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Judge to consider suppression of teen's statements in murder case

By Rich Bauer, Managing Editor
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At the conclusion of a six-hour hearing on Tuesday, a judge said that he will take some time to consider whether statements made by a Loogootee teen charged with fatally shooting two of his neighbors should be suppressed.

That hearing included the playing of a video interview during which 16-year-old Clifford W. Baker admitted to shooting Mike Mahon and Deb Tish several hours earlier.

The video was recorded by Illinois State Police officers at Fayette County Hospital shortly before 7:30 a.m. on Aug. 4, about four hours after Mahon and Tish were found dead in their home and Baker was taken into custody.

Baker is charged with first-degree murder and home invasion for allegedly killing Mahon and Tish, and also for striking another neighbor in the face with a knife. He is being held in the Madison County Juvenile Detention Center on \$2 million bond.

In addition to the playing of the video interview, Tuesday's hearing included testimony from Baker's father, Jeff Goldman; Goldman's girlfriend at the time of the incident; a Fayette County sheriff's deputy; an Illinois State Police trooper; and two state police special agents.

During the video interview, which was conducted by ISP special agent Albert Gallatin, Baker said that he had taken six Cymbalta pills, in addition to the prescribed dose of one pill; drank some beer he had taken from his father's refrigerator and from a refrigerator at the home of Mahon and Tish; smoked marijuana and taken "a handful of pills" he had found at the neighbors' residence; and drank some vodka and some other type of alcohol, also found at the neighbors' home.

Later during the hearing, Fayette County State's Attorney Stephen Friedel revealed that Baker's blood alcohol was .1182 on the morning of Aug. 4, emphasizing that it was a blood serum and not a whole blood reading. A whole blood reading, he said, would be

“slightly less.” The legal intoxication limit is .08.

Baker was prescribed the Cymbalta less than two weeks prior to the incident, while he was being treated for depression after a suicide attempt.

He said during the video interview that he had had “weird dreams” and had “thought about killing somebody” after beginning to use the Cymbalta. When Gallatin asked whom he thought about killing, Baker said, “Just some crazy stuff, like the president (of the United States).”

When Gallatin asked Baker to describe what had happened a few hours earlier, Baker said that he had kicked in the door at the Mahon home and had turned on a light in the kitchen.

He said that he saw a gun leaning against the wall and that he tried to shoot himself, “but it (the rifle) wouldn’t go off.”

Baker said he lit a cigarette and then threw it into a trash can, and smoke from the trash set off a smoke alarm. That alarm, he said, woke up Tish.

He told Gallatin during the interview that he shot Tish, then shot Mahon.

Gallatin asked why he shot them, Baker said, “I was scared … that I was going to jail.” He said he was afraid of going to jail for “breaking into somebody’s house.”

Gallatin asked Baker why he shot the couple, asking if he was mad at them. “I don’t think so,” Baker said.

“Why did this happen?” Gallatin asked. “My medication (Cymbalta),” Baker said. The teen told Gallatin during the interview he had communicated with friends before going to the Mahon and Tish home. “I was telling them I was about to do something bad.”

Baker also admitted on the video to hitting Randy Krajefska while holding a knife that he said he had taken from the Mahon and Tish residence.

Goldman testified that his son woke him up at about 3:30 a.m. that morning, and that he “was shaking. He said, ‘I killed them, I killed them all.’”

Tina Fryman, Goldman's girlfriend at the time, testified that she had thought Baker had said, "I killed ma. That's what he called Jeff's mom. I told Jeff, 'He's dreaming.'"

Goldman said he followed his son outside, and that his son "wanted me to go with him. He said, 'Come here, I've got to show you something.'"

Goldman testified that back in the garage of their home, his son was trying to shoot himself "toward his neck and his head" with a staple gun. He said he was trying to restrain his son when a sheriff's deputy pulled up to the residence.

Goldman, the deputy and Fryman testified that Baker failed to comply with their requests to settle down.

