

Judge Muffles Trailside Case

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Lawyers and policemen have been ordered not talk about the David Joseph Carpenter murder case.

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Santa Cruz Municipal Court Judge Richard McAdams on Friday issued a gag order to forbid any person officially connected with the case from disclosing information to the public. McAdams said Carpenter's right to a fair trial depends on limiting pre-trial publicity.

The order was sought on a motion by Public Defenders Jerry Christensen and Larry Biggam, who are defending Carpenter, 51, against murder and attempted murder charges stemming from the shooting death of Ellen Hansen and the wounding of Steven Haertle, both 20, in Henry Cowell State Park on March 29.

At the same hearing, McAdams rejected a defense motion to bar cameras from the courtroom during all future proceedings in the case.

District Attorney Art Danner did not object to the gag order, saying his office and the sheriff's office already have imposed gags on their staffs in an attempt to hold down publicity on the case so as to prevent a change of venue.

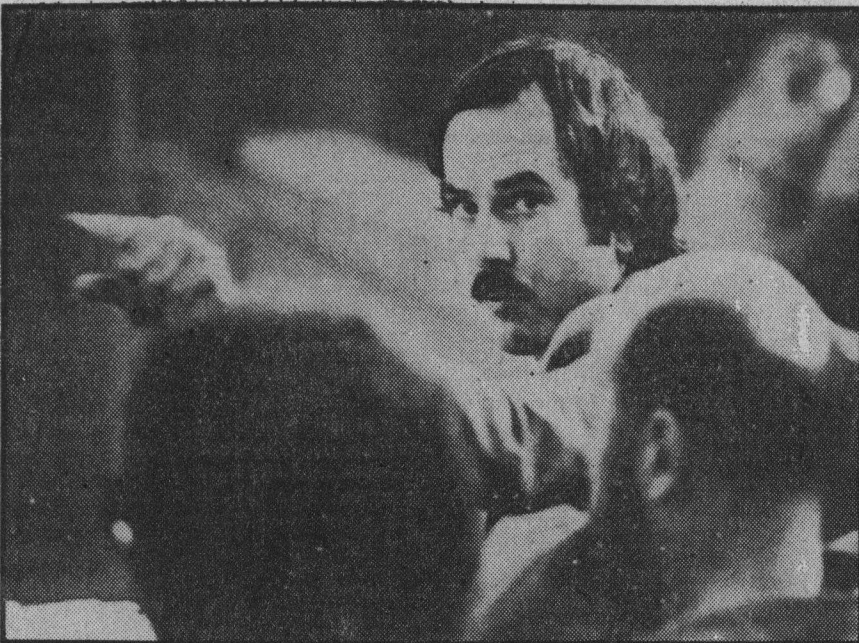
The difficulty, Danner said, has come because the investigation of Carpenter "involves not only our jurisdiction, but

other jurisdictions" and much of the information regarding Carpenter has been released elsewhere.

Carpenter also is under investigation for the so-called "trailside" killings in Marin County and the disappearances of a bank teller in Daly City and of a co-worker of Carpenter in San Jose.

It was during San Jose Police's investigation of the missing San Jose woman that Carpenter's name surfaced. Detectives who noticed physical similarities between Carpenter and the sketch of the Cowell Park murder suspect, notified sheriff's investigators here and a joint

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Dan Coyro/Sentinel

Defense lawyer Larry Biggam gestures at camera during hearing.

Trailside Case Gag Order

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investigation, also involving the FBI, led to his arrest May 15 outside his home in San Francisco.

In making his ruling, McAdams said the order "would have broad application" and "in my mind would exceed Santa Cruz County."

It is unclear, however, whether such an order can extend outside the county or to the investigations in Marin, Daly City and San Jose, where no charges have been filed and are not part of the current case against Carpenter.

In seeking the order, Christensen cited precedence from the Santa Cruz County trial in 1971 of mass murderer John Linley Frazier, in which then-Superior Court Judge Charles Franich issued a similar gag order. Christensen also noted that both the state Supreme Court and the U.S. Supreme Court upheld a gag order in the 1969 trial of Sirhan Sirhan, convicted of assassinating presidential candidate Robert Kennedy.

The public defender argued that such an order is necessary in the case to protect Carpenter's right to a fair trial guaranteed by the Sixth and 14th Amendments to the Constitution.

The Carpenter case, Christensen contended, "has been highly publicized to a degree rarely seen."

The worst publicity, Christensen said, has been released "by certain public officials." He characterized that information as not only "damaging," but inadmissible as evidence, and even "untrue."

Such publicity, Christensen contended, "makes it hard to get a fair trial and possibly impossible."

Venue (the future location of the Carpenter trial) was not the subject of Friday's motion, yet much of the discussion in court was aimed at that matter.

"It's fair to say," Christensen stated, "that a request for a change of venue 'is a possibility, maybe a probability.'"

"If we were to go to the most northern county or southern county without this (gag) order, it would not be possible to get a fair trial."

Danner countered that the publicity to date in the Carpenter case has not been as great as in previous trials in this county, specifically the mass murder trials of Frazier, Herbert Mullin and Edmund Kemper.

"I don't think a change of venue is a foregone conclusion at all," Danner said.

In announcing his decision on the order, which extends to all attorneys in the case, law enforcement investigators and all witnesses or potential witnesses, McAdams said: "It is important to note that by granting this (order) I am not conceding anything to counsel on the question of venue."

Following that ruling, Biggam asked McAdams to bar photographers from all future court proceedings.

McAdams refused.

Biggam said the filming of Carpenter in the courtroom "is polluting potential jury panels in the Bay Area and the entire state."

He said the still and TV pictures of Carpenter entering the courtroom flanked by armed guards are prejudicial. And, he said, showing Carpenter wearing the orange jumpsuit of County Jail inmates "is like wearing a neon sign saying 'I'm guilty.'"

Unless the judge were to impose a ban

on photographed, Biggam contended, "the only impartial jurors will be illiterates or those without TVs." That, he said, would deny Carpenter a trial by jurors representing a wide spectrum of society.

Whereas McAdams said his issuance of the gag order was based on Carpenter's right to a fair trial — superceding the public's right to information in the case — he rejected Biggam's motion to ban photographers. He said the courtroom is open to the public and "I certainly don't believe public proceedings should be conducted in the dark."

Moreover, McAdams said he believes "cameras take the mystery out of judicial proceedings (and they are) not intended to glamorize proceedings nor make them sensational."

Carpenter's next scheduled court appearance is June 8, at which time he is to enter pleas to the charges of murder and attempted murder.

Carpenter was in court during Friday's proceedings. He sat silently, flanked by his two attorneys.

The government of Spain, under pressure to combat terrorism by Basque separatists, convened an emergency session in Madrid to discuss the hostage crisis. Parliament on Thursday approved a bill granting the government wide-ranging and severe emergency powers to deal with terrorism.

The news agency Europa Press reported three men — a police chief, a high civil guard officer and a civilian — had been inside the bank negotiating with the gunmen. The agency gave no details beyond saying the three negotiators walked out of the bank front door at 6:50 p.m., nearly 10 hours after the assault 10 minutes after the bank opened at 9 a.m. (6 a.m. PDT).

Later, Juan Rovira Tarazona, a central government representative to the autonomous Catalonia province, told reporters a bank cashier was the go-between in the negotiations, and that the offer of a rightist lawyer, Enrique Chinchilla, to serve as mediator was accepted.

There was no independent confirmation of his report and his claim that, "As of now, we have not thought of storming the bank."

It was not known if the gunmen had been told Argentina's Foreign Ministry announced in Buenos Aires that it would not take the group.