

Blind rapist gets 12-year term

By CHRISTINE EVANS
Herald Staff Writer

Defense attorneys called him a prisoner of darkness — a frail blind man who never intentionally hurt anyone. They begged for leniency.

Prosecutors called him a calculating criminal — a shrewd "date rapist" who exaggerated his ailment to win sympathy. They asked for 17 years.

Dade Circuit Judge Harold Solomon ruled down the middle Thursday and sentenced 21-year-old Vance Anthony Young, convicted of four counts of rape on the same woman, to 12 years in prison.

"What jurors heard, Mr. Young, was a date rape in the classic sense," Solomon said as the defendant was fingerprinted. "She is now psychologically and emotionally disabled in the sense you are disabled with your eyes. I doubt she will ever get over it."

Young, legally blind since birth, cried through the hearing. From the pews, 50 friends and family members whispered and shook their heads.

The victim, now 19, waited alone in a hallway until the sentence was announced. "He should have gotten more," she said. "But I'm glad this is over."

A jury convicted Young on Dec. 30. Prosecutor David Morowitz told the court how Young invited the woman to his duplex, then threatened her with a bayonet, raped her and burned her with cigarettes.

"At first he was crying and



JON KRAL / Miami Herald Staff

Vance Anthony Young is handcuffed after sentencing.

asking for forgiveness," Morowitz said. "Then he did it again."

Defense attorneys argued that Young never forced the victim to do anything she didn't want to do. She was, they said, a promiscuous young woman who invented the rape to get attention.

Before the sentencing, Morowitz warned the judge that Young wasn't as blind as he seemed. The sunglasses and shaky steps, he said, were a sham.

"That's a lie," the defendant's mother, Donna, cried. "That's the biggest lie."

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Woonsocket officer testifies defendant opened fire on police during a drug raid last year

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — Freeman R. King, 31, opened fire on police when they kicked in his bedroom door during a drug raid at his Woonsocket apartment on Nov. 2, 1988, a city officer testified in Superior Court yesterday.

King, who suffered a bullet wound to the leg in the ensuing exchange of gunfire, is on trial before Judge Paul P. Pederzani and a jury on three counts of assault with intent to murder, and one count each of possessing cocaine, possessing the drug with intent to deliver it, and illegal possession of a firearm, a .38-caliber revolver.

Lt. William J. Shea testified that he went to the apartment at 71-73 Center St. with a team of officers to search for drugs.

"When we approached, we announced we were police officers and used a battering ram to break down the door," Shea said.

Shea said he and Detective Luke Simard went down a hallway, approached the bedroom and found the door shut.

"Detective Simard pushed on it, and it wouldn't open," Shea said. "I took up a position to the right of

the door.... Simard kicked the door once. I heard a shot go off, and splinters came out of the door....

"I pushed Simard, and he fell to the floor. I thought he had been shot, so I called a rescue."

Shea said that after Simard fell to the floor, he fired a blast from his shotgun through the door.

"I heard two more shots from the bedroom," Shea said.

Shea testified that Simard got up off the floor and fired three more shots through the door, one of which struck King in the leg. Shea said he fired a second blast from his shotgun into the bedroom when he saw "a shadow moving along the wall."

Asst. Atty. Gen. David Morowitz called Shea to the witness stand after Richard C. Wilkinson, a ballistics expert, testified that four shell casings and two of the four bullets that police seized as evidence unquestionably came from King's revolver.

King's lawyer, Joseph. Bevilacqua Jr., contends that King did not know that it was the police who had come to his apartment, and that he fired because he thought someone was breaking in.

REPORTING THE SCENE OF AN ACCIDENT IN-

Attleboro

2/3/90 #10

Woonsocket man gets 18 years for firing at police during raid

PROVIDENCE — Freeman R. King, 31, was sentenced yesterday to serve 18 years in prison for assault with intent to murder three Woonsocket police officers.

The sentence also involved a cocaine-possession conviction.

King opened fire on the three policemen when they kicked in the bedroom door during a drug raid at his Woonsocket apartment on Nov. 2, 1988, according to Asst. Atty. Gen. David Morowitz.

King, who suffered a bullet wound to the leg in the ensuing exchange of gunfire, was charged with three counts of assault with intent to commit murder and one count of possession of cocaine.

He was convicted last Nov. 13, after a jury trial in Superior Court.

Yesterday, Superior Court Judge

Paul P. Pederzani ordered King to serve consecutive six-year sentences on each of the assault convictions and gave him a concurrent one-year sentence on the drug-possession count.

Woonsocket police Lt. William J. Shea testified during King's trial that he went to the apartment at 71-73 Center St. with a team of officers to search for drugs.

"When we approached, we announced we were police officers and used a battering ram to break down the door," Shea said.

Shea said he and Detective Luke Simard went down a hallway, approached the bedroom and found the door shut.

Simard tried to open the door, but it wouldn't open, he said. Then the shooting started, Shea said.

We're all punished

One of the most disturbing trends in the American system of justice is the increasing tendency of juries to inflict outrageously disproportionate punitive damages above and beyond the compensatory damages awarded in civil suits. The situation has become so scandalous that the U.S. Supreme Court seems ready to do something about it. If so, relief will come not a moment too soon.

L. Gordon Crovitz, the legal columnist of *The Wall Street Journal*, recently cited several cases that illustrate the problem. In *Reserve Life Insurance v. Eichenseer*, for example, a Mississippi jury ordered an insurance company to pay a woman \$1,000 in actual damages to compensate her for a delay in a medical reimbursement claim — and then forced the company to pay her \$500,000 in punitive damages!

Such an award is not only logically preposterous, it would also seem to violate the Eighth Amendment's ban on "excessive fines." However, in a case decided last June, *Browning-Ferris v. Kelco*, the Supreme Court rejected this argument on the basis that the constitutional provision cited refers to criminal trials rather than civil disputes.

Nevertheless, in the course of that decision, several justices went out of their way to make it clear they would be ready and eager to hear a case that challenged huge punitive damage awards on another constitutional ground: That such awards violate the Fourteenth Amendment's guarantee of "due process of law." And on Monday, the Court

agreed to consider such a case, *Pacific Mutual Life Insurance Co. v. Haslip*.

Regrettably, this may not be the best case to clarify the issue. It involves a breach-of-contract dispute in which an Alabama jury awarded a woman \$1.04 million, without, however, specifying which part of the sum was aimed at compensating the plaintiff for mental anguish and which part was intended to serve as punitive damages. In addition to this wrinkle, the case raises a different problem that the Court may decide to focus on: To what extent may a company be held liable for misdeeds by an employee who was not acting on behalf of the company?

In any event, if this turns out not to be the right case to help set standards for governing jury awards, the Court will undoubtedly find another that is suitable for the purpose. For one thing is clear: The issue of disproportionate punitive damages will not go away. Just last year, for example, a panel of the American College of Trial Lawyers suggested that punitive damages should not exceed twice the sum of the actual compensatory damages; that would certainly put a crimp on runaway punitive judgments!

Jurors may think the major corporations that are the usual victims of excessive awards can afford to shrug off such large penalties. But this 'deep pockets' approach to justice is not only unjust to the targeted companies; it also ends up harming consumers by raising the costs of many products and driving others out of the market.

P.A. 7 Brief for the little guy 4/30/90

"We're all punished" (April 6) was critical of a Mississippi jury that ordered a life insurance company to pay actual damages of \$1,000 to a woman and punitive damages of \$500,000.

It's quite possible that we are all being punished in such cases, not by the system, but by powerful corporations failing to honor their contractual obligations. Refusal to pay on a legitimate life insurance claim can be profitable to the company if the little guy has to spend thousands in legal fees to get what is rightfully his, and punitive damages are not assessed against them in an amount sufficient to discourage such practices.

Children often lose their allowance for weeks if they misbehave. I doubt that \$500,000 amounts to the weekly profits of Reserve Life Insurance.

Give the juries in the United States a little credit. They are made fully aware of all the facts in these

cases, such as how negligent or intentional the conduct was, and what amount of financial punishment will sufficiently impact on the corporation to make sure it doesn't happen again. Taking away that option by limiting punitive damages will seriously invade the one place that the little guy has as much power as big corporation: In the jury room.

DAVID MOROWITZ

Pawtucket

Pawtucket man, 41, is charged in shaking death of infant girl

8/18/90

Taped death threats linked to suspect in 3-month probe

By SUZANNE ESPINOSA
and W. ZACHARY MALINOWSKI
Journal-Bulletin Staff Writers

PAWTUCKET — A Pawtucket man was charged yesterday with the slaying of Paola L. DeJesus, a 7-week-old girl who died May 7 from severe shakings and beatings.

Michael S. Younger, 41, of 424 Smithfield Ave., was arrested Thursday night after a three-month investigation. The state medical examiner's office last spring ruled the infant's death a homicide.

Police linked Younger to the baby's death by obtaining tape recorded telephone conversations in which a voice that police identified as Younger's admits to battering the infant and threatens to kill her.

Paola DeJesus was born in March to Danessa DeJesus-Hoggins, 31, a prison inmate in the Federal Correctional Institution in Lexington, Ky. Days after the birth, the mother turned her infant over to Younger, the husband of Rosie Younger, another inmate.

Michael S. Younger returned to Rhode Island in March with the infant, and lived in a Pawtucket apartment with his girlfriend and two children.

Yesterday morning, Younger stood in blue jeans, a blue T-shirt and black sneakers before District Court Judge Alton W. Wiley, answering questions in a low, monotone voice.

His girlfriend, Virginia Sierra, 30, and Sierra's brother-in-law watched in the courtroom.

"Since May, (Younger) has been aware he was being investigated," Younger's lawyer, Augustus Charos of Warwick, said afterward.

