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Murder suspect's case put on hold

Published: Friday, September 30, 2005

By Adam Silverman

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Free Press Staff Writer

Burlington murder suspect Gerald Montgomery's case will be delayed indefinitely while he appeals to the Vermont Supreme Court a lower court's order that his medical records be released to prosecutors.

Montgomery is charged with the first-degree murder, kidnapping and sexual assault of Laura Winterbottom, 31, of Burlington. Montgomery, 33, was arrested two weeks after Winterbottom's March 8 slaying in the city. Police officials have said the killing appeared to be a random act.

He has pleaded not guilty to the charges, which carry sentences of up to life in prison. He is confined at the Vermont State Hospital, a mental care hospital in Waterbury.

The progress of the case toward trial slowed in June, when a court-appointed mental-health expert said Montgomery was incompetent to stand trial. Deputy Chittenden County State's Attorney Mary Morrissey said in court, however, that prosecutors suspected Montgomery could be faking mental illness.

A court hearing to assess Montgomery's competency has been scheduled and subsequently postponed three times.

Prosecutors sought Montgomery's medical records from the state Corrections Department, which has incarcerated Montgomery previously, to disprove or support the psychiatric evaluation. Defense attorneys opposed that request, but Judge Michael Kupersmith recently ordered the records be released.

Montgomery's attorneys asked for permission to appeal that order to the state Supreme Court; that request was granted Sept. 1, according to records on file at Vermont District Court in Burlington.

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"The matter shall be heard during the first available term" after attorneys submit written arguments in the case, according to paperwork in Montgomery's file.

The appeal places Montgomery's case on indefinite hold -- as attorneys file legal briefs, make oral arguments before the court and wait for justices to rule. There is no timeframe in which justices must decide the case after they hear arguments.

A gag order issued by Kupersmith prevents anyone associated with the case from commenting outside the courtroom.

Another Chittenden County murder case has been on hold for five years due to a similar appeal to the Supreme Court.

Jacob Sexton, 23, has been in jail since Sept. 28, 2000, charged with beating to death Atsuko Ikeda, 37, outside her home in Winooski. Prosecutors appealed a lower-court ruling that Sexton could use an insanity defense to the killing.

The Supreme Court heard the Sexton case in June 2004 but had not issued a ruling Thursday. Contact Adam Silverman at 660-1854 or asilverm@bfp.burlingtonfreepress.com

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