Hossencofft defense accuses prosecution of delays, misdeeds

By Leslie Hoffman
Tribune reporter

Attorneys for murder suspects Diazien Hossencofft and Linda Henning say prosecutors may have misled grand jurors in the case and purposefully dragged their heels on handing over important DNA testing results.

They argued during a hearing that the state's tactics have trampled on their clients' rights to receive an adequate defense and a speedy trial, saying they plan to ask state District Judge Richard Knowles to impose sanctions, including dismissal of the entire case.

"The grand jury was lied to, plain and simple," said Henning's attorney, Public Defender Trienah Meyers-Gorman at a Tuesday hearing.

But prosecutors say they handed over evidence in the case as soon as they could and bristled at Meyers-Gorman's accusations of possible grand-jury misconduct.

Hossencofft, 35, and Henning, 47, were indicted last November on a host of charges for the disappearance and presumed death of Hossencofft's estranged wife, Girly. The 36-year-old bank employee disappeared last September. Her body has not been found.

Prosecutors are seeking the death penalty against the two. Both have pleaded not guilty.

In lab reports the defense received Monday, Meyers-Gorman said she found at least four discrepancies between those results and a chart summarizing the DNA results presented to the grand jury.

She also complained that other reports detailing physical evidence in the case, which were prepared more than a year ago, were just this week turned over to the defense.

She and Hossencofft's new attorneys, John Bogren and Vera Ockenfels, were in court Tuesday asking Knowles to order that prosecutors turn over documents and evidence they have yet to receive a year into the case, including witness transcripts and criminalistics reports.

"There has been an egregious and despicable pattern" by which prosecutors have failed to turn over critical evidence, Meyers-Gorman said.

Senior trial Prosecutor Paul Spiers told the judge that the state has made every effort to provide the defense with evidence and has done nothing improper.

Meyers-Gorman argued that the delay warranted possible exclusion of the evidence and witnesses.

One of those witnesses is a former cell mate of Hossencofft's, when the two were at the Torrance County Detention Facility near Estancia last year. Meyers-Gorman said the man told police about "a confession."

Spiers said the state has been doing its best to provide the information to the defense in a timely manner and bristled at defense allegations of court-rule violations. Specifically, he said the Albuquerque Police Department crime lab had to test some 100 pieces of evidence for DNA and then compile a report summarizing all of the results.

He said the prosecutors themselves only received the final report on Friday and then immediately turned it over to the defense.

Knowles said he found no violations by the state but, instead, possible "misunderstandings" about the form in which the state was going to provide defense attorneys with all DNA testing results.

He set a Friday, 5 p.m., deadline for other material.

Knowles said he would not consider the grand jury allegations without more information about the evidence prosecutors presented and a specific motion from the defense.

The judge also denied Hossencofft's request to remain as co-counsel on the case with his new attorneys. Hossencofft, at one time, had asked to serve as his own attorney.

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