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## MURDER DEFENDANT FACES FIGHT FOR HIS LIFE BREWER WILL REPRESENT HIMSELF IN CAPITAL CASE

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*Staff Writer*

Johnny Brewer will put his life on the line when he handles his defense in a death-penalty trial in Lexington County.

The state Supreme Court has ruled Brewer, 31, can represent himself. The high-school dropout, accused of murdering his sister-in-law, has no legal experience. "I know the case better than anyone else," Brewer said in an interview. "I'm confident that I can do the job."

The court unanimously overturned Circuit Judge Rodney Peeples' decision to bar Brewer from handling his defense. Peeples said he could not in good conscience let Brewer represent himself.

While noting the perils of self-representation, the court ruled Oct. 13 that competent defendants have a right to handle their defense if they understand the consequences of that decision.

"A determination by the trial judge that the accused lacks the expertise or technical legal knowledge to proceed . . . does not justify a denial of the right to self-representation," the court said.

Under the state's current capital punishment law, only one defendant, James Earl Reed, has represented himself at trial. Reed received a death sentence in Charleston County in 1996.

Along with his parents, Brewer's two court-appointed attorneys, John Delgado and Doug Strickler, tried to persuade him to not handle his defense. Brewer said he wants Delgado and Strickler to be in the courtroom to advise him.

"I adamantly believe Johnny had the right to make this decision even though I disagreed with it," Delgado said. "This is the most complicated litigation we can engage in."

Brewer is scheduled to stand trial no earlier than next spring, said 11th Circuit Deputy Solicitor Fran Humphries. He is charged with murder, second-degree arson and grand larceny.

Brewer, a divorced father of three girls, said he wants to represent himself to control his case. He has been in jail for nearly three years and eagerly awaits his day in court.

He also said he is in a better position than anyone else to question witnesses. Brewer dropped out of Airport High School in the 10th grade to run a family paving business.

Brewer said he has read several law books and transcripts of three murder trials, including one death-penalty case. He also has filed about 50 motions in his case, many concerning his self-representation.

Brewer admits he killed his sister-in-law, Kelly Ann Burbage, in her home in 1994. He contends the killing resulted from an argument that got out of control.

While in jail, Brewer wrote a letter to another inmate charged with murder and asked him to say that he killed Burbage. Brewer described the crime scene, which he said he based on investigators' notes, so that Gary Terry could make a credible confession.

Terry didn't confess. He received a death sentence last month for killing and sexually assaulting a woman in her home near West Columbia in May 1994.

Prosecutors will argue that Brewer planned to kill Burbage.

On Dec. 8, 1994, Burbage, 22, who had been married less than a year, was alone in her home at 460 Pin Oak Drive. Her husband was out of town on a business trip.

About 1 a.m., a man entered Burbage's home and strangled her. He dragged her body to her water bed, poured gasoline on it and set it on fire. The bed cover melted, and the water put out the fire. Her 1989 Chevrolet Camaro was stolen and later torched.

Brewer will face long odds when he stands trial.

In the past 20 years, Lexington County jurors have imposed only one life prison sentence in more than 30 cases in which 11th Circuit Solicitor Donnie Myers sought the death penalty.

A combination of law-and-order juries and Myers' skill creates a formidable challenge, said **Jack Swerling**, a Columbia lawyer who has faced Myers three times in death-penalty trials.

"Donnie is a master tactician and an expert in the law," **Swerling** said. "It's the consummate chess game with real-life stakes. It's a tall order for even the most experienced attorney."

Brewer agrees Myers has an impressive track record.

"Donnie Myers is the best. He just runs over defense attorneys over here," Brewer said. "But I'm not intimidated by Donnie."

Brewer's decision to handle his defense could anger jurors, particularly if he questions the victim's relatives, **Swerling** said. He also said Brewer will find it difficult to contain his emotions in a case where that is essential.

The self-representation means Brewer likely will end up on Death Row, **Swerling** said.

"It would be child's play for Donnie. And there's nobody better at getting a jury whipped up to impose the ultimate punishment," **Swerling** said. "But he (Brewer) has a right to be a fool."

John Allard covers state courts in Lexington County. He can be reached at 771-8358.

Johnny Brewer. FILE PHOTO

**Correction:** Published Tuesday, October 21, 1997: Johnny Brewer is charged with murder in the death of Kelly Lynn Burbage, 23. The victim's name and age were incorrect Monday.



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