Wiley ordered Younger, an ex-convict who served time in a West Virginia prison for perjury, held without bail at the Adult Correctional Institutions. His case was continued to Thursday.

Prosecutor David Morowitz told the court that Younger was a threat to Sierra's two children, ages 2 and 9, and was spending a lot of time with them despite a Family Court order to stay away. Morowitz also said Younger has 12 different addresses in four states — Virginia, Connecticut, Massachusetts and Rhode Island.

Det. Sgt. John Seebeck said Younger was arrested while visiting with the two children at a relative's home at 8 Crescent Ave., East Providence. The children were placed at the relative's home by the state Department for Children and Their Families.

Patricia Mathews, a spokeswoman for DCF, could neither confirm nor deny yesterday whether Younger had been granted visitation rights to the two children.

The DeJesus baby was pronounced dead at Memorial Hospital in Pawtucket on May 7 after rescue workers discovered that she had stopped breathing at Younger's Smithfield Avenue apartment.

Suspect called 911

Rescue workers first responded to the address when Younger called 911 to report that the baby was having difficulty breathing. A few minutes later, Younger called back and reported that the problem was not serious.

The ambulance squad showed up anyway and determined that the baby had "heavy phlegm" but was all right.

Two hours later, Younger called 911 again to report that the infant was in trouble. When rescue arrived, the baby had stopped breathing.

The medical examiner's office later determined that the baby was a victim of "shaken baby syndrome, where severe shaking (for at least three weeks) resulted in fatal bleeding inside the skull."

The information was included in the June 26 warrant for Younger's arrest.

Central Falls man guilty of trying to kill girlfriend

Gunshots left teen mother paralyzed

By SUZANNE ESPINOSA
Journal-Bulletin Staff Writer

PROVIDENCE — A Providence County jury yesterday found a Central Falls man guilty of five counts of attempted murder for shooting his 16-year-old girlfriend eight times last November while she stood in front of a Pawtucket video store, cradling their infant daughter in her arms.

Pedro Rodolfo Gratini, 23, faces a maximum sentence of 120 years for the Nov. 10, 1989 shooting that left Yahaira Martinez, now 17, paralyzed from the waist down.

The baby, Kashia, was not injured.

"If he had pleaded guilty, he would probably be facing only 40 years," said prosecutor David Morowitz.

Ten witnesses testified against Gratini during the two-day trial. Martinez did not testify.



GRATINI



MARTINEZ

The key question that jurors had to resolve during deliberations Thursday and yesterday was whether Gratini intended to murder Martinez when he opened fire with a semiautomatic pistol on the evening of Nov. 10.

"He fired a loaded machine-gun pistol at the woman while the baby was in her arms and two other people were standing in close proximity. That's a total disregard for the sanctity of human life," said Morowitz after the guilty verdict.

She visits him at ACI

Lawyer John M. Cicilline, who represented Gratini, tried to persuade the jury that Gratini meant only to scare and harm Martinez when he fired the gun. He said that if Gratini had intended to kill her, he would have fired at Martinez's head

or vital organs.

Martinez and Gratini have since renewed their relationship, Cicilline said.

"She visits him all the time," at the Adult Correctional Institutions, Cicilline said. "I think he is remorseful of what he did."

On Feb. 9, Martinez signed an affidavit stating she did not want to pursue any charges against Gratini. In an interview in January, Martinez had said of Gratini: "Right now, I realize I can't hate him. He was my first love. I had a daughter with him."

Martinez's mother, Elba Perez, testified that Martinez was unavailable to act as a witness because she was visiting the Dominican Republic.

Sentencing set for Nov. 8

Besides the guilty verdicts on the five counts of assault with attempt to murder, the jury also found Gratini guilty on two other counts: illegal possession of a firearm and using a weapon while committing a violent crime.

Gratini is scheduled for sentencing before Superior Court Judge Thomas Needham Nov. 8.

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ACI inmate convicted of '87 sexual assault on Providence woman

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — Roger Lamoureux, who is serving 15 years in prison for assault with intent to commit sexual assault and three other offenses, was convicted yesterday after a jury trial in Superior Court on charges that he raped a 33-year-old Providence woman.

Prosecutor David Morowitz said Lamoureux met the woman at a downtown nightclub and persuaded her to give him a ride home.

"He was very friendly and very charming," Morowitz said.

The victim and another woman, who alleged that Lamoureux sexually assaulted her 10 days earlier on April 1, 1987, after she had given him a ride home from the same nightclub, testified against the defendant at the trial.

"Both were by themselves at the bar. He was very charming. He carried on conversations with them. He

told them both he needed a ride home," Morowitz said.

Lamoureux is awaiting trial on a charge of second-degree sexual assault stemming from the April 1 incident.

The victim of that alleged assault testified that she drove Lamoureux to his home on Hawthorne Place in North Providence and Lamoureux attacked her in his driveway.

She said she started screaming and honking the horn. Lamoureux's mother came to the door and Lamoureux got out of the car. The victim said she sped off.

She testified that she did not report the assault until five days later because her father had heart trouble and she was afraid of how it might affect him. She also said she was afraid her brother would go to Lamoureux's house and kill him.

Morowitz said police picked up Lamoureux on April 6. "He was re-

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Rape

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leased. Four days later, he did the same thing," the prosecutor said.

Superior Court Judge Paul P. Pedrzani allowed Morowitz to use the other woman's testimony in the rape trial to demonstrate Lamoureux's intent, his plan and "the absence of mistake."

In his closing statement yesterday, defense lawyer Robert Mann asked the jury to acquit his client. He said there was no evidence that Lamoureux had threatened the woman. He said the state failed to show that his client forced the woman to have sex against her will and said the state also failed to show that she resisted him.

"You don't convict a man of rape because of the tone of his voice or the look in his eyes," Mann said.

The jury found Lamoureux guilty of first-degree sexual assault after deliberating for less than an hour. The maximum penalty is life in prison.

Lamoureux has been serving a 15-year sentence at the Adult Correctional Institutions since April, 1988 on a conviction of attempting to rape a 28-year-old woman in June 1986.

He was also found guilty of burglary, assault with a dangerous weapon — a baseball bat — and simple assault in that case.

Lamoureux broke into the woman's home in the early morning and tried to rape her. When she resisted, he hit her with a baseball bat. A 21-year-old woman friend of the victim also was assaulted when she tried to help fend off the attack.

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Man held on charges of raping 3 children

By SUZANNE ESPINOSA
Journal-Bulletin Staff Writer

PAWTUCKET — A Pawtucket man has been ordered held without bail at the Adult Correctional Institutions on charges that he raped three children, ages 3, 6 and 8.

At a bail hearing Friday, prosecutor David Morowitz urged District Court Judge Stephen P. Erickson to keep Severe R. Houde Jr., 38, of 18 Bullock St., behind bars.

Morowitz told the judge that the investigation brought to light allegations that Houde had raped other children as early as 1974.

Pawtucket Detective Michael Malloy told Erickson that new evidence had broadened his investigation of Houde into other states.

The investigation of Houde began Sept. 24, when the mother of the 8-year-old girl questioned the child about a red mark on her neck. The child eventually told her mother, grandmother, a doctor and police that Houde, known to the family, had performed various sexual acts with her and her two younger sisters, who were sharing a bedroom, Morowitz told the judge.

The three sisters were examined at Memorial Hospital in Pawtucket, where physical evidence was ob-

tained to support the 8-year-old's allegations, Morowitz said.

The next day, Sept. 25, Houde was arraigned in District Court on six counts of child rape.

During the hearing Friday, Morowitz characterized Houde as a danger to the community, a man whose alleged crimes are "worse than murder."

Morowitz told the judge that Houde threatened to kill the three girls' mother if the children told anyone what he had done. All three children have begun receiving counseling, Morowitz said.

The attorney general's office will seek grand jury indictment on the six counts, Morowitz said. He said the children's testimony would be videotaped for presentation to the grand jury.

Malloy said two male adults who now live in North Dakota alleged in a telephone interview with police that Houde raped them between 1974 and 1981 while they were living in Hawaii, where Houde was stationed as a Marine.

Morowitz said yesterday, "I am not sure it was ever disclosed at that time, but these kids are willing to testify now."

3/23/91 Proton

Pawtucket man is indicted on sex charges

PAWTUCKET — A Providence County grand jury yesterday indicted a Pawtucket man on 13 counts of sexual assault on three children, ages 3, 6 and 8.

Steven R. Houde Jr., 39, was arrested by police Sept. 25 and charged then with six counts of child rape, after one of the alleged victims told her mother that Houde — known to the family — had abused her and her two younger sisters.

Police say Houde had threatened to kill the girls' mother if they told about the sexual assaults.

The children were examined by doctors at Memorial Hospital in Pawtucket, where physical evidence was obtained to support the 8-year-old girl's allegations.

After hearing testimony on the case, the grand jury indicted Houde on the six original charges, then added five more rape charges and two sexual molestation charges for a total 13-count indictment.

Houde is scheduled for arraignment in Providence Superior Court on April 10.

He has been held without bail at the Adult Correctional Institutions since his arrest.

FB 12/97

New project in Pawtucket videotapes abused kids

By KEVIN P. O'CONNOR

The Evening Times staff

PAWTUCKET — Prosecuting a child molesting case has always been a mixed bag. Police and prosecutors worry that the good they do by putting child molesters in jail is offset by the trauma to children who are questioned repeatedly by detectives, lawyers, case workers and judges.

'This spares the children the trauma of multiple court appearances'

A camcorder and a video cassette player might be the answer, according to Special Asst. Atty. Gen. David Morowitz, who is coordinating a pilot program with Pawtucket police, testing the use of videotaped statements from child victims of sexual or physical assault.

