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Defense Alleges Murder Victim Raped Defendant's Wife

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TAYLORVILLE - Argument given during a motions hearing Wednesday afternoon put a new spin on motivation in a 2006 stabbing death in Pana.

In a motion filed January 22, defense attorneys for Kevin M. Thornton, indicted on five counts first-degree murder, asked that the state be ordered to provide copies of a rape complaint filed by Thornton's wife Sarah against U.S. Army Staff Sgt. John A. Burkett, who died from multiple stab wounds after an altercation with Thornton.

Defense attorney Monroe McWard told Judge John Coady that he has been unable to obtain copies of the complaint, documentation and a no-contact order issued by the U.S. Army in Germany. He asked that State's Attorney Tom Finks be ordered to obtain the documents from military authorities in Baumholden for use in his client's defense. Co-counsel Mark **Wycoff**, a retired military officer, argued that the military would be more likely to cooperate with the state.

During the 2006 probable cause hearing, former State's Attorney Brad Paisley had informed the court that Thornton told investigators that his wife had an affair with Burkett while Thornton was deployed to Baghdad.

According to a defense motion, the alleged affair occurred while Thornton and his family lived in military housing in Baumholden. The victim, who lived in the same housing complex, was part of a rear detachment and remained on base after Thornton was deployed, the time when the affair supposedly occurred.

Finks gave a two-part response to the motion, first saying that a state court cannot control the military. He also questioned the relevance of the information, unless Thornton knew about the rape complaint.

"He knew," McWard said. "This information is consistent with our case."

McWard said that Sarah had stated that Burkett forced her into nonconsensual sex and that, if e-mail between the two could be obtained, it would show "she told him, in effect, to buzz off."

Over the state's objection, Coady ruled that the documents were relevant. Finks responded that a

court order would be more compelling than any action he could take, and Coady assented, saying he would sign an order.

Wykoff offered to obtain military regulations which would help the state maneuver the red tape to obtain copies of the documents, which the state will pursue after they are provided.

Other motions were quickly disposed. Finks agreed to provide legible Xeroxed copies of police reports and e-mail between Sarah Thornton and the victim from January 1, 2006, to December 10, 2006.

Finks also had no objection to a motion to prevent third and fourth-source hearsay from a jury, saying such statements would not be allowed anyway.

Finks contested a motion to suppress testimony about statements Thornton allegedly made to his wife and police officers. The court could not rule on the relevance of the statements unless they were presented in context, he argued.

Coady told the state's attorney to have Sarah Thornton and other selected witnesses attend a March 12 evidentiary hearing so that he could rule on the motion to suppress their testimony.

As the hearing neared adjournment, McWard told the judge that preparing the defense's case in time for a March 24 jury trial would be difficult. Coady acknowledged the time problem presented by obtaining military documents out-of-country, but retained the March 24 date until the March 12 hearing.

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