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## Judge reverses ruling in Baker case

Defense claims insanity, pushing back trial date

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VANDALIA — After barring attorneys defending a Loogootee teen charged with double murder from using an insanity defense, a Fayette County Circuit judge reversed the ruling Wednesday, delaying the trial.

Defense attorneys appealed to Judge Michael McHaney to reconsider last week's ruling after an adolescent psychiatrist's recent report concluded that, as a result of mental illness or defect, 16-year-old Clifford Baker lacked the mental capacity to recognize the criminal behavior that occurred Aug. 4 in the shooting deaths of John Mahon and Debra Tish. Baker was 15 at the time of the slayings, but is being tried as an adult.

While McHaney noted the defense had time to issue an insanity plea earlier but chose not to, attorney Mark Wykoff said the new information was not available until the final report was issued earlier this week and was not included in the psychiatrist's preliminary report in April.

Wykoff added he objected to the ruling, calling it "premature and speculative," and said the defense had no intention to raise the issue of insanity at last week's hearing, but that was before the attorneys were made aware of the final opinion.

State's Attorney Stephen Friedel objected to the request and referenced another opinion in the final report, which was sealed during the hearing.

Friedel said the report also states that although Baker has a mental illness, it was not the cause of the criminal behavior. He added that the prescribed antidepressant Cymbalta in combination with Baker's mental capacity was more significant.

"The actions are not the result of mental illness, they're the result of the fact he can't handle drugs very well," Friedel explained. Wykoff disagreed.

"What we have here is an underlying mental defect or illness exacerbated by lawful intake of a controlled substance," he said. Friedel called the defense's request Wednesday "wrong."

Friedel said while he had the opportunity to have his own psychiatric evaluation of Baker performed, he did not do that because he was told by Baker's attorneys they would not proceed with the issue of insanity, which is why he requested they be

barred from doing that so close to the May 31 trial date, adding it made “no sense to spend thousands of dollars on something” the defense said they were not doing.

“So, they didn’t bring it forward. So, all along I’m told they’re not doing it and now we get an 11th hour (request),” he said. Before the motion was granted, Friedel said doing so would require him to have to continue the trial, thereby pushing back the trial start date.

Friedel noted the delay also would cost the county, which is already paying \$4,000 a month to house Baker in a juvenile detention facility in Madison County. He added the trial date change also causes a major inconvenience for witnesses he has scheduled, not to mention jurors and the victims’ family members who have rearranged their schedule to be at the trial.

Wykoff acknowledged the inconvenience, but said Baker has a right to due process.

“We have to focus on what this is all about — this man — and the fact he stands to lose his liberty for all his worldly life,” he said. McHaney said while Baker was not entitled to a perfect trial, he is entitled to a fair one.

“The phrase presumed innocent are not mere words, they’re the linchpin for our criminal justice system,” he said.

Given the report, McHaney feared not allowing Baker’s attorneys to proceed with an insanity defense would result in a possible conviction being overturned in appellate court.

“So, I don’t have a choice,” he said.

In reversing the ruling, McHaney also granted a motion to continue the trial and recessed Wednesday’s hearing to May 31 at 11 a.m.

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