

# Cantaloupe Farmers Get Probation for Fatal Outbreak

DAN ELLIOTT, Associated Press



Eric Jensen, 37, leaves the federal courthouse in Denver on Tuesday, Jan. 28, 2014, with attorney Forrest Lewis after he and his brother Ryan were sentenced to five years of probation and six months of home detention. The two Colorado cantaloupe farmers who pleaded guilty to misdemeanor charges stemming from a deadly listeria outbreak in 2011 were also ordered to each pay \$150,000 in restitution and perform 100 hours of community service. (AP Photo/Ed Andrieski)

DENVER (AP) — Two Colorado cantaloupe farmers linked to the nation's deadliest outbreak of foodborne illness in a quarter-century were sentenced Tuesday to probation and home detention, but the judge said he wasn't sending them to prison so they could work to pay off \$150,000 each in restitution.

Before they were sentenced, Eric and Ryan Jensen read statements apologizing to the victims of the 2011 listeria outbreak, which killed 33 people and sickened 147 in 28 states, according to federal health authorities.

Both brothers pleaded guilty to federal charges of introducing adulterated food into interstate commerce. They could have faced six years in prison and fines of \$1.5 million each, but Magistrate Judge Michael E. Hegarty said he chose not impose either so they could continue working to support their families and pay restitution.

Each will serve five years of probation and six months of home detention and perform 100 hours of community service.

Before the Jensens apologized and were sentenced, seven people whose loved ones died from listeria made emotional statements to the judge, some forgiving, some bitter.

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"I can't begin to describe how ghastly it is to watch someone die," said Patricia Hauser. She said her husband, Michael, suffered a slow and agonizing death.

Occasionally looking toward the Jensen brothers as she spoke, Hauser said they should be sentenced to prison and fined. She told the judge she was "very bitter."

"Someone took my Michael from me, and it just isn't fair," she said.

Jim Weathered said his father, also named Jim, died of listeria but would have wanted probation for the Jensens.

"Sending those boys to jail isn't going to help anybody in this situation," said Weathered, who often struggled to control his emotions during his brief statement.

Paul F. Schwarz said he would accept whatever sentence Hegarty handed down after the death of his father, Paul A. Schwarz. But at one point he looked toward the Jensens and asked, "What were you thinking?"

Eric Jensen sat facing the lectern and watched each victim speak. Ryan Jensen sat beside the lectern and slightly in front of it, looking straight ahead. Both appeared to listen attentively but neither showed any emotion.

Both declined comment after the hearing.

Assistant U.S. Attorney Jaime Pena took the unusual step of praising the Jensens, saying they have cooperated more fully than any other defendant in his experience. He said the brothers had met with the victims in a "very difficult and emotional session."

Pena said the Jensens did not know they were shipping contaminated cantaloupe. He called the outbreak "an American tragedy."

The U.S. Food and Drug Administration has said the rare move to charge the Jensens was intended to warn food producers.

Federal investigators said the melons likely were contaminated in the packing house of the Jensen's southeastern Colorado farm because of dirty water on the floor and old, hard-to-clean processing equipment. The Jensens said their operation was given a "superior" rating by their independent auditors just a month before the outbreak.

They are now suing the auditors and have said any money they get would go to the victims.

Attorney William Marler, who represented the families of 24 people who died in the outbreak, has said probation would be adequate. He said farmers, retailers and the federal government learned valuable lessons and new regulations are now in place that will reduce the likelihood of a repeat.

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Attorneys say the two men have already filed bankruptcy that provided nearly \$4 million to victims and their families. Marler and other attorneys are suing retailers and auditors involved in the case after a bankruptcy judge estimated damages at \$50 million.

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