

# Death penalty charges against Bowman upheld

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SANTA CRUZ — Superior Court Judge William Kelsay refused Thursday to dismiss death-penalty charges against Edward Bowman, the former taxi driver accused of murdering Greek Orthodox priest John Karastamatis.

The charges in question — burglary and robbery — form what are called special allegations that, if proved, could bring the death penalty if Bowman is convicted of murder.

Public Defender Jerry Christensen had filed a motion to

strike those allegations before the case goes to trial.

Kelsay said the law required him to review the charges "in the best light" since a Municipal Court judge already had held Bowman to answer on the charges.

Kelsay said he reviewed transcripts from that preliminary hearing in Municipal Court and found sufficient evidence to sustain the charges. That evidence, he said, "is not much, but it's there."

The burden of proof at a preliminary hearing is not the "beyond a reasonable doubt" necessary in a trial. Some local judges have characterized the burden as nothing

more than a strong hunch that the suspect committed the crime.

Evidence of a robbery and burglary in the Bowman case consisted chiefly of the priest's pants pockets turned inside out and his keys missing. Christensen contends the pockets were turned inside out and the keys taken to mask the real motive behind the killing, which he alleges is a crime of passion — which wouldn't bring the death penalty.

District Attorney Art Danner says he has additional evidence he wasn't allowed to present at the preliminary hearing. That evidence is of a burglary of a minister's house

in Eureka allegedly committed by Bowman, his wife, Anna, and her two sons. One of those sons, Nick Arias, told sheriff's investigators about that burglary.

Christensen asked Thursday for Kelsay to rule on that issue before the case goes to trial. Danner argued that the judge who eventually will hear the trial should rule on the issue.

"We probably won't know who the trial judge will be until the day of the trial," Kelsay said.

Kelsay, who said he had to limit his courtroom comments on the evidence to narrow limits, said he would be available to meet with

Christensen and Danner in private to discuss the case.

He also offered to discuss informally how best to hear the issue of the past burglary.

After the hearing, Danner said the evidence of the supposed Eureka burglary is also crucial to the issue of a possible change of venue for the trial.

If that evidence is not allowed, Danner's death-penalty case would be considerably weakened, possibly to the point that Christensen might choose to try the case locally.

Christensen would not comment on the possibility of a change of

venue for the trial. But, later in other comments he used the term "hopefully Santa Cruz jurors."

As for Kelsay's refusing to throw out the charges, Christensen said, "I really had the feeling from being in there (court) that he (Kelsay) wanted to do something today and that he has strong feelings about the case." But Christensen said Kelsay was bound by strict limitations.

"Ultimately, and this is the bottom line, when jurors hear this case — hopefully Santa Cruz jurors — they won't be bound by that limited standard and they'll reach a decision in my favor," Christensen said.