

Driver who smoked marijuana, then blocks later struck and killed pedestrian, gets nearly 4 years

By Aimee Green

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A 27-year-old driver who was seen puffing away on a marijuana pipe -- then blocks later fatally struck a pedestrian in a Gresham crosswalk last October -- was sentenced Tuesday to nearly four years in prison.

Jacob McLeod Walters' case has captured public attention particularly because he is one of the first defendants in Oregon to get high then drive and kill since the state's recreational marijuana last went into effect last July.

Elizabeth Kemble, 46, had been dashing across the street on Oct. 5 at 8 a.m. at 181st Avenue and East Burnside Street, in an effort to catch a MAX train. Video surveillance shows her in the crosswalk, but the "Don't Walk" sign is lit, according to the prosecutor and defense attorney.

Walters struck Kemble with his 2008 Toyota Prius -- known for its quiet engine -- breaking her back and pelvis. During Tuesday's sentencing hearing, Kemble's mother described memories that still haunt her from her time beside her daughter's hospital bed at Oregon Health & Science University.

"She kept telling me 'Mom, the pain is killing me ...Mom, please help me,' over and over," said Kemble's mother, Aida Rose. "I hear her voice, day and night."

Kemble died 11 hours later. Rose said she has nightmares. "I see her in a pool of blood, with a broken neck and broken bones," Rose said, her voice trembling.

Kemble's husband also spoke of how his life had been torn apart by his long-time love. The couple met as Portland Community College students and had been married for more than 21 years.

Kemble was known as a warm and loving person, who volunteered delivering food to senior citizens through the Meals on Wheels program. She also offered emotional support to new dialysis patients by sharing her personal experience with dialysis and three kidney transplants.

Walters was charged with second-degree manslaughter, criminally negligent homicide, driving under the influence of intoxicants and reckless driving.

During a hearing Tuesday in Multnomah County Circuit Court, Walters pleaded guilty to criminally negligent homicide and DUII. He agreed to a 46-month prison sentence, as part of a plea agreement. The agreement allows for the possibility of 20 percent off his prison term for good behavior -- meaning he could spend just more than three years in prison.

If Walters had gone to trial and been convicted of the most serious charge against him, he would have received a mandatory six years and three months in prison with no possibility of time off for good behavior.

As part of Walters' sentence, his driving privileges have been revoked for five years. And he must relinquish \$5,000 his family posted for him -- to go to Kemble's mother as a compensatory fine.

A trial would have created challenges for both the defense and prosecution.

Another driver had spotted Walters smoking while the car was in motion, shortly before the crash. Walters had also told police that he took a few puffs moments before the crash, and that he felt a little high. Police who responded to the scene also noticed Walters' eyes were bloodshot and he spoke slowly.

What's more, tests conducted on his blood detected marijuana in his system.

But the value of those tests is hotly contested. One recent study found that unlike with blood-alcohol-content tests on drunken drivers, there's no reliable way of judging a person's impairment from marijuana by looking at the levels of THC in the blood. THC, the active ingredient in marijuana, can linger long after its effects have worn off, experts say.

If the case had gone to trial, Walters' defense attorney, Russell Barnett, also planned to present video evidence showing his client speaking slowly and deliberately -- in what Barnett said was characteristic of his client.

Walters declined to make a statement during his sentencing hearing. Barnett said his client is deeply remorseful, but very uncomfortable with public speaking.

After the hearing, Barnett said his client stopped immediately after the crash and was crying. Walter's court file states that he had no prior criminal history or record of receiving traffic citations. He had worked at Fred Meyer for four years and had quit the week before because he was about to start a new job at New Seasons on Southeast Hawthorne Boulevard.

He also was attending Mt. Hood Community College to study computer game development.