

McPherson murder confessions challenged

Judge rules today on admissibility

By **CATHY REDFERN**
SENTINEL STAFF WRITER

5-13-03
Murder
A judge is expected to rule today whether prosecutors can use the confessions of two men charged with murdering Hunter McPherson in a botched San Francisco robbery.

The months-delayed ruling is a crucial point in the case against Clifton Terrell, 19, and Dwayne Reed, 23. The San Francisco men are being held on murder and robbery charges in the death of McPherson, the son of state Sen. Bruce McPherson, R-Santa Cruz.

San Francisco Superior Court Judge Kay Tsenin will rule whether the confessions were legally obtained. It's also possible she will issue a ruling on the preliminary hearing itself, either ordering a trial or throwing the charges out for a lack of evidence.

Defense attorneys say the prosecution's case is weak without the alleged shooter's confession and a statement his alleged accomplice made implicating him.



McPHERSON
Gunned down in
botched robbery

See **McPHERSON** on **PAGE A10**

McPherson

Continued from Page A1

Prosecutor Harry Dorfman declined to discuss the strength of his case, especially if the confessions are tossed.

"There is a lot of evidence and potential evidence before the judge, and the permutations are multiple," said Dorfman. "I can't assess the strength of the case until I get those rulings."

McPherson, 27, a Harbor High School and UC Berkeley graduate, was shot in the chest in a robbery attempt in San Francisco's Potrero Hill neighborhood about 2 a.m. Nov. 17, 2001, as he walked home with his girlfriend. He died in a hospital a few hours later.

At the start of the preliminary hearing in April 2002, Alexa Savelle testified that a gunman grabbed her purse, then shot McPherson when he refused to give up his wallet.

Police arrested Terrell and Reed on Nov. 29. Police said the suspects are gang members who were on a robbery spree that night. Defense attorneys deny the gang allegation.

Terrell's attorneys argue a confession he made to police — saying McPherson grabbed the gun and it went off by mistake — was obtained illegally because he repeatedly told them he didn't want to talk and they continued to press him, despite his "right to remain silent."

They also contend a post-confession call to his mother from the San Francisco Hall of Justice, which police secretly listened to, violated his rights because he was brought to the teary state by police who refused to stop questioning him.

Terrell's attorney, Steve Scherr, wants the taped confession and call thrown out as evidence. He called the confession's admissibility the "biggest single issue" in the case.

If the judge allows the confessions, the prosecution obviously has a strong case, Scherr said.

Dorfman, the prosecutor, said "Mr. Terrell's decision to call and to incriminate himself during the call are independent, voluntary acts."

Reed's attorneys, meanwhile, are disputing his statements to police, in which prosecutors say he pointed to Terrell as the killer and admitted to driving the getaway car.

One of Reed's attorneys, Brendan Conroy, said a series of officers made implied promises to Reed over three days, then failed to keep any of them, including getting him out of jail by Christmas.

"You don't make promises to someone to induce them to talk, then still prosecute them," he said. "The law recognizes that you can't make implied promises."

Dorfman contends it was Reed who unsuccessfully asked for a deal.

"He tried hard to get that promise, but ultimately he didn't, and he chose to speak nonetheless," Dorfman said.

The attempted robbery of McPherson and the killer's use of a gun carries a sentence of 50 years to life, Dorfman said. The men also face charges of robbing McPherson's girlfriend and two other couples.

Without the confessions, the prosecution would have a much harder case to make. The only known eyewitness to the slaying is Savelle, McPherson's girlfriend.

But she testified at the hearing last year that she was unable to positively identify the shooter. When pressed, she pointed to Reed, not Terrell.

Prosecutors also do not have the gun, Dorfman said.

The men were charged after a tip to the police department's African American Gang Team and after Mayor Willie Brown offered a \$10,000 reward for information leading to the arrest and conviction.

Dorfman said he did not think anyone had made a claim to the reward money.

Contact Cathy Redfern at
credfern@santa-cruz.com.