

Iowa City attorney gets rare reversal

By Brian Sharp
Iowa City Press-Citizen

An Eldon man convicted of first-degree murder in the brutal April 2000 slaying of a paraplegic man will return to court in two weeks to schedule his new trial.

The rare reversal marks the second time former Iowa City lawyer Clemens Erdahl got a murder case overturned.



Erdahl

"Another lawyer said to me that's like having lightning strike twice in the same spot," said Erdahl, 55. "I feel very fortunate, personally, to have that happen."

The Iowa Supreme Court recently declined to review the Court of Appeals reversal of Kenny Hemm's conviction and the June 23 pretrial conference was scheduled Friday in Wapello County District Court. Two years ago, Erdahl handled convicted Davenport murderer Sherman White's appeal — and won that case, as well.

Erdahl has handled about a dozen such cases, losing the others until the back-to-back reversals.

The University of Iowa law school graduate and former Iowa City councilor spent 18 years on the White appeal, spending four days at a monastery to write the final reply brief. He spent about 18 months on the Hemm case. The difference, he said, was getting the case early on.

White's appeal didn't cross his desk until 10 years after the conviction. Hemm was convicted in spring 2001 of killing Larry Pippenger and Erdahl took on the appeal within months.

According to court records:

Early April 17, 2000, authorities responded to a fire at Hemm's home and, an hour later, found Hemm's car on fire at the home of his mother and stepfather. Hemm, 34, was inside the home. Pippenger's body was found April 17, 2000, in a burning vehicle outside Eldon. He had been decapitated and dismembered — his hands and feet were never found. His genitals were placed in his mouth.

Authorities alleged Hemm killed Pippenger, moved the body to the car

outside of town, set fire to his house to cover up his crime, then set fire to the vehicle, as well. Hemm claimed he was set up and argued others made statements about wanting to kill Pippenger — even describing their plan, which ultimately mirrored what occurred.

"It seemed to me there certainly were some good issues to be raised," Erdahl said. "But the longer we worked on it, the decisions made that hurt the defense became more apparent."

In a Feb. 12 opinion, the Court of Appeals agreed.

"In this case, although the circumstantial evidence supporting the jury's guilty verdict was substantial, it was by no means overwhelming. The evidence did not establish any motive for Hemm to kill Pippenger," the court said in its ruling. "Although the state is not required to prove it ... the excluded testimony underscored motive for others to harm Pippenger (based on drugs or alleged harm Pippenger did to their family), which we think is significant in these circumstances."

Bob Brammer is the spokesman for the Iowa Attorney General's Office, which will handle the retrial.

"We don't have really stats on it (reversals of first-degree murder convictions), but it seems like a couple a year," he said. "It's relatively rare, or relatively unusual ... but there's only on the order of 20 such first-degree murder convictions in a typical year."

Hemm remains in custody.

Erdahl credits his law clerk, Sara Smith, with doing much of the research and visiting with Hemm. His work intensified with deadlines, requiring him to develop two or three straight days to the work. He now works solely out of Cedar Rapids with the firm, Nidey, Peterson, Erdahl & Tindal, after closing his Iowa City office last month.

During his 20 years practicing law in Iowa City, Erdahl handled such high profile clients as suspected armed robber Michael Constantino and accused killers James Miller and Jonathan Memmer.