"He (Baker) was out of his head. He was running around, cussing – he never cusses in front of me – and would listen to me," Goldman said.

Goldman said his brother had told him that his son had been having bad dreams since beginning to use Cymbalta.

The deputy, Steve Coody, testified that he tazed Baker when the teen began to flee. Fryman had testified earlier that she was "surprised" that the youth had been tased, because she didn't think he was running away from the deputy.

Coody said that Baker was "out of control. He was yelling and screaming, acting irrational. When he was breathing, it was kind of a growl."

Both Goldman and Fryman testified that while Goldman had given police officers consent to search his house, none of the officers had told him that Baker had been taken to Fayette County Hospital.

"We didn't know where he was, and we were told that we couldn't leave," Fryman said. Goldman and Fryman also testified that Goldman had given officers permission to talk to his son, but that they had not told him that he could be present when his son was interviewed or that an attorney could be present.

Two of Baker's attorneys, Monroe McWard of Taylorville and Mark Wykoff of

Springfield, questioned witnesses whether Baker had been read his Miranda rights, which include the rights to decline to answer questions and to have an attorney present during questioning.

Coody testified that even though he had not documented it in his report, he had read Baker his rights, at the urging of Coroner Bruce Bowen as Bowen prepared to take photographs of Baker while in an ambulance.

Gallatin and another ISP special agent, Holly Finney, also testified that Gallatin had read Baker his rights, and on the video, Gallatin is shown informing Baker of his rights, and Baker signing a Miranda rights waiver form.

Gallatin and Finney also testified that Gallatin had told Goldman that his son had been taken to the hospital, and that neither of them had told him and Fryman that they had to remain at the home.

At the conclusion of testimony and presentation of evidence on the motion to support, McHaney addressed a couple of other motion, including one related to the motion to suppress.

McWard filed an amended motion requesting the appointment of an adolescent psychiatrist.

McHaney said he read the motion to state that McWard wants another evaluation to determine whether Baker is fit to stand trial, and McWard said that was not the case. However, McHaney said, "whether a person is fit (to stand trial) is a continuing matter." McHaney said he was concerned that McWard was going to attempt to search for psychiatrists "until you find an expert who says he's not fit (for trial), to have a doctor who is going to testify that she's an expert and that if a kid takes Cymbalta, it can turn him into a killer."

McWard argued that a number of factors, including age, education, development and comprehension, have to be considered, and that a number of doctors have told him that he needs to have a qualified adolescent psychiatrist to properly defend his client. "The real focus of this is whether the drug can provoke homicide or suicide," McWard said.

McWard is asking that the expert witness be paid by the county or the state. McHaney said he has a concern with that.

"How do I have the authority for the county to pay (for the expert witness) when there is not only one, but two, and now three (private) attorneys" representing Baker?, McHaney questioned.

McWard said that he is the only private attorney who has been retained, and that Wykoff and Michael M. Havera, who is the public defender in Christian County are working on the case pro bono (free of charge).

"Where does it say that you don't have the authority?" McWard asked. "If that's the hangup for him (Baker) to get the help he needs, I need to step out.

"He is entitled to have a defense....and afforded the resources, whoever is representing him. He's still indigent – that's the issue," McWard said.

McWard estimated the cost for the expert witness at \$10,000-\$15,000, but McHaney said he believes that it would cost much more.

"While everyone is entitled to a defense," McHaney said, "the issue is, I obligate Fayette County to pay for it."

McWard said, "We're mindful of the county's purse strings," and that he would do whatever possible to ensure that expenses related to the use of an expert witness are kept as low as possible.

McHaney gave both McWard and Friedel five days to submit case law on the case, and said he would study that case law before making a ruling on the motions to suppress and to appoint an adolescent psychiatrist.

The attorneys and the judge agreed to delay any arguments or rulings on the defense motion to move the trial to another county due to pre-trial publicity.