

Heroin dealer guilty of homicide in Grafton man's death

Written by BILL SCHANEN IV
Tuesday, 31 December 2013 17:51 -

Milwaukee resident with learning disabilities pleads guilty to delivering drugs that resulted in overdose death

A Milwaukee man accused of delivering heroin to a 24-year-old Grafton resident who died of an overdose pleaded guilty to first-degree reckless homicide during a hearing last week that focused on the defendant's mental disabilities.



Joshua Gray

Joshua J. Gray, 25, paused for extended periods almost every time Ozaukee County Circuit Judge Joseph Voiland asked him if he was sure he wanted to plead guilty to causing the death of Riley O. Knapp on either Jan. 2 or 3, 2013.

When asked by Voiland why he was pleading guilty, Gray said, "I feel like I have to do it. I did wrong. I just want to start out with a new life.

"I didn't want a jury to look at me like I'm a monster or something."

After carefully reviewing Gray's rights with him and explaining the sentencing process, Voiland asked Gray how he wanted to proceed.

By pleading "guilty, I guess," Gray said. "I just want to get back out there with my kids (after serving a prison sentence)."

Voiland said, "Do you want to plead guilty because you really are guilty?"

Gray replied, "Yes, your honor."

According to the terms of a plea agreement, the Ozaukee County District Attorney's Office is recommending Gray be sentenced to five years in prison and five years of extended supervision, substantially less than the maximum 25 years in prison and 15 years of extended

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supervision.

Gray is scheduled to be sentenced on Feb. 19.

Noting that hearings leading up to Gray's guilty plea shed light on his learning disabilities, Voiland said he was not going to ask Gray typical yes-or-no questions during the plea hearing.

"An expert testified it's in your nature to want to say yes when people ask you questions," the judge said. "We're going to do things a little differently today. You have to tell me what you're here for today."

The criminal complaint states Gray delivered heroin to Knapp, but when questioned by Voiland, Gray said he didn't deliver the heroin. Instead, he said, he and Knapp went together to a drug house to buy it.

"The way my client explains it is Mr. Knapp contacted Mr. Gray, and Mr. Gray coordinated the purchase of heroin," Gray's lawyer Robert Ledesma said. "In that sense, there was delivery."

But Assistant District Attorney Patti Wabitsch said that would not constitute delivery. However, she said, there is more to the story.

"Simply setting up the deal is not enough," she said.

Wabitsch said Gray's DNA was found on a heroin bag in Knapp's possession, proving that he did deliver the drug to Knapp.

Gray's lawyer acknowledged that Gray touched the heroin bag that Knapp purchased.

"For a brief moment, he (Gray) was in contact with the substance," Ledesma said.

About four months after Gray was charged in January, his lawyer filed a motion arguing Gray's constitutional rights had been violated because he did not knowingly waive his right to an attorney or understand the consequences of making statements to an Ozaukee County Sheriff's Department detective while in jail.

The motion, which asked the judge to rule that Gray's statements could not be used as evidence, was ultimately withdrawn by Gray's lawyer, but it shed light on Gray's cognitive disabilities.

"The defendant's educational and learning disability would make it difficult for him to understand those (Miranda) rights," Ledesma wrote in his motion, which noted, "The defendant does not have the ability to write out a complete statement."

As evidence, Ledesma submitted the written statement Gray gave to authorities: "I new Reand true a firnd name Dive I new he for like a mothe he buy 50 n 100 the last time I take to hem was 4,5 day ago."

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It appears Gray tried to write, "I knew Riley (Knapp) through a friend named Dive. I knew him for like a month. He bought 50 and 100. The last time I talked to him was four or five days ago."

During last week's plea hearing, Voiland questioned Gray about his propensity to answer questions affirmatively.

"To be honest, if I don't know (the answer), I just agree," Gray said.

At one point, Voiland asked Gray, "Is English your native language?"

Gray didn't understand the question, but after Voiland restated it, Gray said that he did grow up speaking English.

According to the criminal complaint, authorities traced Knapp to Gray through text messages on Knapp's phone after he was found dead in a basement bedroom of a house on West Chestnut Lane in Grafton on Jan. 3, 2013.

Police officers found hypodermic needles and heroin hidden in a cigarette pack in his bedroom.

On Knapp's cell phone, authorities found a text message exchange between Knapp and a phone number traced to Gray that began on 12:23 p.m. Dec. 31, 2012, with a message from Knapp stating, "Need the pure."

Knapp received a reply from Gray, then texted, "If it's really good, I'll get a lot."

Detectives surmised from the text messages that Knapp met with Gray to purchase heroin later that day and was attempting to find money to buy more of the drug.

On Jan. 2, Knapp contacted Gray again, ordering \$80 worth of heroin. Just before they were to meet that afternoon, Knapp texted Gray to order more heroin, saying he would "be there in 15."

That was the last drug-related text message found on Knapp's phone.

When interviewed by detectives last January, Gray said he sold heroin to Knapp four or five times during the past 30 days, most recently sometime between Dec. 31, 2012, and Jan. 3, 2013, according to the complaint.