment of circumstantial evidence, including \$1,050 in cash found in Fratta's car on the night of the slaying, which the prosecution will claim to be part of the payoff, and a gun once belonging to Fratta that was found in the possession of the triggerman when he was arrested four months later. Whether it is the murder weapon could be the subject of a battle of expert witnesses.

King said she did not know if investigators had come up with anything new. A former prosecutor, she expects "big surprises" from Magness and

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Bradley. "They'll approach it differently," she said. "They'll have to."

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