



Wednesday, October 26, 2005

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Murder and some perjury charges dismissed in Jimmie Nelson case

by Holly Nelson

TAWAS CITY - A district court judge has dismissed the murder charge and nearly half the perjury counts brought against Jimmie Allen Nelson, 53, in a 25-year-old missing person case.

Judge Richard E. Noble, who was assigned to determine if there was probable cause to move the case out of 81st District Court, ruled there was insufficient evidence to proceed to trial on the dismissed counts.

Nelson, formerly of Oscoda, was arrested at his Houston, Texas, home in April 2004 on multiple counts of perjury and one count for obstruction of justice. He was subsequently charged with open murder and additional perjury counts this past January.

All of the charges stem from the mysterious disappearance and suspected murder of a black Oscoda woman in 1980.

Cherita Janice Thomas was 20 when she disappeared on Aug. 3, 1980.

Authorities believe she was abducted after the car she was driving broke down on Sunset Street in AuSable Township as she was enroute to pick up her four-year-old daughter from the babysitter's nearby home.

Oscoda Township Police Department officers interviewed Nelson at the time of the disappearance and on several other occasions over 20 years. The Federal Bureau of Investigations joined the investigation when it appeared that the suspected crime may have been racially motivated.

It was Nelson's allegedly conflicting statements to the law enforcement officers and to Iosco County Prosecutor Gary Rapp which resulted in the perjury counts.

The murder charge was brought at the urging of Oscoda police after locating witnesses who allege Nelson admitted picking up Thomas on the night of her disappearance, along with other information, including witness statements that Thomas got into a truck matching the description of that which Nelson drove at the time.

The charges against Nelson were disputed by his attorney during the extended preliminary hearing conducted earlier this summer by the visiting judge. The purpose of the proceeding was to determine if there was probable cause to bind Nelson over to 23rd Circuit Court for trial.

Following testimony, and after the prosecution withdrew two of the perjury counts, Noble ordered both sides to present written closing arguments.



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The judge's ruling was received by 81st District Court on Monday.

According to the opinion, a murder charge requires proof of both a death and of some criminal agency that caused that death.

"In the case at bar, based upon the circumstances surrounding Cherita Thomas' disappearance, the court is satisfied that she is deceased. However, the law in Michigan clearly requires evidence that some type of criminal agency caused that death," Noble wrote.

"There has not been any evidence of a criminal agency presented before the court. The testimony satisfies the court that the defendant may have been the last person to have seen her alive, he may have been racially biased, he may have painted the inside of his truck, but there is no direct or circumstantial evidence, no bloodstains, no DNA, no fingerprints, no weapon, no evidence of violence against Cherita Thomas," the opinion states.

The murder charge was dismissed without prejudice, meaning it can be reinstated as warranted by new evidence.

As for the perjury charges, Judge Noble dismissed nine of those counts, leaving 15 perjury charges and one count of obstruction of justice to be decided.

The remaining charges have been forwarded to the 23rd Circuit Court for trial. If found guilty of any of the perjury counts, Nelson will face life in prison. The obstruction of justice charge carries a five-year maximum.

Further proceedings could be delayed, should either the prosecution or defense decide to appeal Noble's ruling.

"I'm weighing my options about what we're going to do," Prosecutor Rapp said. "I need to do some research and ask the judge what he based his decision on and get this on the record.

"I think Judge Noble tried to do a good job, but he did not lay out his specific findings of fact. There's not a lot of meat on the bones in this decision," Rapp added.

Nelson's attorney, Neil Rockind, commended Noble for a fair and difficult decision.

"Do I think we are on the right track to seeing that justice is done? Yes," Rockind said. "There's still work to be done for us and work for me to prove Jimmie is innocent.

"On the one hand, I'm very pleased for Jimmie and, on the other, very sad. I look forward to moving the case to conclusion."

He said he will be reviewing the decision with an eye toward a possible appeal, questioning how the remaining capital perjury charges can stand in the absence of a capital murder charge.

"I think the judge's decision speaks volumes about the quality of the case."

Rockind contends investigators decided Nelson committed the crime and then set out to prove it, rather than letting the evidence determine the course of the investigation.

"They began with the premise that Jimmie committed murder and anything inconsistent with that is perjury," the attorney said.

Rockind shared Judge Noble's decision with the Nelson family on Monday afternoon and said they were

very pleased that the husband, father and grandfather no longer has a murder charge hanging over his head.

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