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Defense Shoots for 2008 Trial for Pana Wal-Mart Murder

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TAYLORVILLE - During a motions hearing Thursday, the defense for a soldier charged with murder informed the court that his best projection on a trial date was early next year.

Monroe McWard, counsel for 24-year-old Kevin M. Thornton, told Judge John Coady that a previously scheduled October jury trial would not allow him enough time to prepare a sound defense.

McWard gave his best guess after he and State's Attorney Tom Finks had done a little give-and-take on several defense motions, including access to the defendant's computer held as evidence by the Illinois State Police.

Thornton, who grew up in the Nokomis area, was charged with five counts first-degree murder after a fatal stabbing in the Pana Wal-Mart parking lot in December 2006. Thornton, who had just finished a deployment to Iraq, joined his wife and children in Pana, where his wife's mother lived. Through a series of MySpace.com messages, Thornton believed that, while he was deployed, his wife had an affair with another soldier, John A. Burkett, Jr.

According to an eyewitness, Thornton and Burkett had an altercation in the Pana Wal-Mart parking lot. Burkett, transported to Pana Community Hospital, died a few hours later from multiple stab wounds. Thornton was arrested and a computer in his car seized.

Although former State's Attorney Brad Paisley provided nearly 2,000 pages retrieved from Thornton's computer by the ISP Crime Lab, McWard filed a new motion Thursday asking that a defense attorney and forensic expert be allowed to examine the computer. Finks conceded with no objection, and Coady granted the motion.

Another motion asked the court to grant an order of protection against the release of case information or public statements made by those who have knowledge of the matter through their employment. McWard said the motion was simply intended to set the bar.

Finks responded that the state understood its obligation to remain discreet and refrain from comment.

After a sidebar by attorneys, McWard told the court he would prepare an order and provide a copy to Finks for revision.

Summarizing, Coady said that his understanding of the discussion was that the parties would submit an agreed order at the next hearing or present further arguments.

Moving on, McWard asked that Thornton be allowed to review the state's discovery, or information and documents pertaining to the case, in Christian County Correctional Center where he is housed.

Although some courts have moved to restrict discovery from correctional facilities, McWard said, those cases involved drug conspiracy cases where information was used to intimidate witnesses.

After a sidebar with sheriff's deputies, McWard told Coady that they could arrange to secure the discovery as well as provide privacy for Thornton's review.

Coady granted the motion at the discretion of the Christian County Sheriff's Office.

Attorney Mark K. Wykoff, Sr., who joined the defense team in August, took the lead on a jurisdictional memo filed the same month.

Wykoff broached the matter of proper jurisdiction, or judicial review. Since the crime occurred in Christian County, the state began prosecution.

However, because Thornton and Burkett were both on active duty with the U.S. Army, military jurisdiction might be proper.

"People think that if an incident occurs off-post, it's a state matter, and, if it occurs on base, it is a military concern," Wykoff said. "That is not accurate."

Coady suggested that the defense consider the possible result of the memo - the state could review the case and consider having the military take jurisdiction. He asked if the defense would object to such an action.

Before answering, McWard asked for the state's position. After Finks said he did not have a position, both attorneys said they would not object.

Summarizing again, Coady said the case seemed to have concurrent jurisdiction; that is, the case could be tried by two different courts. However, the state's prosecution will continue until or unless a military court claims jurisdiction.

Coady scheduled another motions hearing for October 29. To expedite the case, he told attorneys to acquire expert witnesses who could testify on post-traumatic stress disorder, an anxiety disorder often developed by combat soldiers, by that date.

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