

Two held over for trial for shooting at troopers

HEARING, from Page 1

near the gas filler cap on the driver's side. The next witness was Greg Sadar, of the Major Crimes Unit of the Colorado Bureau of Investigation. He testified he had been contacted by Kansas Highway Patrol to go to Swedish Medical Center where the male defendant had been taken to have his wound looked at. He arrived on Monday morning, Jan. 17, and found the bullet had been removed from Patrick's back and he then tried to interview him about noon.

Sadar said the man said his name was Cy Devlin. When asked why he did not stop Sadar said Devlin (Patrick) said he wanted the police to leave him alone and he was heading east to Florida. Sadar said Devlin said he knew the officer wanted him to stop but said the voices were telling him to continue on and he said the voices told him to shoot at the police. Sadar said he asked if Devlin told the passenger, Ivy (Stout-Briese) who he described as his wife, to shoot at the police. Sadar said at first Devlin said he thought she might have heard the same voices, but then Devlin said he told her what the voices said and to shoot at the police.

Devlin told Sadar Ivy said that was OK and started shooting at the police. Saharsaid he had a recording of the interview with Devlin.

The next prosecution witness was Cory Latham, of the Kansas Bureau of Investigation who had been the team leader for the search of the Toyota. Latham said he was requested to search the car by KBI Case Officer Mark Kendrick of Colby.

Latham described his search of the Toyota held in the sally port at the Sherman County Sheriff's Office on Monday. Latham said he saw a number of rounds of ammunition on the floor, and said he found about 10 rounds of spent shells from a .22. He said he found a small wooden chest with a plastic bottle, a straw and pipe. He said the items were placed into evidence and sent to the KBI lab to test the residue found inside. He said he saw a number of other items in the car including clothes, water bottles, food and a list of other personal hygiene items.

Asked if he found any other illegal items in the Toyota Latham said he did not.

Latham said he found at least three rounds had penetrated the back of the Toyota from shots fired by Trooper Frey, and he found pieces of two rounds plus the evidence

of where the third round had gone through the back seat and the front seat before hitting the defendant Patrick in the back shoulder area.

Latham was asked about the KBI lab results on the items from the chest and he said the results were sent to Kendrick as the case officer.

Trooper Frey had said the passenger was shooting out of the right side of the Toyota, and Latham was asked how the empty shells could have ended up inside the vehicle. Latham said he did not know for sure, but said it was a rifle that ejected to the right and the shells could have ejected back into the vehicle.

Latham said the back window of the Toyota was busted, but he could not determine if it was shot out from the inside or the outside.

The final prosecution witness was KBI agent Kendrick who testified he found the .22 rifle in the ditch about 200 feet behind the Toyota after it had stopped on the road north of Brewster.

Attorney Romine had a sheet of paper she show showed both defense attorneys and then the judge before asking to have it entered as the first piece of evidence in the case. She then handed the paper to Kendrick and asked him to explain

what it was and what it said.

Kendrick said it was the report from the KBI lab on the items found in the Toyota and the residue had tested positive for methamphetamine.

Kendrick said he was the case officer for the KBI, and had been asked to assist after an officer involved shooting. He said he found the rifle and felt it was not in good working condition, because the pump mechanism was hard to operate. He said there was a bullet in the chamber and three in the magazine.

Kendrick said he had inspected the trooper's vehicles and saw a bullet strike on the passenger side and on the windshield of Frey's car.

He said he tried to interview Stout-Briese later that night in Goodland, but at that time she said her name was Ivy Devlin and wanted an attorney. Kendrick said the next day Stout-Briese asked to talk to the KBI, but Kendrick said he could not talk to her because she had asked for an attorney.

Kendrick said Stout-Briese insisted on talking and was willing to sign a release. He said she was reminded of her rights before talking to her after signing a release. He said Stout-Briese said she had shot at the officers, but she wasn't trying to hit anyone. She said she was trying to

scare the police away. Kendrick said at one point she said she did not want any witnesses.

She told Kendrick Cy (Patrick) was telling her to shoot the cop at the rest area, but she did not do that. As they were driving she was told to shoot. Kendrick said she said the rifle came from her grandparents home in California, and the ammunition came from a sporting goods store on the trip out.

After the last witness the defense asked for a short recess and the judge gave a 15 minute recess. During the recess the two defense attorneys went out to talk and left the two defendants at the table. At one point Patrick and Stout-Briese were mouthing words and making gestures to each other.