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"This is a pilot program that this department is working on, exclusively, with the attorney general's office," Morowitz said. "We do all the interviews of the child, combine them on one tape and then we use them for grand jury proceedings and bail hearings and we make them available to the DCF (Department for Children and Their Families) and doctors.

"This spares the children the multiple interviews and spares them the trauma of multiple court appearances."

The program is already proving itself, Morowitz said. Pawtucket, last month, presented a case to the grand jury using a video taped statement given by the victim. It was the first time in the state's history that the grand jury issued an indictment based on a witness statement that was on tape.

This week, Morowitz showed District Court Judge Francis Darrigan the tape made of a 5-year-old boy who told police that he had been sexually assaulted by Wayne Burt, 32, of Pawtucket. Burt was ordered held at the Adult Correctional Institutions after failing to post bail set at \$75,000 on the charge of first degree child molestation.

Again, it was the first time a tape was used in a bail hearing.

Even with the use of the tape, victims will eventually have to appear in court, testify and be subject to cross examination.

The use of the tape simply

reduces the number of times the victims have to be asked the same questions during the investigation and preliminary judicial proceedings.

"The less the children are interviewed, the less damaged they will be, the less traumatized," Morowitz said.

The use of taped statements is limited to children who are 13-years-old or younger and who have been raped or otherwise made the victim of a serious sexual assault.

In this latest case, family members went to Detective Michael Malloy and Bruce Moreau with suspicions that the 5-year-old boy had been sexually abused.

Malloy and Moreau then called Morowitz, who was at home at the time, and set up the video camera before beginning their questioning.

"Asking the police not to take a statement immediately, that could help them start their investigation is asking for a lot," Morowitz said. "It really requires a lot of communication and trust between the police department and the attorney general's office."

The experience to date, however, would make him more likely to use the tape again, Moreau said.

"Now we're trying to fine tune the whole program so we can handle these cases with more expediency," he said.

"If this works out as well as it has so far, we'll try to expand it to other departments," Morowitz added. "So far, it's working well here."

Witness identifies teen in Central shooting

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By JUDY RAKOWSKY
Journal-Bulletin Staff Writer

PROVIDENCE — At lunchtime on Jan. 16, 1990, students were clustered on the plaza outside Central High School.

"Nobody had any idea of the chaos and pandemonium that was about to happen in that plaza, nobody but Pov Pech," Asst. Atty. Gen. David Morowitz told a Superior Court jury yesterday.

Pech is accused firing on two groups of students outside Central that day with Dyna Kun, 17, whose case remained in Family Court.

Morowitz said Pech, a 16-year-old Cambodian from Lowell, Mass., whose trial opened in Superior Court yesterday, did not belong at Central. But he was there, with Kun, and they had loaded guns.

They crossed the plaza, Morowitz said, and "without any any apparent reason whatsoever, they began to run toward a group of students and spray the students with gunfire."

The two then allegedly ran down the steps onto Fricker Street and fired again, wounding three youths, Morowitz said. Providence Patrolwoman Mary Day testified that she saw Pech running down Fricker Street with a gun in his hand seconds after she heard shots.

Pech is charged with three counts of assault with intent to murder, conspiracy, assault with a dangerous weapon and possession of a firearm by an alien. He has been held in lieu of \$175,000 bail.

Central student Scott Smith, 16, testified that he was standing on the plaza at noon and noticed a knot of Asian youths on the west side, opposite a clump of football players. Among about 20 Asians, he said he saw only one he did not recognize. Suddenly, "two students were

running through the plaza screaming and yelling." One was Kun and the other was the youth he had not recognized, Smith said.

Smith said he heard 10 shots. Those from Kun's gun — allegedly a .32-caliber handgun in his possession when he was arrested — were soft, while those from Pech's — allegedly a 357-Magnum — were loud.

"Everyone was running." But Smith said he did not run. "They're not shooting at me, so there was no sense in running."

When Morowitz questioned Smith, he said he saw Pech and Kun holding guns.

On cross-examination by David Cicilline, Smith said he never saw Pech with a gun in his hand.

In response to questions from Morowitz, Smith said he picked Pech out of a photo array without prompting by Providence police.

"I knew it was him," he said. "It just . . . it was him."

But when Cicilline asked him, "The police told you before you looked at the photos that they wanted you to pick out Dyna Kun and Pov Pech?" Smith said yes.

Smith — who whistled under the heat of cross-examination and said, "I don't even want to be here" — agreed with Cicilline when the lawyer said, "You looked for a picture of the person you saw in the police car . . . because you assumed the police had gotten the right man."

But when Morowitz questioned Smith again, Smith said he had not seen Pech's face in the car. He also said that when he viewed the mug shots, he was relying on his memory of seeing the youth he saw on the plaza.

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Fall River man jailed for child molestation

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — A Fall River, Mass., man was sentenced in Superior Court yesterday to serve 25 years in prison for sexually molesting an 8-year-old Pawtucket boy.

A jury Feb. 12 convicted Craig L. Cardoza, 21, of two counts of first-degree child molestation but acquitted him of two counts of second-degree child molestation against an 8-year-old girl.

According to prosecutor David Morowitz, Cardoza lived in Pawtucket when the sexual assaults occurred, in the spring and summer of 1989.

Cardoza maintained his innocence during the trial and at yesterday's sentencing hearing before Judge Francis J. Darigan Jr.

The victim's mother told Darigan that her children had looked up to Cardoza as a father figure and that he took advantage of them. She said Cardoza "stripped them of their confidence and self-esteem."

Morowitz told the judge that the state, before the case was reached for trial, had offered Cardoza a plea agreement calling for 20 years to

serve, but that Cardoza refused.

Morowitz urged Darigan to sentence the defendant to more than 20 years, saying Cardoza showed no remorse "and lied under oath" to the jury.

Morowitz said Cardoza "resented the way his mother treated him and took it out on a little boy."

Cardoza's lawyer, Mary J. Ciresi, asked Darigan to consider alternatives to a long prison sentence. She said many of Cardoza's friends and relatives sent letters to the court in his behalf.

"I think a lengthy sentence would destroy his life," Ciresi said.

But Darigan was unswayed. He said the acts Cardoza committed were "heinous."

Although the vast majority of the letters he received in behalf of Cardoza were from people who thought he was innocent and "a caring, loving person to all who knew him," Darigan said, he agreed with the jury's verdict.

He sentenced Cardoza to 50 years at the Adult Correctional Institutions, with 25 years suspended and 25 years' probation.

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Fall River man guilty of molesting Pawtucket boy

PROVIDENCE — A Superior Court jury yesterday found Craig L. Cardoza, 21, of Fall River, Mass., guilty on four counts of first-degree child molestation against a 7-year-old Pawtucket boy.

He was acquitted of two counts of second-degree child molestation against an 8-year-old girl.

Judge Francis J. Darigan Jr. ordered Cardoza held in the Adult Correctional Institutions pending sentencing April 14.

Prosecutor David Morowitz said Cardoza resided in Pawtucket when the assaults occurred, in the summer of 1989 and spring of 1990.

Morowitz said the children told a neighbor about the assaults, and the neighbor told their mother. The police and prosecutors videotaped the children's statements and later played the tapes for the grand jury, which returned indictments, Morowitz said.

The children testified at Cardoza's trial.

Cardoza's brother, David L. Cardoza, 24, is serving 32 years in the ACI for the slaying of Charles Cardoza, 56 — no relation — who was found dead in his burning apartment at Newport's Park Holm public housing complex Aug. 2, 1988. David Cardoza was sentenced in June 1989 after pleading guilty to second-degree murder and arson.

Jury finds Moniz guilty of 1990 Pawtucket murder

By KEVIN P. O'CONNOR
The Times staff

PROVIDENCE — Frank Moniz cannot blame epilepsy for the death of his wife — he planned her murder and methodically carried it out, a Superior Court jury concluded on Tuesday.

Moniz, 29, was found guilty of premeditated murder for the Aug. 20, 1990, slaying of his wife, Maryellen, 24, in the

Epilepsy defense called nonsense

front hallway of her apartment building at 36 Park Place, Pawtucket.

She had been stabbed more than 50 times and within hours of the attack, Moniz admitted to Detective Joseph Corey and Lt. Thomas Harris that he killed her.

But the five-day trial before Judge Thomas Needham hinged on the assertion by defense lawyers Richard Corley and Patrick Mika that Moniz was experiencing a complex partial epileptic seizure when he killed his wife. They argued a complex partial seizure is a rare form of epilepsy that left their client operating at an instinctual level, incapable of re-

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Guilty

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ason and left only with the ability to decide between fighting or fleeing.

"It happens in the rarest of cases," Mika argued. "This is something that is difficult to understand. It is totally bizarre, unexpected and unpredictable."

Mika added that, if found innocent by reason of insanity, Moniz would be ordered held in a mental institution until a judge was convinced that he no longer posed a threat to himself or others.

"It's not a question of Frank Moniz getting off and walking away," Mika said. "It's a question of putting him somewhere where he can be treated."

But in the end, the jury accepted the argument of prosecutor David Morowitz, who said that Moniz's explanation that he suffered a seizure and could remember nothing was just too easy to be accepted.

Morowitz recounted the testimony of Moniz's friends and co-workers, who said they heard Moniz state that he would kill his wife if she did not return to him. Maryellen Moniz had moved out of her

home the month before and told her husband two days before her death that she would not reconcile with him and wanted a divorce.

When Moniz went to see his wife earlier on the day of the murder, she refused to talk with him and shouted to neighbors for help when Moniz grabbed her and shook her.

Then he went home and took a 9-inch knife from his kitchen and returned to the woman's home.

"When he took this knife and hid it in a bag and carried it under his arm and went to his wife's house and rang her bell, murder was on his mind. That's premeditation," Morowitz said.

