

METROPOLITAN TIMES

Md. case could pave way for AIDS-related murder charge

By Greg Seigle
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If victims-rights advocates get their way, Maryland's first-ever attempted-murder conviction of an HIV-infected rapist will not be the last.

"Using a disease is just as deadly as any other weapon," said Roberta Roper, who founded the Stephanie Roper Committee in Upper Marlboro after her daughter was raped, murdered and mutilated by two men after her car broke down in 1982.

"The consequences should be the same as any other crime committed with victims," she said.

The Roper committee has worked tirelessly for years for a victims rights statute like the referendum that appears on the Nov. 8 ballot. The proposal would ensure that victims and their families would be kept aware of relevant judicial proceedings involving their attackers.

And some advocates even say prosecutors should try HIV-infected rapists on murder charges.

"If their intention is to inject someone or to spread the virus, I don't see that as any different than trying to kill," said Cheralyn Leiby, the sexual assault supervisor at Prince George's Hospital

Center, where about 1,100 victims are treated each year. "Most of the victims we see would strongly favor . . . having the [rapist] tried on murder charges."

Murder convictions carry a possible death penalty in both Maryland and Virginia.

Other advocates, however, believe bringing attempted-murder charges is sufficient.

"Since sex is the weapon; attempted murder would be an appropriate charge" for rapists who deliberately pass on the AIDS virus, said Theresa Lewallam, an HIV educator with Alexandria's Department of Human Relations.

"We know what the virus does —

it kills," said Cassandra Burns, the commonwealth's attorney in Petersburg, Va. "[But] I wouldn't go so far as to try on murder charges because there's no body yet."

But if someone contracts AIDS and dies after a rapist or a sexual partner consciously taints them without warning, Mrs. Burns said she would "have no problem" pressing murder charges.

Those comments came in the days after a Prince George's County judge convicted Dwight R. Smallwood, 19, a Temple Hills resident, of attempted murder for raping three women while he knew he was infected with HIV. It was the first such conviction in the state,

and one of only a handful in the country.

Judge C. Phillips Nichols sentenced Smallwood to life in prison for his four-day crime spree in September 1993, when he and a companion abducted the women at gunpoint and forced them to withdraw money from automated teller machines.

Smallwood knew he carried the deadly virus when he raped the women, Judge Nichols ruled. None of the victims has yet tested positive for HIV, prosecutor Shiela Robinson said.

Prosecutors in other jurisdictions have already won attempted-murder convictions for men who

infected underage teens with the HIV virus.

Johnny Webb, 28, was convicted by a Petersburg jury in February for having unprotected sex without disclosing he was HIV-positive. Webb, who contracted the virus in 1988, seduced three girls — ages 13, 15 and 16 — and passed the virus on to two of his victims, Mrs. Burns said.

Webb confessed to attempted murder, sodomy and other charges. But he received only a 10-year sentence on a plea bargain because prosecutors did not want to subject the girls to trial and public humiliation, Mrs. Burns said.