

NY man charged after Lead woman suffers fatal overdose

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DEADWOOD | Following a 14-month investigation into the June 2016 overdose death of a 24-year-old Lead woman, local authorities have extradited and arraigned a New York man who is charged with manslaughter, as well as felony counts of possessing and distributing deadly illicit drugs.

Derek Michael Kenny, 27, of Setauket, N.Y., was released on a \$50,000 bond after pleading not guilty in Fourth Circuit Court Sept. 14 to charges of first-degree manslaughter, an alternate count of second-degree manslaughter, and felony counts of distributing and possessing heroin and fentanyl analog.

Both of those illegal and highly toxic drugs were found in the blood of Grace Fitzgerald, who was reported as unresponsive in her Lead home by Kenny on June 12, 2016, according to Lawrence County Coroner Marty Goetsch. Fitzgerald was transported by ambulance to a Deadwood hospital, where she later died.

An autopsy later identified the cause of Fitzgerald's death as heroin toxicity and fentanyl analog, Goetsch said Monday.

Kenny originally was charged with possession of a controlled substance on June 30, 2016, but court records reveal that charge was dismissed by prosecutors on July 7, 2016.

Goetsch subsequently impaneled a coroner's jury inquest in late October, which included testimony from 11 witnesses. Described by prosecutors as a "unique proceeding," coroner's juries only have jurisdiction over homicides.

Goetsch agreed that use of the coroner's jury was highly unusual. In his 32-year career in law enforcement, Goetsch said he had only seen the proceeding used five or six times.

Three of those same witnesses testified again last month when the coroner's jury reconvened and, on Aug. 15, a Lawrence County grand jury indicted Kenny on the drug charges, as well as manslaughter, because "the defendant did recklessly kill a human being."

Kenny was arrested a few days later in New York, waived extradition, and was brought back to South Dakota, where he made his initial appearance in court Aug. 30.

On Sept. 1, court records show Kenny's Spearfish attorney, Matthew Kinney, filed a motion requesting that attorneys Joseph Tacopina and Chad Seigel be allowed to assist him in Kenny's defense. Tacopina is a member of the State Bar of New York and Connecticut, while Seigel is licensed in New York, Michigan and New Jersey, court records stated.

On Sept. 14, the defendant pleaded not guilty to all charges. Court records show Kenny was released from jail the same day after posting a \$50,000 surety bond.

A status hearing in the case has been scheduled for Nov. 2 before Judge Michelle Palmer-Percy.

Lawrence County State's Attorney John Fitzgerald (no relation to the victim) on Monday declined to comment on details of the case against Kenny. But the prosecutor did say that, under speedy trial provisions of South Dakota law, the defendant must be tried within 180 days of his first court appearance.

In addition to the Lawrence County Coroner's, Sheriff and State's Attorney's offices, the investigation was aided by Lead police and the state Division of Criminal Investigation, with assistance from the Suffolk County Sheriff's Office in New York, Goetsch said.