"What is he thinking when he picked the biggest knife he had and plunged it into her left breast? Is there any doubt he had murder on his mind?"

"The blows are at all angles. He made every blow connect and did that without cutting himself, without cutting the walls or the floor. He did that while having a seizure? Nonsense."

"What a strange coincidence that the person this defendant said he was going to kill, he killed in the one and only time he had a seizure of this type. I

have two words for the defense: How convenient."

Morowitz relied during his final argument on the testimony of his expert, Dr. Eileen McNamara, who is a certified neurologist and psychologist and an expert in epilepsy.

McNamara testified during the trial that a person suffering from a complex partial seizure would be violent only if restrained and would be incapable of organized behavior. In reaching its verdict, the jury discounted the opinion of neurologist Dr. Frank Lilly, who was hired by Moniz's family, that the defendant was suffering a seizure at the moment of the attack.

Moniz has been held in the Adult Correctional Institutions, Cranston, since his arrest and will remain in prison, pending sentencing.

The jury's duty is not yet over. Needham has called them back today for a hearing set to begin at 10 a.m. to answer questions about the extent of the aggravation present at the moment of the murder.

That hearing will be held in Needham's courtroom on the fifth floor of the Superior Court building on Benefit Street.

Life sentence sought for Silva murder suspect

Two arraigned in connection with killing

By KEVIN P. O'CONNOR
The Times staff

PROVIDENCE — The person who killed Fernando Silva should die in prison, prosecutor David Morowitz said.

And Eugene DePina, 18, of Providence, was officially charged with the murder Wednesday in Superior Court.

Silva, 25, of Central Falls, a merchant marine who was the father of a 1-year-old baby girl, died on Jan. 24. Two strangers walked up to his car that was parked on Weeden Street, Pawtucket, and one of them shot through the window when Silva didn't get out of the vehicle as ordered. Silva was shot once in the face and died immediately.

Silva's baby was in a safety seat in the car's back seat. He was in the car, waiting for his wife, Zenaida Silva, who was visiting with a relative.

DePina and Salamao Monteiro Jr., 19, also of Providence, surrendered to police a day later after Pawtucket police told family members they planned to charge the two in connection with the murder.



WILLIAM HUNTINGTON/
for The Times

CHARGED — Eugene DePina is arraigned Wednesday in Superior Court, Providence, in connection with the January murder of Fernando Silva in Pawtucket.

The two have been held since in the Adult Correctional Institutions, Cranston, and will remain there until trial.

With motions filed Wednesday in court, DePina could remain in prison for the rest of his life.

DePina was formally charged on Wednesday with murder, assault, assault with intent to rob, carrying a pistol without a permit and conspiracy.

Monteiro was charged with conspiracy, to rob, assault with the intent to rob and aiding and abetting murder.

For DePina's case, Morowitz said, "We're making a recommendation of life without parole if he is found guilty."

Under state law, prisoners can be denied parole for the rest of their lives if a judge feels a murder is particularly heinous.

The law has been used nine times. On Monday, Superior Court Judge Thomas Needham decided not to apply the law to Frank Moniz of East Providence, who was convicted of stabbing his wife to death. Moniz's case was the first time

See SUSPECTS, page 6

Suspects

—Continued from page 1

a judge failed to grant a request of life imprisonment without parole.

In both DePina's case and Monteiro's, Morowitz also filed motions asking the court to try the two within six months.

"We're asking for a very quick trial date," Morowitz said. "We are ready to go today."

Judge Henry Gemma set a pretrial conference for Sept. 10 and a trial date of Nov. 2 for both DePina and Monteiro. The two will be tried separately.

As has been the case in each court proceeding involving DePina and Monteiro, large groups of relatives of the two men charged and of Silva appeared in court to watch. Zenaida Silva began to sob when DePina was brought into court and had to get up and leave the room when Monteiro was brought in.

Because both DePina and Monteiro are being held in



Monteiro

prison, they must be tried within 180 days or be granted bail.

The accelerated schedule of the case was requested to ensure the two are tried before the 180 days are up, Morowitz said.

Defendant admits having gun, denies role in killing

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — Chantha Lauthavone admitted in Superior Court yesterday that he was armed with a handgun the night a fellow Laotian immigrant was fatally shot outside an apartment on Moy Street, but he denied responsibility for the killing.

"Did you shoot Sonesay Phommachamh?" asked Lauthavone's lawyer, public defender Richard Casparian.

"No," Lauthavone replied.

He also testified that he did not ask a friend to shoot Phommachamh, and that he did not want to see the victim dead.

Lauthavone, 34, of Uxbridge, Mass., took the stand on the second day of testimony in his trial for murder, two counts of assault with a dangerous weapon and a firearms offense.

Under questioning by prosecutor David Morowitz, Lauthavone admitted he was carrying a handgun the night of March 2, 1990, when he went to a party in the Moy Street apartment for a friend who was moving to California.

"You weren't a tough guy, but you were carrying a gun that night?" the prosecutor asked.

"I had a gun," Lauthavone replied.

"Loaded and hidden?"

"Yes," Lauthavone said.

Morowitz contends that Phommachamh was killed because he in-

sulted Lauthavone by calling him a "chicken" after the defendant declined Phommachamh's offer of a drink during the party.

Lamphone Vorvongsa, 32, of Providence, who allegedly fired the fatal shot, also is charged with murder.

Phommachanh Daranikone, 24, of Providence was charged with harboring Lauthavone. He pleaded before the trial and received a five-year suspended sentence.

Yesterday, Daranikone testified that Lamphone Vorvongsa pulled out a pistol during the confrontation and chased the victim down a flight of stairs.

Daranikone said he heard three shots after the two men ran out the back door. He said Lauthavone was still in the apartment when the shots were fired.

Lauthavone steadfastly maintained that he did not shoot at the victim, and that he did not point the handgun at two other guests, as the state alleges.

Lauthavone conceded that he refused Phommachamh's offer of a drink, but he maintained that it was Phommachamh, not he, who became angry and aggressive.

He said he already had had two drinks and did not want any more because he had not eaten dinner.

Phommachamh got angry and tried to start a fight, Lauthavone said, but he walked away from Phommachamh, into the kitchen.

Man found guilty in shooting death of fellow Laotian

Victim reportedly called him chicken

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — Chantha Lauthavone, 34, of Uxbridge, Mass., was convicted by a jury yesterday of first-degree murder in the death of a fellow Laotian immigrant outside a house in Providence's Wanskuck section.

Lauthavone also was convicted of two counts of assault with a dangerous weapon and a firearms charge. Superior Court Judge Robert D. Krause ordered him held without bail pending a hearing July 28 on a defense motion for a new trial.

A first-degree murder conviction carries a mandatory sentence of life in prison.

Lauthavone and Lamphone Vorvongsa, 32, of Providence were charged with murder after Sonesay Phommachanh was fatally shot March 2, 1990, outside an apartment at 29 Moy St. where a party was being held for a friend who was moving to California.

Prosecutor David Morowitz said Phommachanh insulted Lauthavone, calling him chicken, after Lauthavone declined Phommachanh's offer of a drink during the party.

An argument ensued, and later that night both Lauthavone and Vorvongsa drew handguns and pointed them at Phommachanh. One of the two men pulled the trigger, but the pistol misfired, Morowitz said, and Phommachanh ran into the kitchen, down a flight of stairs and out the back door.

Morowitz told the jury that the two men fired at Phommachanh after he ran out. Phommachanh was fatally shot in the back.

Lauthavone was charged with assaulting Annette St. Louis and Kattha Keophilavanh with a dangerous weapon, a pistol. He pointed the pistol at them before the shooting took place, outside, the prosecutor said.

Vorvongsa was arrested in Florida a year after the fatal shooting and returned here to face trial.

Vorvongsa appeared last July before Superior Court Judge Henry Gemma, who, despite the state's objections, set bail at \$150,000 with surety, pending Lauthavone's trial.

Vorvongsa was later released on bail, but he fled after the case was reached for trial.

Phommachanh Daranikone, 24,

The shooting took place outside an apartment where a going-away party was being held.

Prosecutor David Morowitz said the victim insulted Lauthavone by calling him chicken, after Lauthavone declined the victim's offer of a drink during the party.

of Providence, charged with harboring Lauthavone, pleaded before the trial and received a five-year suspended sentence.

At the trial, Lauthavone admitted that he was armed with a handgun that night but denied shooting Phommachanh.

He told the jury he was inside the apartment when the shots were fired.

The jurors agreed on a verdict after about five hours of deliberations, which began Thursday afternoon.

Other local news pages

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No verdict yet in fatal beating of elderly man

10/9/92
By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — A Superior Court jury deliberated for about two hours yesterday without reaching a verdict in the trial of Tyrone Scholl, who is accused of fatally beating a wheelchair-bound tenant in a public apartment building last year.

Scholl, 29, of Providence is charged with felony murder and robbery in the death of Clive Browne, 73.

Browne was assaulted and robbed of \$12 as he was about to emerge from an elevator in Parenti Villa, a high-rise on Tobey Street, the night of March 13, 1991. He died four days later of internal injuries.

In his summation yesterday, defense lawyer Mark Smith said there was no conclusive evidence that Scholl was responsible.

He said Browne couldn't positively identify Scholl when police showed him an array of photographs at the hospital the day after the assault.

But prosecutor David Morowitz argued that there was no doubt Browne had identified Scholl from a police photograph.

"He is 73 years old, on his death bed on his way to meet his Maker, and he is not going to bear false witness at that time," Morowitz said.

Providence police Detective John McGehearty testified Wednesday that Browne picked Scholl's picture out of a collection of photographs and said, "'Yes, yes, that's the face.'" But then Browne added, "I'd like to say yes, but I can't swear to it because the hair is different," McGehearty testified.

