

Hearing opens in freeway shooting

Murder

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SANTA CRUZ — A crucial question in the freeway slaying of a Summit-area man remained unanswered as the preliminary hearing for the accused gunman began Monday.

What happened?

San Jose restaurateur David Turturici has admitted he fatally shot 38-year-old Rick E. Foster on the shoulder of Highway 1 in Capitola on Feb. 8, but little else is known about what led to shooting.

Prosecutors have charged Turturici with murder. At the end of the preliminary hearing, Superior Court Judge Bill Kelsay will decide whether there is enough evidence to try Turturici on that charge. The judge could also reduce or dismiss the charge.

The defense contends the shooting may have been self-defense or that it occurred during a struggle between the two motorists.

Testimony Monday did not offer clues on what prompted the shooting. It did, however, include the following:

- Forensic pathologist Richard Mason said Foster had a blood-alcohol level of .13 (the legal limit for driving under the influence is .08). Mason said toxicology reports also indicated Foster had earlier taken a normal dosage of an anti-depressant and a sleeping pill. There was no evidence that Foster was a chronic alcoholic, Mason said.

- Mason said the pathway of the bullet showed Foster had to be bent over at the waist or crouched down when he was shot in the chest. Also, Mason said, bruises and scrapes on Foster's hand may have been caused by the grasping of a gun.

- Sgt. Herb Ross of the Capitola Police Department said he thought it was unusual that the Mercedes-Benz authorities believe Turturici was driving was clean to the extent that detectives could detect only one partial fingerprint belonging to Turturici. "There should have been prints all over the car," Ross said.

- Ross said witnesses who may have seen the two cars pulled over on the freeway shoulder prior to the shooting did not see a gun, or a struggle.

- Ross said he found traces of gunpowder that led him to believe the gun was shot from inside the Mercedes.

The preliminary hearing was scheduled to continue today. It may last through the week, attorneys said.

The hearing became necessary after a different judge dismissed a grand jury indictment against Turturici last month. In that decision, Superior Court Judge Robert Yonts agreed with the defense that prosecutors should have provided the grand jury with more information on the case.