

Rochester Youth Summer Programs

This is a printer friendly version from the **Democrat and Chronicle**:

June 23, 2007

Fatal crash case comes to an end**James Telban to serve 3 years' probation, 8 weekends in jail**

Michael Zeigler
Staff writer

For driving drunk in a crash that killed motorcyclist Peter Volkmuth in Parma, former Monroe County sheriff's Deputy James R. Telban Jr. was sentenced Friday to probation, weekends in jail, home confinement and community service.

Although Telban faced up to one year in jail, a nationally known DWI defense lawyer said the sentence is harsher than the penalties meted out to most first-time DWI defendants.

The case generated controversy when County Court Judge John J. Connell acquitted Telban of a felony charge of second-degree vehicular manslaughter while convicting him of two counts of misdemeanor DWI.

Speaking after Connell sentenced Telban, lawyer Edward L. Fiandach said the sentence, while appropriate, was tough.

"I would have to say that in my experience, I have only seen maybe 5 percent, 10 percent at the most, receive a sentence of probation and home confinement on the first conviction for driving while intoxicated," said Fiandach, a Brighton lawyer who has written books on DWI defense and is former dean of the National College for DUI Defense.

Connell ordered Telban, 45, of Greece, to serve three years' probation.

Telban will have to abide by several conditions, including abstinence from alcohol. If he violates any terms of his probation, he can be jailed.

In addition to probation, he will perform 300 hours of community service, serve eight weekends in jail, wear an electronic ankle bracelet while he's on home confinement for six months and pay a \$1,000 fine.

As he stood before Connell to be sentenced, Telban apologized to Volkmuth's family, as well as his own family, fellow deputies, the prosecutor and the judge.

"I spent my entire career in law enforcement helping and protecting people," he said. "To be standing before you in this situation today cuts to my heart."

Connell said he couldn't hold Telban to a higher standard during the trial — as some critics said he should — because of the doctrine that everyone has equal protection under the law. But he said he could consider Telban's career in imposing sentence.

"You should have known better. ... You put at risk the very citizens that you swore to protect," he said.

The judge also said criticism of the verdict was unfounded. Most of the criticism, he said, came from people who were uninformed about the law and believed that Telban's intoxication alone should have been enough evidence to convict him of vehicular manslaughter.

"Equal protection under the law is not just a nice-sounding sentiment learned in civics class," he said. "It is one of the pillars of our judicial system. ..."

Volkmuth, 27, of Greece, was killed when his motorcycle hit the side of Telban's pickup truck as Telban left Braemar Country Club, 4704 W. Ridge Road, after a golf outing on Sept. 6.

Telban's blood-alcohol content was 0.24 percent — three times more than the level needed to bring a DWI charge. Telban, a 19-year veteran of the Sheriff's Office, was off duty at the time of the crash. He resigned a week later.

Ruling May 2 after a nonjury trial that Telban had requested, Connell cited state law and said Telban's intoxication didn't automatically make him guilty of vehicular manslaughter. The prosecution had to prove that Volkmuth's death was a direct result of Telban's intoxication.

Connell cited evidence that Volkmuth was riding his motorcycle at 65 mph — 25 mph above the posted speed limit — and changed lanes at least twice before Telban pulled in front of him.

Connell's verdict generated a storm of calls to Connell's chambers and radio talk shows. A group of motorcyclists also protested the verdict outside the District Attorney's Office several days later and outside the Hall of Justice on Thursday .

Telban had faced up to seven years in prison if he had been convicted of manslaughter. For the DWI convictions, however, the penalty ranged from

probation to one year in jail.

While Assistant District Attorney Christopher Rodeman asked Connell to send Telban to jail for one year, Telban's lawyer, Joseph S. Damelio, said his client had already been punished abundantly.

Outside court after the sentencing, a member of Volkmuth's family said they continue to grieve for him.

Sharren Jermyn, the stepmother of Volkmuth's widow, Shannon Volkmuth, said the couple's 4-year-old son has been particularly struck hard.

"His son drew a picture of his father in the clouds in heaven," she said.

MZEIGLER@DemocratandChronicle.com

What's next

James Telban's lawyer said he anticipates that the family of Peter Volkmuth will file a civil lawsuit against Telban.

[Back](#)

Copyright © 2007 Rochester Democrat and Chronicle | 55 Exchange Boulevard | Rochester, NY 14614 | (585) 232-7100. All rights reserved.
Use of this site signifies your agreement to the [Terms of Service](#) and [Privacy Policy](#), updated June 7, 2005.