McGehearty testified that he came back later with more recent pictures of Scholl, but that Browne had lapsed into a coma.

Yesterday, the jurors, after about 1½ hours' deliberation, asked Judge John P. Bourcier to have testimony by a Parenti Villa security guard read back to them.

Specifically, the jurors wanted to know what Gwynn Fuller had said when the prosecutor asked whether Scholl was walking with a cane when she saw him at Parenti Villa the night of the assault.

Fuller testified that Scholl was not carrying a cane, and that he had no trouble walking.

Yesterday, Celia Ricci, who lives at Parenti Villa, testified that Scholl came to her apartment with her son, Luigi Ricci, the night of the assault and stayed about five minutes. She said her son wanted money for gas, and she gave him about a dollar.

Defendant guilty of slaying disabled man, 73

By DOANE HULICK
Journal-Bulletin Staff Writer

PROVIDENCE — Tyrone Scholl, 29, of Providence was convicted of felony murder and robbery yesterday in the fatal beating of an elderly wheelchair-bound tenant at a Providence apartment building for the elderly last year.

The victim, Clive Browne, 73, was assaulted and robbed of \$12 as he was about to emerge from an elevator on the seventh floor of Parenti Villa, on Tobey Street in the Federal Hill section, on the night of March 13, 1991. Browne died four days later.

After the jury returned its verdict, Judge John P. Bourcier remanded Scholl to the Adult Correctional Institutions to await a hearing Oct. 23 on a motion for a new trial. If the motion is denied, Scholl will be sentenced Nov. 20. The mandatory sentence for a felony murder

Before he died, the murder victim looked at a picture of the defendant and said, 'Yes, yes, that's the face. Those are the eyes,' Detective John McGehearty testified.

conviction is life in prison.

Scholl, who already is serving a three-year term as a probation violator, walks with the aid of a cane.

"He got hit on the head with a tire iron the last time he got out of prison," said police Detective John McGehearty, who testified against Scholl during the trial. "It impaired his motor skills."

In his testimony, Detective McGehearty said Browne was on his deathbed when he picked Scholl's picture out of a collection of police photographs and identified him as the assailant.

"He said, 'Yes, yes, that's the face. Those are the eyes,'" McGe-

hearty testified. The detective said he asked Browne if he was certain that Scholl was the man, and Browne replied that he wanted to say yes, but "the hair was different," so "I can't swear to it."

McGehearty testified that he returned to the hospital the next day with a more-recent photograph of Scholl, but by then Browne's condition had worsened. "He went into a coma and never came out," McGehearty said.

Asst. Atty. Gen. David Morowitz provided the jury with evidence that Scholl and Luigi Ricci signed in at Parenti Villa at 7 o'clock the night of the assault to visit Ricci's mother,

ed man, 73

who lived there.

Ricci, who is serving four years in the ACI as a probation violator, was not charged in connection with the murder.

According to Morowitz, Ricci gave police a statement in which he said Scholl told him he had robbed Browne. Ricci also testified before a grand jury that Scholl told him he had committed the robbery.

But at a subsequent bail hearing, Ricci recanted his testimony and told a Superior Court judge that the police had beaten him up and forced him to make incriminating statements against Scholl.

"That never happened," McGehearty said yesterday. "What happened was that Ricci cooperated with the police and thought it gave him a license to steal. It did not. He was arrested on robbery charges, got mad at us and changed his testimony" concerning Scholl.

EP accomplice is granted bail

By DALE M. KING

The Times staff

EAST PROVIDENCE — A Cambodian man who survived a gun battle with a police officer late last month and ended up facing assault and murder charges, could be cleared.

In fact, said Assistant Attorney General David Morowitz, the man may have been an unwilling party in both the murder of a companion and a shooting on Route 195 that left a local policeman wounded and a second Cambodian man dead.

The revelations involving Chihame Southivongnorath, 23, of Providence, were made Thursday in District Court, Providence.

Southivongnorath, who had been held without bail at the

Adult Correctional Institutions, Cranston, since the morning of Oct. 28 when the shootings took place, was to have a bail hearing. Morowitz said told Judge Albert DeRobbio that the state was ready to agree to bail.

"Why," the judge asked.

"It is quite possible that he is innocent," the assistant attorney general said.

Based on that, bail was set at \$50,000 with surety or \$5,000 cash. *The Times* Thursday could not confirm whether Southivongnorath made bail.

According to police, Virak Chea, 23, who was a passenger in the car Southivongnorath was driving, shot Patrolman John Wyrostek in the shoulder after the officer stopped the

See BAIL, page 10

—Continued from page 1

car on Route 195.

Wyrostek returned fire and killed Chea, peppering the car with 13 bullet holes.

At Thursday's hearing, Morowitz told Judge DeRobbio that Chea "may have been holding him (Southivongnorath) at gunpoint" in the car.

Police said Chea and Southivongnorath had just disposed of the body of Sikanda Vongkhampha, 27, when they were stopped by Wyrostek about 2 a.m. on Route 195 west heading for Providence.

Investigators said Vongkhampha was killed by

Chea while the three were returning from the Foxwoods Casino in Leyard, Conn. Reportedly, Vongkhampha was shot to death by Chea because he refused to share \$400 that he won at the casino.

Morowitz told the court Thursday that the murder of Vongkhampha "happened spontaneously and without his (Southivongnorath's) knowledge, and he was forced to help dispose of the body."

Morowitz said this information was based on discussions with Southivongnorath, and "there is nothing to prove that this isn't true."

Burts' cruelty unmasked

By LARRY BERMAN
Managing Editor

Sure, there are the alleged serious crimes of arson, rape, racketeering, fraud. You name it, the Burt family of Cumberland was involved.

But the one aspect of the saga that sets it apart from all the rest is the haunting image of Pauline Charpentier, a mildly retarded 50-year-old woman, being held prisoner in the basement of the family home at 2570 Mendon Road, Cumberland.

The state alleges that Walter and Frances Burt abused their eight foster children and some of their own kin, especially an adopted daughter. They also mistreated workers, relatives, neighbors and friends.

But no one bore the brunt of the Burts' sadistic nature more than Pauline Charpentier, according to the supplemental discovery filed by former Assistant Attorney General David Morowitz.



Charpentier

She was not simply held against her will. She was allegedly forced to have sex with several family members. She had her children taken away from her. She was relegated to the role of servant and the Burts were her masters.

The Burts took Pauline under

Mountain of evidence portrays dark world

The volume of evidence in the state's case against the Burt family of Cumberland is staggering.

Spearheaded by the efforts of former Assistant Attorney General David Morowitz and state police Sgt. Gerald A. Prendergast, the state's stack of paperwork alone — known as discovery — is more than two feet high. This does not include the mounds of



Morowitz

evidence the state is prepared to introduce when the case is ready for trial later this year.

In his final duty before entering private practice, Morowitz filed a 78-page document known as "supplemental discovery" with the Superior Court, and provided copies to the attorneys representing the four family members who remain imprisoned.

The Call has obtained this summary of the prosecutor's conversations with 40 witnesses who are

See **THE CASE** — Page A-6



F. Burt



W. Burt

their wing when they lived in Pawtucket in 1974. An unmarried mother, she was residing in one of their apartment buildings. At first, she said, they were nice to her, and they promised to help her take care of her children.

But the Burts instead found their own uses for the four Charpentiers — Nancy, Roland, Laurie and Larry — who became their foster children. And they made the kids distance themselves from their mother.

"She couldn't hug or kiss her own children," wrote Morowitz in the court documents. "They weren't allowed to call Pauline mother. Nancy would call her 'dum dum' and Roland would call her 'booga.'"

There were many times when Pauline attempted to get away from her living hell, which she admits began back in the days when she resided in Pawtucket.

"The Burts said they would drown Pauline," wrote the prosecutor. "They also said they would shoot her with a gun."

See **THE BURTS** — Page A-6

Next in the series . . .

The series on the Burts, based on the supplemental discovery prepared by Assistant Attorney General David Morowitz, will be presented over five days. Here's a summary:

■ **Today** — Abuse: The focus is on Pauline Charpentier, who the state contends was locked in the Burts' basement, and the Burts' former foster children.

■ **Next Sunday** — Violence and threats: Incidents range from alleged kidnapping to beatings, firebombings and threats of death.

■ **Part 3** — Fraud and shoplifting: Allegedly taking insurance companies and local stores for a bundle.

■ **Part 4** — Arson and influence: Family members and associates provide the details of arson, while some witnesses offer thoughts as to why the Burts never faced serious charges until 1993.

■ **Part 5** — Rape: The victims tell their stories . . . and a final look at Walter and Frances Burt.

Judge frees Burt family assets so they can pay lawyers' bills

■ Asst. Atty. Gen. David Morowitz says the move would save the state the cost of court-appointed lawyers.

By ALEXIS MAGNER MILLER
Journal-Bulletin Staff Writer

A Superior Court judge has unfrozen some of the assets and bank accounts belonging to the Burts, allowing the Cumberland family to pay a portion of their mounting legal bills.

Last week, Judge Thomas H. Needham approved the agreement reached by lawyers representing the Burts and the state. The arrangement allows the Burts to empty their bank accounts and to sell several of their possessions to pay lawyers about \$89,000.

The family, accused of running an arson-for-profit ring in northern Rhode Island, has a total of \$50,000 in the bank; the difference will be made up by selling of their assets.

Money will also be used to make needed repairs to Burt rental properties, many of which were condemned by the Pawtucket city officials. The Burts own 17 rental properties in Pawtucket and Cumberland; rental income is the family's only known source of income.

