

# Attorney maneuvers underway in second Shepard murder trial

by Dan Van Mourik  
Q-Notes Staff

LARAMIE, WY—The capital murder trial of Aaron McKinney, 21, the second of two men charged with killing gay University of Wyoming student Matthew Shepard, will remain in Laramie. At least that much is certain since McKinney's lawyers have not filed a motion to seek to move the trial. However, a myriad of other motions have been filed which raise a host of questions regarding the strategies to be used at McKinney's trial.

McKinney is charged with first-degree murder, kidnapping and aggravated robbery in the beating death of Shepard and prosecutors said they will seek the death penalty.

A hearing was held in Albany County District Court on May 10 to hear several of the roughly 105 motions filed by the defense and responses by prosecutors. Many of the defense motions under consideration will be heard in June and then probably behind closed doors.

Prosecutor Cal Rerucha wants closed hearings on defense requests for suppression of evidence and explanation of the aggravating circumstances to be considered in the death-penalty phase if McKinney is convicted. Voigt will decide what will be discussed and if the hearing, set for June 14, will be open.

During the hearing, Voigt wanted to be sure McKinney understood and agreed with his attorneys' decision to keep the trial in Laramie.

"Yes, your honor," McKinney answered.

But McKinney and his attorneys huddled at the table when Voigt asked the young man if he was aware of a mental illness or deficiency that would prevent him from understanding what was happening.

"We're advising Mr. McKinney not to answer that at this time," public defender Dion Custis said, opening the door to a possible "insanity" plea.

Voigt said he didn't want to wait until summer to find out McKinney will plead innocent because of mental illness or deficiency.

"We do have a deadline to file a plea," Custis replied. "I'll reserve comment until then."

Custis also indicated he intends to seek a delay of the trial, set to start August 9.

Meanwhile, all the files in the case will be closed to the public. Voigt granted Rerucha's motion to seal the information because of news stories about McKinney's criminal history and allegations he threatened a judge and an attorney, that he once told two women he killed a man in California, and that he offered to have a woman's ex-husband killed. The stories were based on an April 22 document from prosecutors.

McKinney's attorneys are challenging Rerucha's decision to seek the death penalty against their client in part because of the agreement with Russell Henderson, the other defendant in the case. Henderson pleaded guilty at a court hearing and received two consecutive life sentences. Several motions also contend the death-penalty law is unconstitutional for numerous reasons, including the way mitigating and aggravating factors are weighed.

Mitigating factors, such as lack of a criminal record, are used to argue against a death sentence. Aggravating factors, including a criminal past, are used to bolster a death-penalty case.

Court papers filed by prosecutor Cal Rerucha detail McKinney's brushes with the law. McKinney's run-ins with the Laramie County Police Department date back to 1988 and involve about 40 criminal and traffic violations. The violations include making threats against others and criminal entry.

On a related note, the trial for one of two women charged with covering up evidence in Shepard's murder has been delayed. No new trial date was set for Kristen LeAnn Price, 19, whose case was set for jury trial May 24.

Price was charged with accessory after the fact to first-degree murder for helping to throw away clothing that was bloodied during the attack on Shepard. If convicted, she faces up to three years in prison and a fine up to \$3000. ▼



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