

Houston murder trial to proceed

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Frontiersman staff

PALMER -After six days of hearings about the possibility of tainted evidence in a three-defendant murder case, a Palmer Superior Court judge ruled the evidence clean, but two testimonies doubtful.

The main issue concerned whether John Rhyshek, Houston police chief, threw empty shell casings that might have been left behind at a 5-day-old murder scene into the woods on May 13, 2005, as he showed the area to Roger Purcell, of Houston, who was riding along with Rhyshek.

“After listening to their testimony, neither one was credible,” Judge Eric Smith said. “It would be very difficult to resolve based only on their body language and testimony.”

But the court heard from other sources during the hearings on Dec. 5, 6, 7, 8, 11 and 12, before he handed down a ruling Dec. 13. The state called two troopers, one flown in from Dillingham, three trooper investigators, one retired trooper investigator and three crime-lab technicians, said Steve Wallace, assistant district attorney, who flew in from his Kodiak office.

The body of Terell Hougues, 23, of Anchorage, was found May 8, 2005, a half-mile down a trail off the Parks Highway, opposite King Arthur Court in Houston. Alaska State Troopers investigated and later arrested one woman and three men for shooting Hougues. One of the men accepted a plea agreement with the state. The other three defendants are scheduled for separate trials.

The defense filed a motion to dismiss the murder and kidnapping indictments against the three defendants based on Purcell's allegation.

Rhyshek testified he allowed Purcell to ride along because Purcell expressed interest in joining the police department, and Rhyshek thought it would be a good way to get to know Purcell.

Houston Police Department had no written policies at the time, and he didn't object when Purcell wore a “wannabe” uniform and was armed, Rhyshek said, and he didn't have Purcell sign a liability waiver.

With Purcell as a passenger, Rhyshek drove his patrol car down the trail, spent about “five minutes or less” giving Purcell a “brief synopsis” of the murder scene and stepped into the woods to relieve himself, he said. Rhyshek didn't tell his supervisor, Mayor Dale Adams, he brought an armed civilian to a murder scene, but said he does “ride-alongs all the time.”

“I took his word he worked in law enforcement at Fort Richardson,” Rhyshek said. “Basically, I went out there because he was commenting on the occurrence. It was mundane to me.”

Eleven months later, on April 21, Purcell called troopers to say that during that ride-along, Rhyshek picked up some empty brass casings from the scene and threw them in the woods, according to testimony from Sgt. Mike Burkmire. On April 25, he, investigator Leonard Wallner and Purcell, went back to the scene, Burkmire said.

“He talked about two or three shell casings, and said he saw it all taking place between a birch and spruce,” he said.

When asked to describe the shell casings, Purcell's answers varied, from larger than a 9 mm to smaller than a .44 caliber, to at least a .380, then in the area of a 10 mm or .40 caliber, Burkmire said.

“He did say definitely not a .22,” Burkmire said. “He described it as fresh, bright and clean in the tire track. He said the vehicle drove through and squished it to the top of the mud.”

Although Rhyshek was never part of the official investigation, the murder took place in his jurisdiction and he was at the scene for a time during the initial investigation, specifically to try and identify the body, the judge said. That made Rhyshek an agent of the state, according to the court's ruling. Judge Smith said part of the reason he made that ruling was to “make sure police don't do these things.”

Judge Smith said, there was no prejudice against the defense and cited his specific findings.

“Mr. Purcell's actions were inconsistent with serious allegations,” Judge Smith said. “Anyone would have told troopers or a supervisor. Mr. Purcell said he didn't call the defense team, but if not, who would?”

When Wallner and Burkmire asked Purcell, he said he was 80 to 90 percent sure of the locations, but he was 16 to 25 feet away from where the victim and casings were found the day of the murder, Judge Smith said.

“The alleged event didn't happen,” Judge Smith said. “It would have been a distinct violation if the defense found out about it long after, but it didn't happen.”