

Trailside Defense Says Two Trials Are Needed

By PEGGY R. TOWNSEND

Sentinel Staff Writer

The murders of Ellen Hansen and Heather Scaggs are so dissimilar that trailside killer suspect David Joseph Carpenter should be tried separately on each charge, defense attorneys say.

In court documents filed in support of this week's pretrial motions, defense attorneys said that even though it is alleged the same .38 caliber Rossi firearm was used to kill the two women, there are enough differences in the two cases to make joining of the trial prejudicial.

They are expected to ask Superior Court Judge Chris Cottle today to separate the murder trial of Scaggs from the shooting death of Hansen and the wounding of her companion, Steven Haertle, because jurors might convict Carpenter simply because he has been charged with two slayings.

This morning, defense attorneys continued to hammer at a police line-up in which at least two persons picked Carpenter as the man connected to the Henry Cowell Park killings. Attorneys have charged the line-up was faulty.

Carpenter, a balding printer from San Francisco, is accused of shooting Hansen and Haertle as they hiked on a well-used trail in Henry Cowell Park March 29. Haertle survived the shooting.

Carpenter is also accused of murdering Scaggs May 2 — the day she was supposed to meet him for a trip to Santa Cruz.

He has also been charged with five trailside murders in Marin County.

According to documents filed with the case and made public for the first time this week, defense attorneys claim there

are enough differences to warrant separation of the Hansen and Scaggs murders.

Hansen, a UC Davis coed, was a total stranger who was shot three times as she hiked in Henry Cowell Park with her boyfriend, documents said.

Scaggs was acquainted with Carpenter, was shot once in the face, was found on a remote trail in a different state park and was believed to be alone when she was killed.

In addition, court documents said there was some evidence the killer dragged Scaggs' body and attempted to hide it under some logs. The killer never touched Hansen's body after the shooting.

Defense attorneys conceded there were similarities in the case — the most important one being the allegation that the same gun was used in both killings.

The documents said the prosecution, through the testimony of three witnesses, plans to attempt to prove Carpenter was in possession of the .38 caliber murder weapon.

Then, the prosecution will attempt to link the Scaggs case to the Hansen murder by showing the murder weapons were the same in both slayings.

The strategy will "add nothing" to the chain of proof that it was the defendant who killed Scaggs with the gun, defense attorneys claimed.

The prosecution has other evidence — the claim that green Kleenex carried by Scaggs was found in Carpenter's car — to try to link Carpenter to the Scaggs killing, but adding the Henry Cowell shooting to the Scaggs trial would result in jury prejudice, according to the defense.

SEE BACK PAGE

Trailside Murders

TRAILSIDE

FROM PAGE 1

Linking the two cases would be inherently prejudicial, said court documents.

The linking of the two murders will "do no more than inflame the jury," the documents said.

Jurors may find Carpenter guilty because of the offenses charged and not because of proof, said the documents.

Today, the chain of witnesses who viewed a police line-up continued as defense attorneys attempted to challenge the procedure as faulty.

A 12-year-old girl who detectives believe saw the murder suspect as he drove from the park testified this morning she picked a man other than Carpenter from the police line-up.

Under questioning from defense attorney Jerry Christensen, Melissa Guyon of Santa Cruz said she picked the man from the line-up because of the glasses he wore.

Later, she said, she changed her mind and thought the man driving the getaway car was another man in the line-up — Carpenter.

The only person she told about her change of heart was her mother. It was not until the preliminary hearing for Carpenter that she identified him as the suspect seen leaving the park, she testified.

Christensen has challenged that identification charging it was made only after she had seen Carpenter's picture in the media and when Carpenter was obviously dressed in prison garb during the preliminary hearing.

Tuesday afternoon, Leland Fritz, a Fresno man who met the killer on an observation deck shortly before the slaying, testified he picked Carpenter out of a police line-up.

He said he couldn't pinpoint which particular characteristic helped him identify Carpenter as the suspect but told defense attorney Larry Biggam, "I thought he was the party that committed the crime" when he picked him.

Fritz' son, Kenneth, meanwhile testified he failed to choose anyone from the police line-up as a suspect in the case.

Under questioning, he said he thought Carpenter was the closest to the suspect in the park that day but could not be certain.

However, he said he picked Carpenter as the suspect during a preliminary hearing — an identification being challenged by Biggam since Carpenter was the only person in the courtroom wearing an orange jail jumpsuit.

Biggam is also challenging the line-up procedure, claiming witnesses were somehow influenced to choose Carpenter from the line-up.