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Different judge, same holdups in murder case

By CHERYL DAGON
Breeze-Courier Writer

TAYLORVILLE - The procedural rotation of judges on March 31 put a different judge on the criminal call, where a first-degree murder case has been listing since December 2006.

In court last week, Judge Ron Spears echoed the sentiment of Judge John Coady, who had initially presided over the prosecution of 24-year-old Kevin M. Thornton in a first-degree murder case. "We need to get this tried," Spears said. "This is ridiculous."

Thornton, raised in the Nokomis area, was indicted January 17, 2007, for the stabbing death of Staff Sgt. John A. Burkett, Jr., of North Carolina in the Wal-Mart parking lot in Pana. Thornton, who remains on active duty with the U.S. Army, believed that his wife Sarah and Burkett had an affair at a German Army base while Thornton was deployed to Iraq.

Spears began acquainting himself with the case, asking if the defense intended to dispute that Thornton was the perpetrator or that the stabbing caused the death of the victim.

Defense attorneys Monroe McWard and Mark **Wykoff** responded they would accede to those issues.

Spears also inquired about results of a psychological evaluation done to determine if Thornton had acted because he suffers from posttraumatic stress disorder.

McWard said Springfield psychiatrist Dr. Terry Killian had found that Thornton suffers from a mild degree of PTSD, but not sufficient enough to use as a defense.

The judge then started sorting through unfinished business, including the defense request for assistance in obtaining military records.

Specifically, attorneys Monroe McWard and Mark **Wykoff** want copies of a rape complaint Thornton's wife filed against the victim and a no-contact order issued to Burkett.

The rape allegation surfaced in January 2008, when McWard asked Coady to compel State's Attorney Tom Finks to subpoena the documents. McWard said the military was unresponsive to his request.

Finks had countered that he believed the Army would more likely respond to a judge's order than a state court's subpoena. Coady agreed, saying he would sign such an order, but there was no mention of such an order during the hearing.

Spears told defense attorneys to submit a list of specific documentation they required and submit it to Finks by last Friday. Spears, a veteran, said he would advise Finks on expediting the release.

McWard next said that he wanted to set a date and time for his expert to examine computers being held as evidence by the Illinois State Police, a matter he first broached in February 2007.

The computer hard drives contain extensive MySpace messages posted by Thornton, his wife and the victim. Former State's Attorney Brad Paisley had agreed to provide McWard copies of the postings.

McWard has persisted, however, with his demand that a defense expert be allowed to examine the actual computers. He has indicated that he wants to insure no one has tampered with discovery. He also said that when he has tried to arrange a date for inspection, ISP has thrown him a curve.

Spears first responded that no lab was going to allow an outside expert to examine a hard drive, as the evidence could be lost.

If there is that much distrust, Spears continued, a certified verification that a disc provided by the lab was a mirror copy of the forensic hard drive could easily be obtained.

McWard said he still wanted his expert to observe while the lab burned the disc.

Spears said he was obligated to watch the county's purse, and McWard agreed to absorb the cost.

The judge instructed McWard to provide a detailed list of requested data and get it to Finks to forward. Spears set a two-week time frame.

"There's to be no more going back and forth," Spears said. "This is going to come to trial in the next six months.

"Families on both sides want it done, and citizens want justice done. Judgment day is coming."

Wrapping it up, Spears set pretrial for July 15 and jury trial for August 11.