

Journal Gazette; Times-Courier; Mattoon and Charleston, Illinois

Abernathy faces drug trial before case in beating will advance

By **DAVE FOPAY, Staff Writer**

Contact Dave Fopay at dfopay@jg-tc.com or 348-5733.

CHARLESTON — The drug case against Jason A. Abernathy was readied for trial Friday, while the case in which he's charged with seriously beating a woman with a baseball bat will wait until the drug case concludes.

Circuit Judge Gary Jacobs ruled on pretrial matters in the case that charges Abernathy with methamphetamine possession. Abernathy's trial on that charge is scheduled to begin on March 3.

There's still no trial set for Abernathy's charge of aggravated domestic battery, which alleges he severely beat Gina Giberson on Oct. 16.

Abernathy, 34, is accused of beating Giberson at her home at 211 Fourth St. in Charleston to the point that she was comatose in an area hospital for about two weeks, though at last report she's now at a local rehabilitation facility.

The methamphetamine possession charge accuses Abernathy of having the drug on May 1 at the grain elevator where he worked at the time.

On Friday, Jacobs split his ruling on a motion from defense attorney Mark Wycoff asking that testimony from a witness be excluded from trial. The judge concluded that the witness could say he saw a bulge in Abernathy's pocket and that it was gone after Abernathy briefly went behind a building, but wouldn't be able to say if he thought methamphetamine was what Abernathy had in the pocket.

According to evidence that the attorneys discussed during Friday's hearing, methamphetamine was later found next to some railroad tracks near the grain elevator.

Meanwhile, Jacobs said he didn't want to make a decision yet on a motion from Prosecutor Mick McAvoy to exclude the negative results of a drug test that Abernathy took that his employer ordered. While Jacobs said a lack of use wouldn't necessarily exclude possession, he added that the jury at the trial can decide if the results are relevant.

Abernathy is jailed without bond. Jacobs revoked his bond in November based on evidence that he attacked Giberson while he was out of jail on bond in the drug case.

The drug charge could bring a two- to 10-year prison term, also more than the usual maximum because of his prior convictions.

Giberson's house was destroyed by two fires, the first of which was reported on the morning of Oct. 16.

You may view this article directly at:

<http://www.jg-tc.com/articles/2008/02/23/news/doc47bf95ef8db6f966846222.txt>

The link may require subscription or registration.