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Jury in Baker case will see videotaped confession

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VANDALIA — A judge has ruled a teen's videotaped confession made following his arrest in connection to the shooting deaths of a couple who lived nearby will be heard by a jury when the case goes to trial next month.

Judge Michael McHaney denied a request by Clifford Baker's attorneys to suppress statements the 15-year-old made at a hospital following the Aug. 4 murders of Loogootee residents John Mahon and Debra Tish in which he recounts the early morning events. Baker has since turned 16. McHaney made the written ruling, along with others, earlier this week.

McHaney ruled the statements were made "freely, voluntarily and without compulsion or inducement of any sort," despite claims to the contrary by Baker's attorneys who claim the teen was coerced because he was vulnerable due to his age and mental capacity and was under the influence of alcohol and drugs taken hours earlier. The defense also claims the teen was sleep deprived, as well, causing him not to be alert during questioning.

The attorneys argued Baker had little to no sleep in the 24 hours leading up to the videotaped confession that began with Baker having to be awakened by officers and prodded to stay alert then becoming more alert as the interrogation continued.

In his ruling, McHaney referred to a preliminary report by the defense's psychiatrist that found Baker made a voluntary confession to police. The videotape, the report states, "shows Mr. Baker to be awake and alert."

The psychiatrist further found Baker responded "lucidly and coherently to the questions asked of him ... He does not appear confused by the questions asked by the policeman." Another issue raised by Baker's attorneys was whether law enforcement prevented a concerned adult from being present — a factor unique to adolescent interrogation that assures a juvenile has the opportunity to consult with an adult concerned with his welfare. The defense claims not only was Baker's father, Jeff Goldman, not present, but law enforcement made no effort to inform Goldman he had the right to have an attorney present for his son or even to inform him where Baker was, although Goldman has testified he did not ask about his son's whereabouts.

McHaney found that not to be the case. In noting Goldman's contradictory testimonies, he wrote, "the defendant was not prevented from conferring with a

concerned adult. In fact, the parents made no effort to attempt to confer with the defendant before questioning.”

McHaney also noted Goldman never asked for an attorney for himself or his son and gave his consent for officers to question him because Goldman testified to saying he wanted to know what happened, too. In addition, McHaney wrote Goldman was given an officer’s card with a cell number on it.

Furthermore, Baker was aware he had the right to an attorney present, according to McHaney, because he was read his Miranda Rights three different times.

In his findings, McHaney struck down another defense motion to try Baker as a juvenile rather than an adult.

Baker’s attorneys refer to a case in which the court determined the eighth amendment does not permit a juvenile offender to be sentenced to life in prison without parole for a nonhomicidal crime.

McHaney ruled the case does not apply because this is a homicide case.

McHaney did grant the defense’s request for additional funds for a private investigator, bringing the total to \$2,500, but not before altering the investigator’s bill for time previously spent on the case.

The investigator asked to be reimbursed for mileage at a rate of 75 cents per mile. McHaney, however, said the court will only approve 50 cents a mile, which is the rate set by the state, and emphasized the court is “the gatekeeper of the county’s finances in this case.”

McHaney also granted the appointment of a forensic pharmacologist to testify to the effects of behavioral medication Baker was on at the time of the murders. McHaney set the pharmacologist’s fee limit at \$7,500, but he stopped short of limiting the expert’s testimony at the prosecution’s request.

Jury selection in the case is set for May 31.

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