

Gag order coming in murder case
By ANN TABB-CULPEPPER and BRIAN HAWKINS/Starkville Daily News

Circuit Court Judge Jim Kitchens is expected to officially place a gag order on all participants in the case of 14-year-old capital murder suspect Tyler Edmonds to prevent evidence from appearing in the media before a jury trial.

After a day of hearings Monday, Kitchens admonished attorneys in the case verbally in open court after hearing the testimony of five area television and newspaper reporters concerning information given to the press from Edmonds' attorney Jim Waide about the case.

Quoting state Uniform Rules of Circuit and County Court Practice -- particularly Rule 9.01 involving pretrial publicity -- and several court cases, Kitchens stated that the attorneys on both sides were forbidden to discuss the merits of the case with the media.

"The court is aware that the attorneys have the right to criticize this court, that is not what the court is concerned about," said Kitchens. "What the court is concerned about is keeping the evidence and information from coming out that would prejudice both sides' right to a fair trial."

Waide defended his release of information based upon public record, but showed a lack of verbal restraint regarding a statement about a polygraph test taken by his client in open court, after which Kitchens stated that any evidence regarding a polygraph test was inadmissible under state law.

Tyler Edmonds, 14, of West Point, was arrested May 12 and jailed on a charge of capital murder based upon a videotaped statement given by Tyler to police that implicated that the Fifth Street Junior High School honor student and his half-sister Kristi Fulgham in the shooting death of Kristi's husband, Joey Fulgham.

More motions will be heard today regarding the case starting at 11 a.m., one involving suppression of evidence in the Edmonds case as it relates to Kristi Fulgham and another motion filed by Waide to be granted a bail hearing for his client, the fourth request by the Tupelo attorney. Mrs. Fulgham is represented by county Public Defender Stephanie Mallette.

According to publications by the Reporters Committee for Freedom of the Press, a nonprofit organization dedicated to providing free legal assistance to journalists, gag orders are a form of prior restraint that prohibit parties -- including lawyers, prosecutors, witnesses, law enforcement officers, jurors and others -- from talking to the press to protect a person's right to a fair trial, the fair administration of justice or the sanctity of jury deliberations.

The order in this case was sought by Assistant District Attorney Patricia Faver, who subpoenaed five reporters to testify regarding information released by Waide for news stories since May:

Jon Turner, news director for WCBI-TV Channel 4 in Columbus.

Ann Tabb-Culpepper, news editor and reporter for the Starkville Daily News.

Rebecca Ennis, reporter for The Commercial Dispatch in Columbus.

Roger Larsen, editor and publisher of The Columbus Packet.

Tammy Langley, editor and publisher of the West Point Shopper-News.

All testified that Waide had provided them with a large amount of information of public record and comments relating to the case, either by phone interview, mail request or by mail unsolicited.

"I am not trying to keep the media from doing their jobs, This court would never tell a newspaper reporter not to do their job," said Kitchens, clarifying about the gag order during testimony. "This is not about comments about procedures in the case, but comments given concerning the merits of this case."

Prosecuting attorney Patricia Faver declined comment after the hearing, but said both sides must adhere to state uniform rules of circuit and county court practice, particularly Rule 9.01 involving pretrial publicity.

The rule states that "prior to conclusion of the trial, no defense attorney, prosecuting attorney, clerk, deputy clerk, law enforcement official or other officer of the court, may release or authorize release of any statement for dissemination by any means of public communication on any matter concerning the prior criminal record of the defendant or the defendant's character or reputation; the existence or contents of any confession, admission or statement given by the defendant; or the refusal or failure of the defendant to make any statement; the defendant's performance on any examinations or tests, or the defendant's refusal or failure to submit to an examination or test; the identity, testimony, or credibility of prospective witnesses; the possibility of a plea of guilty to the offense charged or a lesser offense; and the defendant's guilt or innocence, or other matters relating to the merits of the case."

Prior to the reporters taking the stand, another motion by Waide was heard in the first hours of the hearing -- the chance for Edmonds to have his case moved to youth court.

Patricia Cantrell, a youth court counselor for Clay and Chickasaw Counties for 22 years, testified that her daughter attended school and worked on fund-raisers with Tyler and that the Fifth Street Junior High School honor student had a perfect disciplinary record.

Oktibbeha County Sheriff Dolph Bryan testified that Tyler has not received any visits from teachers or any formal education since his incarceration, but that he was trying to keep him away from adult inmates in the county jail as much as possible. Kitchens said that if requested by the family, teachers from the local area could be asked to tutor Edmonds during his incarceration.

Waide also called three clinical psychiatrists from the Mississippi State Hospital at Whitfield -- Dr. Reb McMichael, Dr. John H. Montgomery and Dr. Claudia Schott -- testified on the results of a mental exam ordered by Kitchens.

All three testified on Monday that a series of tests administered to Edmonds, ranging from IQ to substance abuse to a detailed personality inventory, concluded:

Edmonds was of average intelligence, scoring above average in language and English exams.

Edmonds had very little "street smarts" or independent survival skills.

Edmonds could actively participate in his own defense.

Edmonds had a greater than average need for approval from adults.

Edmonds was more easily influenced by adults than most children his age.

At the conclusion of Monday's court proceedings, Kitchens had made no official ruling on this motion to move the trial to youth court, the second request by Waide.

Several other matters concerning the admissibility of evidence were settled by parties in the case, but had not been released as part of the court record by press time.