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Accused crossbow killer gets new witness

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A judge ruled today that defense attorney Chris Bugbee will continue to represent accused crossbow killer Cole K. Strandberg. But the lawyer now has an added job title: trial witness.

Bugbee has a different recollection of what his client said during a mental health exam about when he had sex with the victim than the doctors have indicated, potentially putting the defense lawyer in the unusual position of having to present Strandberg's legal defense as well present testimonial evidence as a sworn witness.

Because of that potential conflict, Deputy Spokane County Prosecutor Mark Cipolla asked Superior Court Judge Tari Eitzen to remove Bugbee as Strandberg's attorney. The judge decided against the prosecution request.

The problem arose following a forensic interview attended by Strandberg, Bugbee and two mental health professionals at Eastern State Hospital, which has been criticized for its handling of the case.

At that recent interview, Strandberg indicated that he had sex with 22-year-old Jennifer Bergeron, whom he killed with a crossbow on Jan. 7, 2008. The two mental health doctors wrote in their notes that they remember Strandberg saying that he had sex with his victim prior to the killing. But Bugbee claims, and his notes reflect, that Strandberg said he had sex with the woman after she died.

While morbid, the timing is key on deciding whether Strandberg can be charged with rape in addition to murder. Under law, a rape cannot occur with someone who is dead, Cipolla said.

"The state really doesn't want to see" Bugbee removed, Cipolla said. "But ... we have to be very careful how we proceed."

Bugbee said he didn't believe it was a conflict to testify about his recollection of the interview in dispute.

"The only question is whether it's allowed to have the advocate testify as a witness," he said.

Eitzen ultimately decided to allow Bugbee to testify and remain as attorney, but his testimony will be narrowly focused about the single issue and neither he nor prosecutors will be allowed to inquire further.

"We've got a young man who has been incarcerated since 2008. We've had significant issues getting Mr. Strandberg competent to stand trial. We've had a number of delays. To change

attorneys at this point would cause another year delay," she said. "I can't do that to this young man."

Bugbee has previously said in court that his client killed Bergeron. However, he has argued that Strandberg _ who suffers from early onset paranoid schizophrenia _ should be found not guilty by reason of insanity.

Mental Health professionals at Eastern State have regularly concluded that Strandberg suffers no mental illness and that he was essentially faking his delusions _ where he claims to take commands from a drill sergeant named Smokey Kaiser _ to get out of the murder charge.

Because of that diagnosis, Strandberg was not on anti-psychotic medications when several jailers attempted to remove him from his cell on Sept. 26, 2008. Deputy Dan Leonetti suffered a broken neck in the exchange, which was highlighted in a 2009 episode of the Discovery Channel's "Behind Bars."

Earlier this year, Eitzen ruled that a jury must decide whether Strandberg should be sent to prison or civilly committed to a mental institution. But in doing so, Eitzen said Eastern State's credibility was "compromised" after repeatedly making no diagnosis of Strandberg when the judge said she had never seen a "more well-documented history of mental illness."

Strandberg's trial is currently set for Sept. 12.