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'Wedgie killer' is now a free man

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Park City » The so-called "wedgie murder" was an unusual case from the start -- and it just kept getting stranger. After almost five years behind bars, Erik Kurtis Low, 40, walked out of jail a free man Monday in what 3rd District Judge Bruce C. Lubeck termed a "troubling" plea bargain.

Low originally was charged with felony murder in the May 2003 shooting death of Michael Jon Hirschey.

He never denied killing Hirschey at a Park City party where cocaine and alcohol were plentiful. But he claimed he did it in self-defense after Hirschey taunted him and jerked up Low's underwear in a "wedgie."

Low's first trial in 2005 ended in a hung jury. At a second trial that year, a jury refused to find Low guilty of murder but deemed him guilty of manslaughter due to emotional distress.

He was sentenced to an indeterminate sentence of one to 16 years. In 2008, the Utah Supreme Court reversed that conviction based on a flawed jury instruction.

In a plea agreement, Low pleaded guilty in December to manslaughter due to reckless endangerment.

On Monday, the judge sentenced Low to time served and three years of probation. Low also must pay restitution of an amount to be determined in 60 days.

Summit County Attorney David Brickey said the case would have been difficult to try a third time. Witnesses have moved away, and the state medical examiner assigned to the case, Maureen Fricke, has died.

If Low were to be found guilty at a third trial, he most likely would

not do much more prison time, Brickey explained.

In an emotional statement to the court, Hirschey's father, Derald Hirschey of Glenwood, Minn., said his family supported the plea bargain because they needed closure.

"Our family has wanted justice for this horrible murder, and this has not happened," he said. "It's taken a tremendous emotional toll on our family."

As he approved the plea arrangement, the judge said he didn't "like this situation, at all."

"The state's decision to offer this plea is a practical one," he said. "This deal is reasonable -- it may not be right -- but under the circumstances, it's reasonable."

Low's attorney, Salt Lake City-based **Kenneth R. Brown**, citing Low's good prison record, said the deal served justice.

"The plea bargain is fashioned on a compromise. And nobody likes it," Brown said. "That probably makes it a good compromise."

Outside the courtroom, Low's mother, Michelle Low, said she was happy to be taking her son home.

"It's going to be great."

csmart@sltrib.com

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