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## Judge sends former deputy to jail

Totten granted bail Tuesday

By: Pamela Pritt

Thursday, September 13, 2012 - 11:00am

Circuit Judge James Rowe sent a former deputy to jail for the weekend, citing the “serial nature” of the sexual misconduct crimes for which the man is indicted.

Bradley C. Totten, 40, was arraigned on 47 of those charges Friday, including 22 counts of sexual assault in the third degree, 22 counts of sexual abuse by a custodian, sexual abuse in the first degree, sexual assault in the second degree and sexual intercourse with an incarcerated person.

The former deputy pled not guilty to all charges, as he did to a dozen similar charges for which he was indicted in April.

Rowe agreed with Special Prosecutor Brian Parsons, of Fayette County, that, given the serial nature of the crimes, public safety was a concern.

The August indictments charge that Totten had sex with three females, two of them younger than 16, and that sexual relations with one took place monthly over a period of several years.

Parsons said he is concerned that Totten “displayed behavior indicative of a serial nature over a 10-year period.” The special prosecutor said he was not using hyperbole when calling Totten “a predator.”

“I have an obligation to society at large to protect them,” Parsons said. “He’s facing more time than a first degree murderer would face.”

Totten’s attorney, Michael Callaghan, took umbrage at Parsons’ statement to the court, accusing the special prosecutor of “stacking” the charges against his client, and going so far as calling them “garbage.” Callaghan reminded Rowe that Totten had shown up for hearings, coming from out of state, and that he is not a flight risk. The defense attorney also said Totten is not a danger to the community. Callaghan said incarcerating the former deputy would be “unfair and an injustice.”

But Rowe sided with the prosecution and ordered Totten remanded to jail.

“[Because of] the serial nature of this, [it] appears to me there’s good cause to be concerned,” Rowe said.

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The indictments from April and August allege that Totten had sex with seven women over a period of 10 years, the last with an adult prisoner in 2010. Parsons said three more women have come forward.

“They would like to see charges,” Parsons said.

While the number of alleged victims might be growing, Parsons said it would be in the interest of judicial economy to try the charges of the victim with the most counts first, and if the state succeeds, the case “might not have to go any further.”

Callaghan said that the charges and allegations are similar and that the matter should be consolidated and tried at once.

Rowe agreed and ordered the charges be consolidated.

At a hearing in Greenbrier County Tuesday morning, Totten was released on \$50,000 bail, with the condition of home confinement. Totten will reside in his home at Hillsboro, and not be allowed to leave the premises, except in cases of medical emergency or to confer with his attorney, although he may be allowed to visit his parents who live on the same private road.

Home confinement will be administered by Fayette County’s Day Report Program, instead of the Pocahontas County Sheriff’s Department. Totten will have a GPS-capable ankle bracelet affixed, and transmission of the signal will hit satellite communications. Fayette County’s home confinement officer will evaluate the Totten property to determine if he can visit his parents.

Parsons said Totten will be responsible for a \$300 monthly fee to be paid to Fayette County.

Rowe said the technology Fayette County uses rendered Totten’s current bond of \$50,000 adequate to ensure public safety.

In addition to the standard bond agreement, Parsons asked Rowe to order that Totten not be allowed to use a computer or the Internet.

Callaghan successfully argued that Totten has not sought any contact with alleged victims, and needs to use the Internet for his everyday personal business. Further, Callaghan said he uses email to contact clients on a regular basis.

Rowe noted that in addition to Totten’s home being subject to search, so would the contents of his computer.

The bond agreement and bail amount did not set well with some Pocahontas County residents who were in the audience Tuesday morning.

Clarence Meadows, father of Prosecuting Attorney Donna Price, spoke to the Court after the hearing, saying he didn’t hear any mention of Totten not being allowed to have lethal weapons in his home. Rowe told him that it wasn’t mentioned because it is always a condition of any bond agreement. Parsons added that Totten would not be allowed to have drugs or alcohol in his home.

Callaghan assured the Court that all weapons have already been removed from Totten’s home.

Although Price has been recused from the case, she was in the courtroom in Greenbrier County Tuesday, and left as her father began speaking.

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Former Magistrate Candidate Cheryl McCullough told Rowe she thought the bond amount was too low, and attempted to advise him that bond is normally \$15,000 per charge and Totten has 59 charges pending against him. McCullough said she spoke “as a friend of the court.”

Rowe advised her that she could submit her complaint in writing, and that the courtroom is not a public forum.

“It seems the amounts of bail are political statements instead of what justice requires,” Rowe said, shaking his head.

The judge had other cause to shake his head in apparent disbelief.

Rowe said after Totten’s Friday hearing in Pocahontas County, he left his car in its parking spot behind the courthouse and walked across Tenth Avenue to visit a member of the Pocahontas County Bar Association who had suffered a “tremendous personal loss.” The judge said he spent about an hour in the attorney’s office.

The judge said Tuesday he was given “copies of trash printed from the Internet” that accused him of spending that hour with Totten and Sheriff David Jonese. The “trash” apparently calls for Rowe to recuse himself from the case against the former deputy. The judge said he refused to do that, unless the attorneys themselves had a reason he should not adjudicate the case.

“I’m not going to do it [just] because there’s a mean-spirited individual who wants to throw [things] at the justice system,” Rowe said.

Neither Parsons nor Callaghan asked the judge to recuse himself from the case.

A day-long hearing in the matter is scheduled for October 19. Although no trial date was set and Totten waived his right to a speedy trial, both the prosecution and the defense agreed that the case should be presented to a jury before the end of 2012.



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