

NEW CITY- Unrequited love led Ken Rogers to shoot Michelle Despinasse to death inside his former girlfriend's Nanuet home in September 1999, a prosecutor told a County Court jury yesterday.

" Ken Rogers was heard to say, 'If I can't have her, nobody else will,' " prosecutor Robert **Magrino** said in describing to jurors some of the testimony they will hear during the trial. " He proved himself right ... The defendant came up to her and shot her right through the head. "

Rogers' lawyer, Carol George, in her brief opening statement, told jurors that Clarkstown police arrested the wrong person in the slaying of Despinasse, a 27-year-old former player and assistant basketball coach at Rockland Community College.

George told them that the evidence will leave a reasonable doubt in their minds. She said the evidence will not fit against Rogers, who told police that he was somewhere else at the time of the shooting.

" The death of Michelle Despinasse was a tragedy. ... I caution you we must not create a second tragedy by a rush to judgment to convict the wrong man, " George said.

The opening statements before Judge William Nelson came after the lawyers agreed on 12 jurors and three alternates to hear charges of second-degree murder and one count each of second- and third- degree criminal possession of a weapon against the 27-year-old Bronx suspect.

Despinasse's family and friends quietly sat in the courtroom, giving Rogers cold stares when he left the room. Rogers, dressed in a white shirt with a tie and black pants, sat quietly at the defense table, staring straight ahead.

Despinasse was found shot on Sept. 15 by her sister Angie in the vestibule of a mobile home at 24 Crikki Lane, where she lived with her sister and mother. She died two days later at the Westchester County Medical Center in Valhalla.

Magrino, a senior assistant district attorney, said Rogers and Despinasse dated for five years until she broke up with him last summer.

Magrino told jurors they will hear testimony that Rogers bought a 9mm handgun in the Bronx on the day that Despinasse was shot. Evidence, he said, also will show Despinasse was shot by a 9mm bullet and such a bullet went through the floor into the dirt under the mobile home.

And jurors also will hear from Despinasse, who left a taped message on an answering machine inside the family's home on the night she was shot, **Magrino** said.

Despinasse, he said, was heard on tape screaming, " Ken, stop. Stop, Ken, stop. Ken, stop. What are you doing here. "

" She left the message for the police, " **Magrino** told the jurors. " She left the message for you, ladies and gentlemen. "

The trial, which is estimated to last three weeks, continues this morning with testimony from police officers who investigated the slaying.

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