

Nurse to stand trial in death of woman at El Dorado County care facility

By Marjie Lundstrom, Sacramento Bee

The former head nurse at a Placerville nursing home will stand trial for felony elder abuse in connection with the 2008 death of a 77-year-old Cameron Park woman, an El Dorado County judge ruled Tuesday.

More than 4 1/2 years after the death of Johnnie Esco, Judge Daniel B. Proud found there was sufficient evidence to move forward in the criminal case against Donna Darlene Palmer, 58, a registered nurse.

Palmer, who was then director of nursing at the El Dorado Care Center, was one of two nurses at the facility charged criminally by the California attorney general. The second nurse, 39-year-old Rebecca Smith, negotiated a deal earlier this month with the state.

Smith, a licensed vocational nurse, agreed to plead no contest to felony elder abuse in exchange for a possible suspended jail term and her willingness to help prosecutors in their pursuit of Palmer.

The attorney general contends both nurses failed to perform their duties or to adequately supervise staff in caring for Esco, who died a painful and unnecessary death – despite a devoted family that surrounded her daily, according to testimony and state documents.

The unusual case has drawn widespread attention from the nursing home industry, legal analysts and advocates for the elderly, as criminal prosecutions of nursing home workers

remain rare. Allegations of abuse or neglect are more frequently handled in the civil courts.

However, Attorney General Kamala D. Harris' office recently announced plans to step up its efforts with three new specialized teams aimed at building criminal cases statewide against nursing home administrators and employees.

Palmer's attorney, Patrick K. Hanly, said Tuesday he was disappointed by the judge's decision. Hanly, a former assistant U.S. attorney, grilled the prosecution's witnesses and pressed one of the state's key witnesses – also a nurse – into admitting she had withheld information from investigators and changed her stories multiple times.

Deputy Attorney General Steven Muni, who is prosecuting the case, said he was "very satisfied" by the judge's decision and believed he had a "good case moving forward."

Esco died on March 7, 2008, after being rushed to nearby Marshall Medical Center after a 13-day stay. The nursing home, owned at the time by Horizon West Healthcare Inc. of Rocklin, has since been sold and renamed.

Tuesday's testimony revealed some of the legal complexities of such cases – while also allowing a glimpse into the alleged troubling practices within nursing home care. Even her cause of death was battled around Tuesday, as the judge was preparing to decide if the case was worthy of trial.

The state contends that Esco – with a history of constipation – essentially had been ignored at the facility, and she developed a devastating fecal impaction that led to her death.

The defense elicited testimony indicating that this was a pre-existing condition. And if there was neglect, attorney Hanly suggested, then why wasn't Marshall Medical Center deemed culpable – since Esco also had suffered a fecal impaction at the hospital, before her admission to El Dorado Care Center.

One prominent physician who specializes in geriatric medicine and nursing home care testified that Esco's medical records at El Dorado Care Center were suspicious – full of missing information, overwritten entries and curious, unexplained notations.

Dr. Kathryn Locatell said the records, among other things, led her to conclude that Esco had received substandard care.

"I don't consider that a failure of documentation," she said. "I consider that a failure of care."

Another nurse at the facility, Donna Eileen Pielin, testified for the state that Palmer had ordered her on two consecutive nights not to send Esco to the hospital, despite the woman's deteriorating condition.

On questioning from Hanly, Pielin, a licensed vocational nurse, admitted that she had not initially told investigators this story because Palmer was "very intimidating" and she was afraid of being fired.

She admitted on the stand that she repeatedly changed her stories about the events leading up to Esco's death because "I was fearful of consequences."

The next court appearance is scheduled for Jan. 18. No trial date has been set.

Esco's husband, Don Esco – who pressed for criminal charges – died in October, and his family was flying back this week to see him buried alongside Johnnie at Arlington National Cemetery.

Family members of Donna Palmer also attended Tuesday's hearing in Placerville, offering words of encouragement during courtroom breaks.