

Attorneys seek delay of murder trial due to allegations against former cop

- By Eric Fleischauer Metro Editor

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Joseph Cowan arrives at the Morgan County Courthouse for a hearing in 2017. His capital murder trial is scheduled to begin Monday. [JERONIMO NISA/DECATUR DAILY/FILE]
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A former Decatur police officer accused of stealing old evidence plays such a critical role in an upcoming capital murder case that the last-minute revelation of his alleged actions requires a delay in the trial, according to defense attorneys.

The attorneys for Joseph Cowan have asked Morgan County Circuit Judge Jennifer Howell to delay his trial scheduled to start Monday. Cowan faces a possible death penalty if convicted in the fatal shootings of two Decatur men in 2015.

In a hearing Friday, District Attorney Scott Anderson revealed former police officer and evidence technician Jonathan Lowery had allegedly stolen costume jewelry that had been evidence at the Decatur Police Department. According to Anderson, the alleged theft was first disclosed soon after the February 2018 trial of Cortez Mitchell, one of Cowan's co-defendants.

According to his personnel file, obtained by The Decatur Daily through a public records request, Lowery was a crime scene technician at the Decatur Police Department until February 2018, when he was assigned to the patrol division. He was transferred from the Police Department to Community Development, with a corresponding reduction in wages, Jan. 14.

Lowery did not return a voicemail Wednesday seeking his comment.

Anderson said at Friday's hearing that Lowery admitted the theft in a pre-polygraph test he took as part of his application for a federal law enforcement job.

"Lowery responded that he had stolen from the evidence locker that had been entrusted to him in his employment as an evidence technician with the Decatur Police Department," according to a motion filed Wednesday by Brian White and Jake Watson, Cowan's lawyers, in their summary of Anderson's disclosure.

According to the motion, Lowery's testimony is critical to the prosecution's case.

"Jonathan Lowery was the evidence technician who was in charge of the scene of the killing of Joshua Davis at Wilson Morgan Park," Cowan's lawyers wrote. "He was in charge of evidence detection and collection at the execution of the search warrant at Joseph and Cedric Cowan's home. He was in charge of relinquishing evidence to the

Department of Forensic Sciences and he was in charge of retrieving evidence from DFS on behalf of the Decatur Police Department.”

Cedric Cowan, also charged in the murders, is Joseph Cowan's younger brother. Cedric Cowan's trial is scheduled in August.

Lowery's importance as a witness in Joseph Cowan's case is demonstrated by the fact that Anderson said he still plans to use him at trial, despite the questions on his handling of evidence, according to Cowan's defense lawyers.

“He is essential to the foundation for the admission of firearms, ammunition, items claimed to be stolen from robbery victims and the remainder of the evidence the State is expected to seek to admit at the Cowan trial,” according to the motion.

Cowan's lawyers said they are struggling to obtain information from the city about Lowery, including an internal police investigation referenced by Anderson, in time to effectively cross-examine the former officer at a hearing scheduled for Friday. Any information they obtain Friday will be difficult to incorporate into a trial that begins Monday, they said.

Assistant City Attorney Chip Alexander on Wednesday declined to provide any material in response to a public records request from The Daily seeking documents related to any investigations into Lowery's conduct. "These documents are part of an ongoing criminal case which we are not able to release," Alexander wrote.

Among the documents produced by the city Wednesday is an inventory of Police Department evidence requested March 15, 2018, and completed April 24, 2018. The inventory covers "a list of cases that I was provided by the District Attorney's Office," according to the evidence officer who completed the inventory. The list includes 79 cases, but the city redacted the names of the defendants in those cases. The report indicates that all items were accounted for in all of the cases, except one notation that "CD released to Lowery" and another notation that "CD unaccounted for."

A Police Department memo dated Jan. 8 of this year, and produced in response to the public records request, references an Oct. 25 inventory of a safe located in the basement of City Hall.

"The safe is used to store money that is confiscated by the Decatur police officers," according to the reporting officer. "During the inventory \$970 was identified as missing. A previous report indicated that the money was seized on 3/26/2014 from (redacted) during an arrest for simple gambling."

The report does not identify any specific employee as being responsible for the lost money.

White on Wednesday said he has subpoenaed Lowery, Decatur police Lt. Todd Pinion of Internal Affairs and Chief Nate Allen to testify at Friday's hearing.

According to Lowery's application for his position at Community Development, his position as a police crime scene technician included responsibility "for the physical evidence in the case. I collected, processed, and submitted evidence to outside agencies for testing. ... I worked on teams that obtained convictions for numerous crimes including capital murder. ... I was responsible for Decatur Police Lab."

In an email dated Oct. 12, police Chief Nate Allen advises Lowery he is being placed on administrative leave. "As of today, your police authority will be suspended," Allen wrote. The email does not give the reason for the personnel action.

Cowan's lawyers had previously asked for a continuance of the trial in connection with their efforts to have Judge Howell removed from the case. They based their recusal motion on statements she made about Cowan during the sentencing of two of his co-defendants. She rejected their recusal argument and their request to delay the trial. They petitioned the Alabama Court of Criminal Appeals to order her recusal, and it rejected the petition. Cowan is now awaiting a decision on the issue from the state Supreme Court.

In denying the previous request for a continuance, Howell said Cowan first raised the recusal issue about a year after she made the statements they claimed demonstrated bias.

“An extensive amount of coordination has taken place to schedule this trial, which is anticipated to take up to three weeks,” she said in an order this month. “The trial has been set to begin on the week of April 29, 2019, since July 30, 2018.”

Sixty-six people have been identified as potential witnesses in the trial.

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