

Roy Ballard's Lawyer Wants Murder Verdict Tossed

By Jason Geary
THE LEDGER

Published: Thursday, July 17, 2008 at 6:01 a.m.

BARTOW | A lawyer for convicted murderer Roy Phillip Ballard says prosecutors are continuing to seek the death penalty against him to justify a high-profile spat with a circuit judge.

Ballard, 67, was found guilty earlier this month of first-degree murder.

Prosecutors argued the Zephyrhills man killed his stepdaughter, Autumn Marie Traub. Her body has never been found.

Jurors are scheduled to return to court next week to recommend whether Ballard should face the death penalty. Under Florida law, Circuit Judge Donald Jacobsen must give the jury's recommendation great weight.

But Ballard's lawyer, Byron Hileman, argues in a 10-page motion filed Monday that Jacobsen should acquit his client or prohibit prosecutors from seeking the death penalty.

Jacobsen might consider the motion at a Friday afternoon hearing.

Prosecutors theorized Ballard killed Traub, 33, because she opposed Ballard regaining custody of a 14-year-old female relative so he could continue a sexual relationship with the girl.

Hileman wrote that Traub's body has never been found, and the murder case against Ballard "has been a process of stacking inference and speculation upon inference and speculation."

He wrote prosecutors joined a weak sexual battery case with the murder charge "only because the state can fit those facts by careful argument into a plausible but almost totally unproven story of what happened."

"It is a good fictional bedtime story, but not a real tale supported by proof beyond any reasonable doubt," the motion states.

Hileman accuses prosecutors of misconduct by continuing to seek the death penalty against Ballard for political reasons.

The Ballard murder case was a source of contention between the State Attorney's Office and Circuit Judge Susan Roberts.

In the Ballard case, the State Attorney's Office accused Roberts of making comments that showed she was prejudging that the death penalty wasn't appropriate because of Ballard's age.

Prosecutors requested that Roberts get off the case. The judge refused the request. The 2nd District Court of Appeal ruled Roberts should not preside over the case, which was reassigned to Jacobsen.

After unsuccessful efforts to remove Roberts from other pending murder cases, Roberts was eventually reassigned to another division and has since retired.

The motion concludes the State Attorney's Office has a "political imperative" to "zealously seek the death penalty for Roy Ballard in order to justify their political machinations involving getting rid of Judge Susan Roberts."

Chip Thullbery, a spokesman for the State Attorney's Office in Bartow, said prosecutors' position at Friday's hearing will be that "the defense's allegations are without merit."