

State rests in Chesimard trial

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NEW BRUNSWICK — The defense case for JoAnne Chesimard was scheduled to begin today in Middlesex County Court after the state rested in the aftermath of testimony by State Medical Examiner Edwin Albano on Saturday.

Dr. Albano, the final state's witness, graphically described and illustrated the four wounds suffered by Foerster who was gunned down on the N.J. Turnpike in East Brunswick on May 2, 1973.

Mrs. Chesimard, a 29-year-old member of the defunct Black Liberation Army, is accused of murdering Foerster, attempting to murder Trooper James Harper, and the felony-murder of James Costan Jr.

Defense lawyers, headed by William Kunstler, have hammered away at the intricacies of the murder investigation, contending it was inept. It is expected Mrs. Chesimard will testify in her own behalf, telling her version of the deadly gun battle on the toll road which Harper maintained was touched off by the gunshot that wounded him.

Dr. Albano said Foerster suffered a bullet wound on the left side of his neck, another behind the left ear, a third that entered above his belt buckle and exited through the upper right arm, and a fourth that passed through the right arm.

Utilizing the services of Sheriff's Officer Robert Hospidor as a living exhibit,

the medical examiner carefully drew red circles on the lawman's clothing, neck, and head to indicate where the bullets struck the trooper. The demonstration was given in front of the 15 member jury which is hearing testimony in the case as Dr. Albano explained the angles of the wounds.

Earlier ballistics testimony revealed that the two fatal head wounds were fired from Foerster's own service revolver. Dr. Albano said those wounds resulted in death arising from lacerations and hemorrhage of the brain.

He said the bullet which entered the neck was fired from a distance of about 12 inches and that which struck Foerster behind the ear was fired from more than 18 inches away.

"Would he have been capable of any movement after being hit by those shots?", First Assistant Prosecutor Edward J. Barone asked.

"Not with those wounds," Dr. Albano replied.

Under the state's theory of the case, Foerster was first shot by Clark Squire as they struggled over his small Browning automatic pistol, with the weapon jamming after a single shot which hit the trooper in the chest was fired. Barone contends Foerster was then winged in the arm by a bullet from Mrs. Chesimard's 9 mm. Llama automatic pistol, which also jammed.

The Llama pistol was found next to the

slain trooper's body by the first investigation officers at the scene, according to earlier testimony. Barone contends Foerster was then "executed" after his service revolver was yanked from his holster and two shots fired into his head as he lay helpless on the ground.

Squire has been convicted of participating in the murder of Foerster and wounding of Harper and is serving a term of life plus 24 to 30 years in state prison.

Dr. Albano also testified that James Costan Jr., who had accompanied Mrs. Chesimard and Squire on the night of the killings, died of a single bullet wound to the chest that traveled downward at an 80 degree angle, perforating all three lobes of the right lung and the liver with resultant massive hemorrhage.

"Assume that Costan was standing on both feet, in a crouched position," Barone told the medical examiner. "What would happen when he is struck by the bullet?"

"He'd fall right to the ground," Dr. Albano replied. He described Costan's fatal wound as "very serious . . . with laceration of the lung, disintegration of liver tissue, and marked hemorrhage."

Despite the grisly nature of his testimony, Dr. Albano offered the jury several moments of levity while sparring with attorneys in the case. At one point, he said to Kunstler, "You are Mr. Kunstler, are you not? I've seen your picture in the papers many times."

He also complained of the overheated court room, commenting that his wife makes him wear thermal underwear; and jostled verbally with Barone who requested that he explain his testimony in "laymen terms."

"I can't. The bullet passed through all three lobes of the lung," Dr. Albano said.

He told Lewis Myers of the defense team that he could not estimate the time of Foerster's death. "I don't know and I don't think you can either," the medical examiner said.

The defense case, which is expected to include testimony by a number of troopers not summoned by the prosecution, will begin following a series of motions. It is expected the defense will ask for dismissal of the indictment against Mrs. Chesimard, particularly the felony-murder count arising from the death of Costan.

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