

CALIFORNIA

Man's bid to void conviction hits detour

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Despite convincing two federal judges “that there is essentially no evidence” that he killed his mother, a San Fernando Valley man must return to state court to pursue his bid to have his 1985 conviction overturned, a judge has ruled.

U.S. Magistrate Judge Ralph Zarefsky, in a decision made last week but announced publicly Tuesday, said federal law requires that new evidence pointing to Bruce Lisker's innocence be presented in state court before the case can proceed in federal court.

Last month, the judge asked Robert D. Breton, the state deputy attorney general defending Lisker's murder conviction, if he would waive the requirement that new evidence be heard in state court so the matter could proceed in Zarefsky's courtroom, but the prosecutor declined.

Dorka Lisker, 66, was fatally beaten and stabbed in her Sherman Oaks home March 10, 1983. Bruce Lisker said he came home and found his mother near death in the entry hall of the home. He called paramedics to come to her aid.

When police arrived, the teenager told officers that he had found the front door locked and saw no sign of his mother. He said he went to the backyard, looked through a patio sliding glass door and saw his mother's head. He said he broke into the house through a kitchen window and tried to provide first aid before paramedics arrived.

Police were immediately suspicious of the frizzy-haired 17-year-old, who had a history of drug abuse and fighting with his mother. They did not believe that he would have been able to see her head through the sliding glass door.

Lisker was convicted by a Superior Court jury in Van Nuys and sentenced to 16 years to life in prison.

In 2003, the state Supreme Court rejected Lisker's appeal. Since that time, a Los Angeles Police Department sergeant and Times reporters have uncovered new evidence pointing to Lisker's innocence.

Among the evidence yet to be presented in state court:

- * Analysis of a bloody shoeprint left at the crime scene that was attributed to Lisker at trial but has since been scientifically eliminated as having been made by his shoe.

- * A computer-generated crime scene reconstruction showing that Lisker could have seen his mother from the sliding glass door. At trial, the prosecutor said that such a view from that vantage point was impossible and that Lisker's assertion proved he was lying.

The new evidence, along with other facts about the case, had persuaded Zarefsky and U.S. District Judge Virginia A. Phillips that "no reasonable juror" would find Lisker guilty of killing his mother. They agreed that he should be allowed to pursue his appeal even though he had missed a statutory deadline.

Lisker, 41, said he was disappointed with the latest decision but determined to prove his innocence.

"You just don't give up," he said. "You can't give up."