When the court resumed attorney Romine gave a summation of the case and said the prosecution had provided enough evidence to hold the two defendants over for trial.

Attorney Spencer said he was aware it was probably a show cause hearing, but said taken at face value he did not see there was enough evidence to show attempted first degree murder of either state trooper. He said the court should not allow these charges to stand, and there was no foundation for the methamphetamine charge that only has a KBI

lab report. He said the only thing the state has on Patrick is fleeing and eluding and agreed the state has shown that.

Attorney Taylor said he did not see any evidence of the premeditated first degree murder and no evidence on the methamphetamine charge. Stout-Briese was not being charged with fleeing and eluding.

Judge Ress said based on what he had heard and the information filed he found the state had met its burden and would bind both defendants over for trial.

Patrick seemed to take the news like he expected the decision, but Stout-Briese appeared to be upset and was visibly shaken. She was later taken out of the courtroom by a deputy, and appeared to be crying.

The judge and attorneys adjourned to consult with District Judge Scott Showalter for a trial date. Later attorney Romine said an arraignment was scheduled for 1:15 p.m. on Wednesday, June 22, and the trial was being tentatively scheduled for the first week of August.

The two defendants are being held in the Sherman County Jail on \$1 million bond.

Kansas has new electronic weapon in the war on meth

For Kansas meth cooks, getting a key ingredient for making the illegal drug is getting more difficult.

Kansas leaders recently announced the launch of an electronic tracking system to keep pharmacies and police informed on who is going store to store, buying the products containing pseudoephedrine, and block the sale for those over the legal limit.

Cold and allergy products, such as Sudafed-D, Claritin D, Zyrtec-D, Tylenol Cold and Sinus, are key ingredients in the manufacture of methamphetamine. Kansas is the sixth state to adopt the electronic tracking system known as the National Precursor Log Exchange, or

NPLEx.

The Kansas Board of Pharmacy has entered into an agreement with Appriss, Inc., of Louisville, Ky., to deploy NPLEx in Kansas, at no cost to the state. The move to electronic tracking is the result of the recommendation of the Kansas Methamphetamine Precursor Scheduling Task Force, which was formed in 2008 in response to the growth in illegal over-the-counter purchases of cold medicines for use in the manufacture of methamphetamine.

The group recommended the state establish a real-time electronic logbook system and require any pharmacy selling pseudoephedrine or ephedrine products to utilize the

system.

"NPLEx is designed to help in the battle against illegal meth labs without creating an unnecessary burden on pharmacists and consumers," said David Schoech, a Columbus pharmacist, and Kansas Board of Pharmacy member. "We believe this represents the most effective way of blocking the illegal sales of these important products while continuing to provide them to the law-abiding citizens who need them."

"Keeping pseudoephedrine out of the hands of meth producers is one of the most effective ways to stop meth production," said Attorney General Schmidt. "This electronic

system strengthens our ability to do that on an instant basis, and will serve as a valuable tool in finding and shutting down meth labs."

"As a state senator and practicing pharmacist, I believe this new system is a positive step in the right direction," Senator Vicki Schmidt (R-Topeka) said. "It is the culmination of four years of work that will help track the sales of these methamphetamine precursor drugs."

Jim Acquisto, director of Appriss explained how the system will work. A customer's photo identification is scanned by the pharmacy and the data is entered into a secure, Web-based portal. When a transaction that would exceed the legal limit

is entered, a message is instantly sent to the retailer recommending denial of sale. The information is transferred instantly to the database where it is available for review by law enforcement.

The NPLEx system is connected to approximately one-third of the nation's pharmacies. Launched in Kentucky two years ago, NPLEx tracks the sale of more than 344,000 boxes of over-the-counter cold and allergy medicines a month in pharmacies across the country. Since the NPLEx database is multi-state, illegal purchases are blocked across state lines, preventing meth cooks from obtaining the precursor of any other NPLEx-connected retailer.

NPLEx is a collaboration led by the National Association of Drug Diversion Investigators as well as law enforcement, healthcare professionals, state regulatory agencies, and pharmaceutical manufacturers. NPLEx is funded by manufacturers of those medicines and therefore is free of charge to any state that chooses to join the system.

Other NPLEx states include Louisiana, Missouri, Illinois, and Iowa. Washington, Alabama, South Carolina, and Florida have passed legislation to move forward with electronic tracking and join the NPLEx network.

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