Walter and Frances Burt, both 51,

and two of their children, Raymond, 30, and Cynthia Burt Alarie, 24, were arrested June 2 on charges including arson, kidnapping and sexual assault. They are accused of setting fires at their properties in Pawtucket, Cumberland and Gloucester, and collecting over \$100,000 in insurance money. They also are charged with keeping a former tenant, Pauline Charpentier, 50, a virtual prisoner in the basement of the family's main house on Mendon Road.

The four are being held without bail at the ACI.

Since their arrests, additional charges have been brought against other family members, including son Randy Burt, 26, his girlfriend Arlean Girouard, 24, daughter Renee Demrest, 21, and Raymond Burt's girlfriend, Tammy Lacoste, 26. The four were arrested in July and charged — along with Raymond Burt, Cynthia Burt Alarie and Keith Demrest, 22, a Burt son-in-law — with welfare fraud in excess of \$250,000.

Demrest is serving three years at the ACI for violating the terms of his probation.

This month, Kevin L. Burt, 20, Walter and Frances' youngest son, and Eneida E. Facha, 21, were ar-

5/31/93 B.Y.
rested at the family compound — the former for assaulting his brother, Randy, and his brother's girlfriend; the latter for welfare fraud.

Asst. Atty. Gen. David Morowitz did not object to the Burts' assets being freed; he said the move would save the state the cost of court-appointed lawyers.

According to the agreement, lawyer John F. Cicilline will receive \$30,000 for representing Frances Burt. His son, David N. Cicilline, will be paid \$25,000 for representing Walter Burt, and another son, John M. Cicilline, will receive \$15,000 for defending Raymond Burt.

Randy Olen, a Cicilline associate, will get \$5,000 for representing Renee Demrest and Eneida Facha. Another Cicilline associate, Joseph Patriarca, will be paid \$2,500 to defend Tammy Lacoste.

Legal fees could go higher if two civil suits pending against the Burts are brought to court before the family's criminal trials.

Blackstone Valley Electric is suing the Burts for allegedly stealing \$69,000 in electricity. Raymond Burt is being sued by Allstate Insurance for insurance fraud. Another lawyer, Victor J. Beretta, would be paid \$12,000 for representing the Burts in the civil suits.

Judge refuses to hike

Dec 1993

By LARRY BERMAN

Managing Editor

Raymond Burt not allowed to

PROVIDENCE — Despite information that Dennis Burt has threatened to kill an assistant attorney general and members of the state police, Superior Court Judge Henry Gemma Jr. yesterday refused to raise the former Cumberland resident's bail.



D. Burt

"To say I'm disappointed is putting it mildly," said David Morowitz, the prosecutor of the infamous Burt family after attempting to significantly raise Dennis Burt's bail of \$150,000, or \$15,000 cash, on six charges, including racketeering, extortion and kidnapping.

He made an impassioned plea to Gemma, citing threats he has learned Dennis, 29, has made. The prosecutor cited a letter written by Dennis' sister, Cynthia Alarie, who is a state's witness.

He then unveiled his surprise of the day, telling Gemma that Raymond Burt, 30, was waiting outside the courtroom to testify against his brother. Like his brother, Raymond — indicted on 18 counts, including arson, rape, extortion and racketeering — is incarcerated at the Adult Correctional Institutions,

Cranston.

But Gemma didn't allow either the letter to be read, nor did he wish to hear the testimony of Raymond.

"I'm upset that he didn't put my witness on the stand," said Morowitz. "He had some very serious statements to make."

According to the prosecutor, Raymond Burt was set to state that Dennis, while in prison, has told him that when he was released, he was "going to go on a mission."

That mission, according to Morowitz, would include "killing me, witnesses in the case and the state police."

Dennis, contacting *The Call* from prison, said his brother denied that he was ready to cooperate with the state. Raymond provided a copy of the attorney general's offer of a plea agreement to Raymond, which he said his brother refused to sign.

"Morowitz is doing anything in his power to keep me in jail," said Dennis Burt. "I never made any threats against law enforcement officers. This time, he's overstepped his boundaries with the law ... he's trying to get these people to lie for him."

Dennis, in reading from his brother's agreement paper, said the attorney general offered Raymond the following deal: if he agreed to plead guilty to all the charges against

him, the recommended sentence would be 30 years in jail, with 10 to serve and the balance on probation.

In exchange, Raymond would agree to testify against all members of his family who are in trouble with the law, including his mother, Frances, facing 71 charges; his father, Walter, facing 36 counts; sister and brother-in-law Renee and Keith Demrest, indicted on 10 charges apiece, and Dennis.

Dennis said he was not surprised his brother has been contemplating becoming a state's witness.

"I feel bad for him. He's never been in prison before, and it's tough for him, with a girlfriend and four kids at home," he stated. "But he told me wasn't going to lie for

David Morowitz. He didn't feel it was right."

The prosecutor would not comment on any deal that may have been offered to Raymond Burt, but made it clear in court that he was available to testify.

Morowitz also was turned down in a request to read a letter from Cynthia Alarie, who has been jailed since the June 2 state police raid on the 2570 Mendon Road, Cumberland, homestead, but has since agreed to an arrangement of serving one year in prison.

"She swears that Dennis said last

Dennis Burt's bail testify against his brother

June that he was 'gonna go to the Lincoln state police barracks and he doesn't care if he gets shot because he would shoot everyone in the station,' " he said.

Morowitz will also upset that Gemma did not allow him to play a tape of what he claimed were recorded telephone conversations of Dennis Burt in prison making threats and claims he would break the law.

The same tape was allowed into evidence in District Court by Chief

Judge Albert E. DeRobbio, who set bail at \$250,000. But Burt's attorney, Lyndia Sanchez, was successful in having the bail reduced to \$150,000 by Gemma last month.

Yesterday, Morowitz was rebuffed in his request to raise the bail back to \$250,000 and then doubling it for the latest threats. Sanchez was also denied in her bid to

lower her client's bail to \$25,000.

Morowitz said he will pursue criminal charges on Dennis for the threats. Dennis has a long criminal record, including a federal drug-

dealing charge and two other prison stints as a parole violator.

"The prosecutor is trying to pit family members against each other," Dennis Burt said. "It's his tactic, but's not going to work."

Reminder

News items pertaining to Woonsocket and North Smithfield should be sent to the city editor at *The Call*, 75 Main St., Woonsocket, RI 02895.

State's lead prosecutor in Burt family case resigns to join private practice

Asst. Atty. Gen. David Morowitz, who has been the lead prosecutor in the state's case against a Cumberland family accused of running a crime ring, yesterday announced he will leave the attorney general's office at the end of next month to enter private practice with the firm of Decof & Grimm.

Morowitz, who has worked almost exclusively on the case since police raided the Burt family's compound in June, last week unsuccessfully sought higher bail for a Burt son, Dennis, 29, asserting that he had a "mission" to kill Morowitz and witnesses if freed.

Morowitz said yesterday that his leaving the attorney general's office had "absolutely nothing" to do with the death threat he said he had received.

Asst. Atty. Gen. Carl Levin will take over the complicated case, which involves a dozen defendants, as many as 100 witnesses and alleged crimes that date back at least a decade.

"It's not going to hurt it at all," Morowitz said when asked whether his departure will affect the prosecution. "It may even help the case; it will be a different perspective. (Lev-

in) will have more energy when it starts."

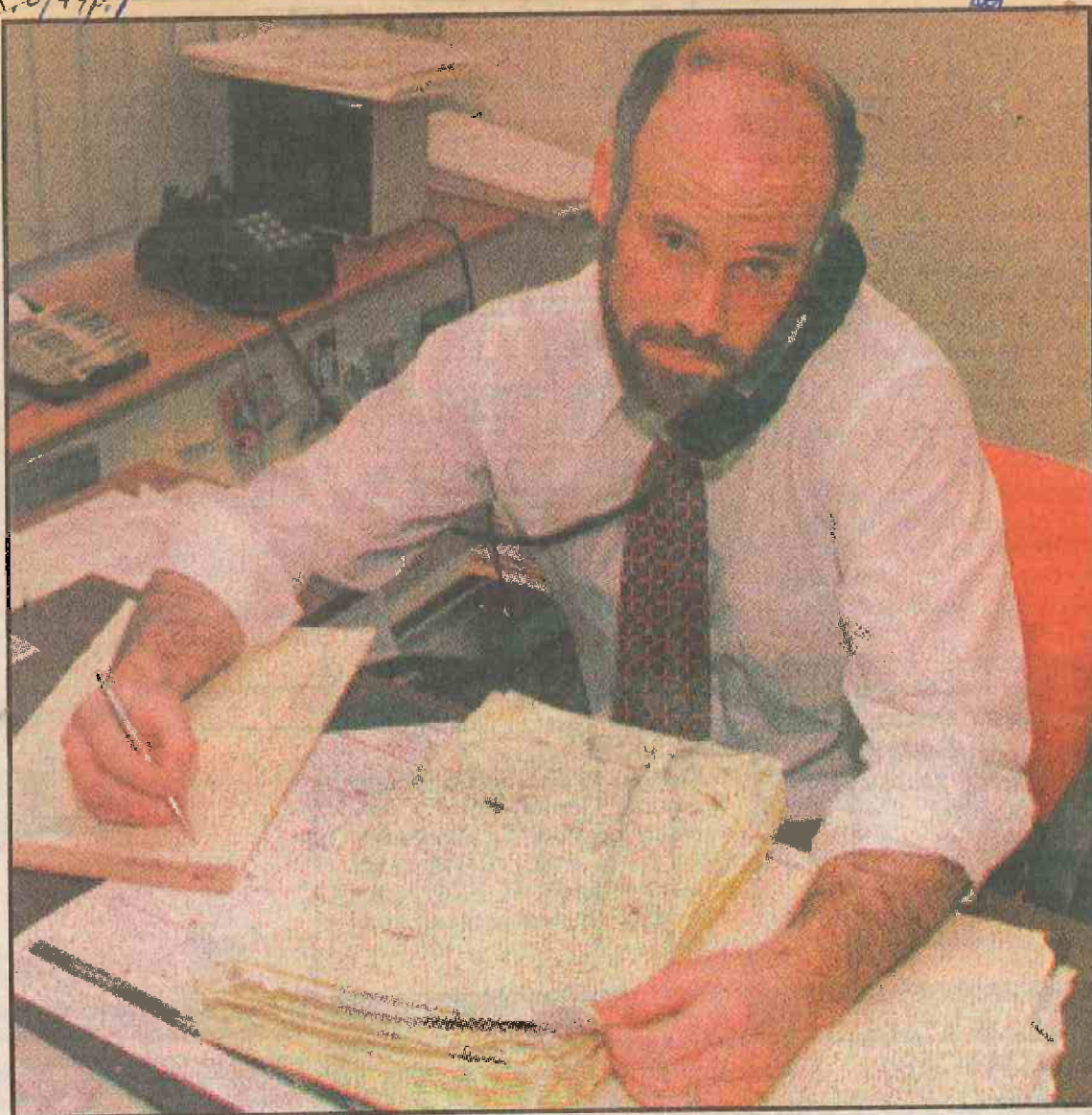
Walter and Frances Burt and 10 members of their extended family and coterie of associates have been accused of participating in a criminal empire run from their compound at 2570 Mendon Rd.

