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## Man accused in child's death may have mental test

By [DAVE FOPAY Staff Writer](#) JG-TC.com | Posted: Friday, August 13, 2010 11:05 pm

CHARLESTON - A man accused of killing his girlfriend's 2-year-old son should be examined to see if he's mentally fit for trial, his attorneys say.

The attorneys representing Jamie L. Thomasson want a psychologist to exam him because some prosecution witnesses have made statements about his mental condition, a recently filed motion says.

Thomasson, 32, of Springfield is charged with first-degree murder and aggravated battery of a child. He allegedly injured Holden Jones, the son of his girlfriend Amy Bennett, at Bennett's home on Union Street in Charleston on the night of June 20, 2009, causing the boy to die by the following morning.

The deadline for pretrial motions in Thomasson's case was last week. Defense attorneys Mark Wykoff and Monroe McWard also filed motions claiming he wasn't read his constitutional rights before police questioned him and asking that references to "shaken baby syndrome" not be allowed during his trial.

The next hearing in Thomasson's case is scheduled for Sept. 17 and his trial is current set to begin Oct. 4. The prosecution is already on record that it will not seek the death penalty if Thomasson is convicted of a murder charge.

The motion for examination says the defense is required to raise the issue if it has information that suggests an examination might be needed.

Fitness for trial isn't the same as an insanity defense, which can lead to acquittal. Instead, it addresses whether the defendant understands the charges in the case and can help with the defense. If Thomasson were found not to be mentally fit for trial, he would be treated at a state facility and the case would be delayed pending the outcome of that treatment.

And, as Thomasson is jailed without bond and doesn't have any way to pay for the exam, the cost of the examination should go to Coles County, the motion says.

Meanwhile, another motion contends that some statements Thomasson made to police shouldn't be allowed at trial because he didn't receive his constitutional rights before questioning. The motion doesn't refer to what statements Thomasson allegedly made during that questioning.

The motion asking to bar references to "shaken baby syndrome" says some police officers have used the phrase when referring to the case but no doctor reached that conclusion concerning Holden. It's not listed as the cause of death in an autopsy report, the motion says, which instead said Holden died of a brain injury "due to child abuse."

State's Attorney Steve Ferguson, who's prosecuting the case, hasn't filed a response to the defense motions yet.

According to the testimony at earlier hearings in the case, the autopsy showed that Holden's collar bone was broken, indicating that his arm was grabbed and jerked violently, while brain contusions and other injuries indicated "severe shaking."

Thomasson first told police that Holden fell out of bed but later said he was "playing rough" with the boy, used a wrestling move and threw him onto an air mattress several times, according to the testimony.

The charges against Thomasson include allegations that the acts were "exceptionally brutal or heinous" and that Thomasson was an adult who killed a child younger than 12. For the murder charge, for example, that means Thomasson could receive a life sentence or more than the usual 60-year maximum if he's convicted and a jury finds that the factors apply.

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