

# Judge refuses to suppress evidence in Roy Summers' trial

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SAN BERNARDINO — In the latest series of pretrial motions for accused murderer and kidnapper Roy Summers, a Superior Court judge Thursday denied a defense request to suppress evidence found during a 1979 search of Summers' Oregon home.

Defense attorney Timothy Guhin had claimed the search warrant was issued illegally, that the affidavit in support of the warrant contained misstatements and that two items were seized unlawfully during the search.

It was one of four defense motions heard in two days by Judge William Pitt Hyde.

Summers is charged with the March 30, 1977, murder of his ex-wife, Beverly Wise, 26, and the abduction of her two children, Brandi Jondell Summers, then 5 years old, and Tiffani Wise, then 2. Summers, 40, is the father of Brandi, who suffered from cystic fibrosis and needed medication to survive.

The children have never been found but they have reportedly been seen since their disappearance — sometimes with Summers — in Northern California, Nevada and Idaho.

Summers has been in San Bernardino County Jail since June 1980 following his extradition from Oregon.

On the other motions, Hyde: • Denied Guhin's request to obtain police personnel files containing complaints made by citizens and/or law enforcement officers regarding the conduct of investigators in the Wise case and their behavior on any other investigations. Guhin also sought any related information.

• OK'd Guhin's request for background information on two of Summers' former cellmates in San Bernardino County Jail, Marcus Stacy Jr. and Jeremiah Whitecloud, to whom he allegedly admitted that he killed Wise and had knowledge of the missing children.

The judge also said Guhin could have all information known to po-

lice and sheriff's officers dating back to Jan. 1, 1978, regarding anything Stacy and Whitecloud might have said about other defendants.

• Put off a ruling on whether certain police department memorandums will be made available to the defense.

In the motion to suppress, Guhin raised questions about different dates on the search warrant affidavit and on the search warrant.

Oregon law says that only a district attorney or police officer may apply for such an affidavit, Guhin said. And he questioned whether San Bernardino Police Detective John McDonald, one of the chief investigators of the Wise case, had been sworn as a Deschutes County deputy in Oregon when he prepared the affidavit. Guhin also contended that McDonald had lied about when he was sworn.

McDonald testified Thursday that he prepared the affidavit over two days and that both it and the search warrant were signed by a Deschutes County magistrate after

McDonald was sworn as a deputy.

However, there was a Nov. 15, 1979, date on the search warrant and a Nov. 14, 1979, date on the affidavit.

Judge Hyde decided that a clerical error in the date had been made and said McDonald's testimony was consistent with his statements on the affidavit.

The two items Guhin claimed were seized unlawfully were a 1978 personal appointment book belonging to Summers and a hard-cover book called "The Mother's and Father's Medical Encyclopedia," with Summers' name written inside.

Neither was listed among the

items to be searched for, and Guhin said, they should not have been picked up because there was no "probable cause" to do so.

Deputy District Attorney Michael Smith argued in court documents that the officers who searched the Oregon home did have cause to believe information in the datebook would supply leads in the case.

As for the medical encyclopedia, Smith said it was similar to one that was missing from the Wise home after the crimes occurred.

Hyde ruled that Oregon laws were broad enough to include the confiscating of those items.

Regarding the memorandums,

Smith suggested that Hyde review the information and determine what Guhin should have.

While he did not argue with the defense's right to see some of the memos, he said he did not believe Guhin should be entitled to see items that discuss the planning of the investigation and what directions it might take.

Hyde said he was willing to go over the information. But, he said, it "puts the court into the position of second-guessing" Guhin's needs for a defense.

"I don't know what's valuable to him (Guhin)," Hyde said, adding, "I'd be happy to screen them, but he'll (Guhin) probably get it all."

## Servicewoman dies in crash

SAN BERNARDINO — A Norton Air Force servicewoman was killed late Wednesday when her car ran off the pavement and smashed into a concrete bridge abutment.

Ann T. Lennon, 21, was