A 158-count indictment handed up by a Providence County grand jury accuses the family of managing an extortion, arson-for-profit, sexual assault and kidnapping ring that terrorized dozens of people in northern Rhode Island.

The trial is scheduled to begin June 6, but Morowitz said the attorney general's office will ask that it start by May 24; if the case does not begin within six months of the defendants' Nov. 24 arraignment, they will be eligible for bail.

Several key defendants — Walter and Frances Burt and their son, Raymond, 30 — are being held at the Adult Correctional Institutions without bail.

Last week, Superior Court Judge Henry Gemma Jr. refused to change the \$150,000 bail set for Dennis Burt.



RICH DUGAS/The Times

Lawyer David Morowitz talks on the phone at his desk in the Rhode Island Attorney General's office. In addition to prosecuting members of the Burt family, Morowitz handled many cases in Pawtucket and Central Falls. He now leaves for private practice, taking the job once held by Attorney General Jeffrey Pine.

Burt prosecutor goes private

His approach to crime: no murderer should go free

By **KEVIN P. O'CONNOR**
Times staff writer

PROVIDENCE — Heartache, horror, misery and despair: Pawtucket and Central Falls provided David Morowitz with a steady supply.

He knows he'll miss them when he leaves his job as an assistant attorney general.

And police in both cities say they're sorry to lose the advice and guidance of one of the state's most successful prosecutors.

Morowitz, 35, is leaving the attorney general's office to work as a medical malpractice lawyer with the firm of Decof and Grimm in Providence — taking over the job once held by his soon-to-be ex-boss, Atty. Gen. Jeffrey Pine.

Though Morowitz most recently has gotten headlines for his work as the prosecutor of the Burt clan, he spent his five years as a prosecutor in Rhode Island as the chief

adviser to Pawtucket and Central Falls police.

"The program is known as vertical prosecution," Morowitz said. "In major criminal investigations — murder or sexual assaults — the prosecutor is involved right from the start.

"I'd focus on what was important for a trial, rather than focusing on the police concerns, which is

making an arrest.

"I was living in Pawtucket when they were making the assignments so I became Pawtucket's adviser. While I was here, Pawtucket and Central Falls got hot."

One of Morowitz' first cases was an investigation into the death of an infant girl, a victim of shaken-baby syndrome.

All the leads pointed to Michael Younger. Younger's girlfriend had been a inmate with the baby's mother when the two were in federal prison. Younger became the sole caretaker when his girlfriend got into an accident and went to the hospital. The mother was still in federal prison.

It wasn't a hopeful case: There was little direct evidence. But Morowitz got teamed with Detective Sgt. John Seebeck — who was as willing as Morowitz to put in the 70- to 80-hour weeks.

They ended up finding tapes of calls made by Younger to the mother of the child in federal prison. It produced a case tight enough so that Younger pleaded no contest to manslaughter, getting a 20-year sentence.

Of the 35 cases Morowitz took to trial in Rhode Island, most were from Pawtucket and Central Falls. He won 31 of his 35 and got guilty verdicts in every case from this area.

"I realized how lucky I was to get Pawtucket," Morowitz said. "Their detective division is as good as any in the state. Plus, they had enough trust in the attorney general's office to get us involved early in the case. That was rare.

"Plus, it was really good to see how well Pawtucket and

Central Falls worked together. That's the way it should be, but you don't see it very often."

It wasn't always easy: In one case, Morowitz insisted that police hold back on arresting Lance Dellay on the charge of beating his best friend to death with a baseball bat. Morowitz wanted to talk to Dellay first to try to get more information from him.

"My great advice was to wait," Morowitz said. "While we waited, he took off for Canada.

"The cops busted my chops, but they were good to me. Though, I'm sure, in the back of their minds, they thought, 'This is the last time we listen to Morowitz.'"

He made up for that with the prosecution of Frank Moniz for the murder of his estranged wife, Mary Ellen.

Detective Lt. Thomas Harris worked with Morowitz, putting together an airtight case. Then Moniz pleaded innocent by reason of insanity, his lawyer, Richard Corley, calling in expert witnesses who said Moniz' epilepsy caused his violence.

"By the time the trial started, Dave knew as much about epilepsy as the expert witnesses for the defense," Harris said. "He really did his research."

The jury found Moniz guilty and also agreed that the judge could sentence him to life without parole. Judge Thomas Needham chose to sentence Moniz to 30 years.

"That still bothers me," Morowitz said. "It was my most disappointing moment as a prosecutor.

"He planned to take a life and he did it. It's not fair that he ever goes free. I believe that of all murderers."

Despite those feelings, Morowitz said the comparative low pay of prosecutors — the best paid make less than \$50,000 a year — forces him to private practice.

"My oldest daughter is 6. I can't stay in this job and afford to send her to college," Morowitz said.

"But I'll be sorry to go. I've always wanted to be a prosecutor."

Morowitz happy, relieved in final prosecuting days

(See related story, Page 1)

PROVIDENCE — It was a bitter-sweet feeling for David Morowitz yesterday as he stepped into the courtroom for the final time as the prosecutor of the infamous Burt family of Cumberland.

"I very much wanted to see this through," said the assistant attorney general, who is leaving to join the private firm of Decof & Grimm of Providence on Jan. 24.

"But on the other hand, it feels like a great weight has been lifted off my back."

The 35-year-old prosecutor has been working days, nights and weekends on the weighty case since the arrest of Walter and Frances Burt and other family members since June 2.

It is the most high-profile case that Morowitz has handled in his 5½ years in the office, but it is by far the most complex. The discovery documents number more than 2,000 pages and stack up at least two feet high.

After taking a few days off, Morowitz will complete his duties by wrapping up some paperwork in the office late next week.

The courtroom work is now in the hands of Assistant Attorney General Carl Levin.

"I'm not sleeping that well," said Levin yesterday, who was present to observe the court proceedings for the state's latest witness, Burt son-in-law Keith Demrest. "Every morning I wake up early thinking about all the work ahead in the case."

The sheer weight of the case, which involves about five arsons,

numerous sexual assaults and assorted kidnappings, larcenies and extortions, has been a consuming passion for Morowitz. On Tuesday, for instance, he worked from early in the morning until nearly 2 a.m. the following morning, before returning back to court.

The past few weeks have been extremely satisfying to the prosecutor, who has been able to obtain three more witnesses for the state — the Burts' daughter, Renee Demrest; her husband, Keith; and Eneida Facha, Frances Burt's niece. All received suspended sentences in exchange for their cooperation with the state.

He was also able to obtain an early prison release for another Burt daughter, Cynthia Alarie, in exchange for her continued help with the state's case.

In the course of developing the new witnesses, Morowitz was also able to bring new charges against Walter Burt, charged with 14 counts of raping his adopted daughter Renee, and Dennis Burt, one of Frances and Walter's sons who allegedly threatened both Keith and Renee Demrest.

Morowitz obviously earned the respect of the attorneys on the other side of the case.

"Would you leave this case already ... we've seen enough of you," said John M. Cicilline to Morowitz in good-natured chiding after Demrest received his suspended sentence. John, his father, John F., and brother David represent three of the Burts.

For Morowitz, it was perhaps the ultimate compliment.

"One thing that will be nice," said the prosecutor, "will be to return to somewhat normal working hours again."

— LARRY BERMAN



Morowitz

Burt may be free in 1 year following plea agreement

6-4-94

By LARRY BERMAN
Managing Editor

PROVIDENCE — Raymond Burt of Cumberland, who originally faced 16 criminal charges, including first-degree arson and rape, will be eligible to leave prison in one year. Burt pleaded no contest yesterday to a dozen charges in Superior Court — the other four were dropped by the state. But more significantly, the first-degree arson and sexual assault charges were reduced in a plea agreement.

Judge John P. Sheehan sentenced Burt, the oldest of Walter and Frances Burt's seven children, to 15 years in prison. But Sheehan sus-

pended nine of those years, with probation, and ordered him to serve six years in prison.

With a year of incarceration already under his belt, the 31-year-old Burt will be eligible for parole after serving one-third of his sentence — which is this case would be one more year.

Sheehan also fined him \$5,000 and ordered him to pay \$80,767 in restitution for insurance, workers' compensation and welfare fraud.

"I'm not saying I'm guilty of



Raymond

anything," said Burt via telephone from the Adult Correctional Institutions in Cranston last night. "But I really had no choice but to accept a plea. With all the publicity and the circumstances of the case, I felt it was the best thing to do."

