

Judge sought to hear motion in Bandler case

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By MARK BERGSTROM

Sentinel Staff Writer

SANTA CRUZ — Municipal Court Judge Tom Kelly said Monday he will ask the state Judicial Council to appoint a judge to hear a motion seeking to disqualify Kelly from presiding over the murder case of Richard Bandler.

Bandler, co-developer of Neuro-Linguistic Programming, a psychotherapeutic technique, is accused of murdering 31-year-old Corine Ann Christensen in her Live Oak townhouse.

Investigators say they believe the killing centered around drugs and/or prostitution and not Bandler's work in the field of psychotherapy.

Bandler's attorney, M. Gerald Schwartzbach, has filed a motion seeking to disqualify Kelly, claiming Kelly has acted with prejudice for the prosecution in the case.

Schwartzbach has said Kelly has "unwittingly become a participant" in what the attorney has termed "police-state tactics" by sheriff's detectives.

Schwartzbach had argued unsuccessfully for Kelly to lower the \$500,000 bail he had set for Bandler. Schwartzbach argued that Bandler has ties to the community and would make all court appearances if he were allowed a lower bail.

The attorney also criticized the amount of bail Kelly approved for two women associates of Bandler who were jailed when they refused to answer questions without a grant of full immunity.

Assistant District Attorney Gary Fry said after the proceeding that he expects the Judicial Council to name a judge "in a few days." He said that judge probably will not hold a formal hearing, but make his decision based on written arguments.

If Kelly is disqualified, a new judge will be appointed to conduct the preliminary hearing for Bandler. On Monday, that hearing was set for Feb. 16.

The date was a compromise between Fry and Schwartzbach and

involved another motion. That request by Fry sought to compel the key witness in the case to immediately testify before a judge.

Fry had sought the order, saying he believes that witness, James Marino, may leave the state and not return at the time the case goes to trial.

Fry has said that Marino informed investigators he intends to move to Florida.

Fry said he agreed to drop his motion for what is called a conditional examination of a witness when Schwartzbach agreed to speed up the preliminary hearing in the case.