

Lynn Benton, Gladstone cop accused of killing wife, won't face trial on drug charges; judge tosses out evidence

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Lynn Edward Benton, a former Gladstone police officer accused of murdering his wife, will not face a trial on drug charges in Multnomah County, a judge ruled Tuesday.

Multnomah County Circuit Judge Kenneth Walker ruled that there was not probable cause for the searches and that the evidence seized could not be introduced at the trial, which was scheduled to start Wednesday.

Prosecutors now will decide whether to appeal Walker's decision.

Benton's wife, Deborah Higbee Benton, was killed in May 2011.

The drug case is just one facet of a crime story with some unusual twists.

Benton, a Gladstone police sergeant and 24-year in law enforcement veteran, was born a female and went through a sex change before marrying Debbie Higbee in 2010.

Prosecutors said Benton offered one-time close friend Susan Ellen Campbell \$2,000 to kill Higbee Benton and that Campbell's son Jason Jay Jaynes was part of the conspiracy.

The three will be tried together on murder charges in June.

Police arrested Benton on Nov. 7, 2012, and seized a duffel bag he was carrying. When they obtained a search warrant three weeks later and opened the bag seeking evidence in the killing, they found Fentanyl.

That discovery led to the search of Benton's girlfriend's North Portland home two months later. Police found more Fentanyl patches with Benton's belongings.

Benton was charged with two counts of felony drug possession. Fentanyl is a powerful narcotic used to treat severe pain. It is illegal to possess it without a prescription.

The drugs police recovered belonged to Higbee Benton.

Benton's attorneys challenged the search warrant affidavits that authorized the searches.

The attorneys argued that Brian Schmutz, head of Clackamas County Major Crime Team, left out relevant details that should have been disclosed to the judge who signed the search

warrants.

For example, the affidavits relied on statements from Susan Campbell, Benton's one-time friend also charged in the murder.

Campbell had lied to investigators, changed her account of the killing, could not remember details of the crime and has a long history of drug and alcohol abuse that the affidavits glossed over, said defense attorneys Dianna Gentry and Patrick Sweeney.

They gave numerous examples of details they say Schmautz underplayed or omitted.

"It does not surprise me that some information was left out and that some conclusions were drawn" by Schmautz, the judge said.

Walker said Schmautz was not inaccurate, untruthful or acting in bad faith.

Nevertheless, Walker said there was not probable cause to conduct the searches with the expectation of finding murder evidence among Benton's possessions some 18 months after the crime.

-- Steve Mayes