Plea arrangements have also been offered to his parents, who face more than 100 combined and more serious charges, and his 30-year-old brother Dennis, who has been described as the family "enforcer" and has a long police record. As of yet, none have accepted.

See BURT — Page 6

Raymond Burt, who has no prior record, was one of five family members and associates arrested by state police on June 2, 1993. The

state then revealed an elaborate and complicated series of charges against the Burts — who allegedly made millions from arson-for-profit schemes, extortion, racketeering and fraud.

Burt spent six months in prison while the state built the case which resulted in grand jury indictments, and last November was ordered held without bail. Last week, when his six months expired for a charged person to be held without bail, the court set \$245,000 bail (\$24,500 cash).

But there was a catch. Due to the racketeering charges against Burt and other family members, the state had frozen all his assets. There was no way he could approach raising the bail.

"That really forced me into accepting a plea," said Burt, whose only other alternative was to go to trial at the same time with his parents and brother. "They were pressuring me."

The carrot dangling in front of him turned out to be the removal of the freeze of the property he owns — which includes five apartment buildings in Pawtucket, his home at 6 Farm Drive adjacent to Cumberland High School, three vehicles and a boat.

The Farm Drive home is built on land owned by his parents on Mendon Road, which could be a source of contention because the parents' assets are all frozen. The family, in total, owned 18 apartment buildings

and four homes, although several have since been condemned.

Attorney John M. Cicilline sought to allow Burt to be released for two weeks in order to straighten out the rents and upkeep of his apartment houses, which have been looked after by a state-ordered property management firm, but Sheehan denied the request.

Burt pled no contest to the following charges:

- One count of compounding a felony, which was reduced from first-degree arson. The charge means that the individual had knowledge of a felony being committed, didn't report it and received money from it.

- Two counts of second-degree sexual assault, or contact, which is a reduction from first degree, or penetration. It was alleged by two former foster children of the Burt family that Raymond sexually assaulted them more than a decade ago.

Burt invoked the Alford plea on the charges, which means the individual claims he didn't do it, but the state counters that there was enough evidence to bring the charges to trial.

One of the victims of the assault, when telephoned last night, said, "I'm happy he's staying in jail" and refused further comment.

- One count of racketeering.
- One count of extortion. The state dismissed three other extortion charges.

- Two counts of criminal solicitation.

- One count of larceny over
- One count of obtaining stamps under false pretenses.
- Two counts of obtaining under false pretenses over \$500. The state dropped a third charge.

The case was prosecuted by Attorney General Carl Levin. He had recommended the same sentence but asked Sheehan for eight years of jail time, rather than six.

"Carl Levin was very fair," said Burt. "He was much better to deal with than David Morow, former prosecutor who left the attorney general's office. He wouldn't give me a break."

Although maintaining his innocence, Burt said "I'm happy over."

Levin, Cicilline and his wife were huddled in Sheehan's office room for the past two days before the deal was finalized. It ended late yesterday afternoon.

"It's been a long few days knowing what would happen," said Tammy LaCoste, his common-law wife. The couple has four children. "It's a relief."

Although much of his income has been derived from the apartment houses, Burt worked for several years at different jobs. At the time of his arrest, he was employed by a company in Seekonk.

Plea agreements and dispositions have now been reached with the 12 Burt family members and associates indicted by the grand jury.

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Freak Fla. accident gives lawyer new lease on life, new look at law

By Julia Reischel

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One day last April, veteran Providence trial attorney David G. Morowitz leaned over the side of his idling 16-foot boat off the Florida Keys, anchor in hand and his 9-year-old son, Collin, beside him. Suddenly, the boat's driver gunned the engine, throwing Morowitz into the water.

For a moment, all was well. Morowitz instinctively shoved himself away from the boat as he fell in, avoiding the propeller, and quickly rose to the surface. But staying in the water would not be safe for long; Morowitz had caught sharks

in the area before.

His friend at the wheel, a retiree, gunned the engine again. As the boat jumped forward, the anchor yanked it back, jerking it sideways and slamming its propeller directly into the back of Morowitz's thigh.

Morowitz screamed as the propeller bore through his flesh and hit bone. The water around him turned red with blood, and he quickly slipped into shock.

His mind flew to cases he had litigated involving trauma to the femoral artery: If the main artery in the thigh is severed, death could come in as few as three or four minutes.

"I handled a case a few years back

where a man had been stabbed in the thigh," he recalls. "His femoral artery had been cut. He died; he bled out. [He] was stabbed in a mall, and he died right there."

Until that fateful day in the Keys, Morowitz, at 50, had never been hospitalized. A former prosecutor who had worked as a New York City taxi driver to pay his way through law school, he had spent his career pouring most of his prodigious energy into trial work in Manhattan, Miami and Rhode Island.

He went into private practice in 1994, first at Decof & Grimm in Providence, then at Lang & Morg-



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Law partners David G. Morowitz (left) and Patrick C. Barry

Freak Fla. accident gives lawyer 1

Continued from page 1

era in Boston, where he regularly pulled in million-dollar verdicts.

In 1999, he started his own practice in Providence, in which he litigated a carefully chosen selection of personal injury and medical-malpractice cases.

His experience in more than 100 trials had given him a habitual response to the words: "Has the jury reached a verdict?"

"I watched 'L.A. Law,' and just like Pavlov's dog, when I hear those words my heart starts racing," he says. "Whenever I've tried a case, everything goes to the wayside. Your whole existence is defined by the outcome."

'Daddy, please don't die'

As he hovered near death, Morowitz's experience as an attorney proved life-saving. Even as grisly visions of femoral injuries reminded him of what was at stake, his training as a trial lawyer kept him calm.

"When you try cases, you have to be in control," he says. "Things don't always go well, and you just have to put the next foot forward. That's what I've done for years, so it's almost an ingrained way of existing. Losing is not an option."

So slowly, with blood pouring from his wound, Morowitz began to swim.

"My 9-year-old was leaning off the back of the boat crying, saying, 'Daddy, please don't die,'" he says. "And I just didn't know if I'd die or not. I said, 'This is really not the way I want to go.' I didn't want to flap too hard and cause further bleeding, so I gently did a breaststroke back to the boat, hoping that I wouldn't start to lose consciousness."

The driver, because of health issues, could not pull Morowitz into the boat. For a moment, it seemed as if he did not understand what he had done.

"I remember his face, looking right at me, and clear as day, he just looks normal," Morowitz says. "And he says, 'You're OK, aren't you?' I said to him, 'No, I have either a full or a partial amputation, and I need a tourniquet.' Then he said to me, 'Don't swim; don't move.' And I knew I had to keep swimming. I got up to the boat, grabbed on and told my son, 'Sit up front and don't look.'"

With help from the crew of a nearby vessel, Morowitz was hoisted into a boat and rushed to a marina, where EMTs were waiting. At one point, he asked for something to bite on to help with the pain. He was given a small towel.

"That didn't really meet the grade," he remembers.

Around him, he could hear the EMTs saying that they could see his femur. Some expressed wariness that he was a medical-mal-

practice lawyer. But worst of all, he was told by a child protective services representative that he would have to surrender his son, left without a guardian in Florida, to strangers.

"They were going to take my boy to a shelter. I just had to let that go," says Morowitz, who would later learn that [redacted] was instead taken in for six hours by a kindly sheriff before being picked up by family members.

11 operations later ...

After the accident, Morowitz spent six weeks in a Miami hospital. As luck would have it, the propeller had missed his femoral artery and his sciatic nerve by millimeters. His leg was operated on 11 times to clean up infections fostered by the germ-friendly environment of the warm coastal waters. Four nails were embedded in the bones in his leg.

Eventually, Morowitz hired an air ambulance to transport him to Massachusetts General Hospital in Boston. His doctor sent him home for a week to rest before surgery.

On Morowitz's return to the hospital, surgery became unnecessary: His femur had spontaneously regenerated four inches of bone.

"I always had good health," he says.

Recovery was slow, but Morowitz gradually progressed from a walker to crutches to a cane. In July, the nails were removed; the scar on his thigh looked like it could be a shark bite. But he was already back at work.

From the hospital in Florida, Morowitz had electronic access to his files, so he was able to work between surgeries and phone calls to his son. In September, a new partner, fellow trial attorney and Decof alumnus Patrick C. Barry joined Morowitz at his firm, as did Barry's wife, Jennifer A. Barry.

'All very inspirational'

Already impressed by Morowitz before his accident, Barry became even more so as he watched his new partner recover.

"Faced with something that could have taken his life, he found some way to keep it together," Barry says. "One of the reasons I came over to join David is I think he and I both have a good understanding of what the types of people we represent go through. Clearly, because of his injury, he's got some more insight into that now, but he's always struck me as a guy who really understands what the average person is dealing with in regular life."

In August, Morowitz attended the annual reception of the Rhode Island Association for Justice, his first public event since the accident. There to support Barry as he assumed the office of president-elect of the organization, Morowitz received his own nod from the podium.

"He got such a warm reception; everybody

new lease on life, new look at law

was so happy to see him. He was really touched by it," Barry says. "He was still hobbling around on a cane. To see a guy have that kind of commitment to his work, and to see him be so well received by the Rhode Island legal community that we're a part of, it was all very inspirational."

Now, Morowitz says, life is about spending time with his son and building up his practice.

"I think I'm going to help clients more, just

by telling them what I went through and how to handle it," he says. "You just have to look at the positives. There's always something to be thankful for. I think it will help the clients I represent, and me as a lawyer, to get them on that kind of thought process."

And it doesn't end there, Morowitz says.

"I really have been in a better mood since it happened," he says. "It really has changed me. I'm living my fantasy now." **EW**