

LEWISTON MORNING TRIBUNE
September 27, 2011

Attorney: State says he's going free

**Judge Acey says
not so fast, sets trial for February**

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OF THE TRIBUNE

ASOTIN - Judge William D. Acey reacted strongly Monday when the attorney representing Monte Hoisington told the court he was assured by state officials his client's release from McNeil Island was a done deal.

If there was ever such an agreement, it was news to Acey, who said he's been operating under the belief there would be a jury trial in Asotin County on Oct. 17 to determine whether the three-time convicted rapist was fit to be released from the Special Commitment Center. But it explains why the assistant attorney general handling the case has yet to lift a finger to respond to a motion for a summary judgment in the case, Acey said. It appears "he was just going to throw in the white towel," Acey said. "I resent that. On behalf of this community, I resent that." Instead, a new attorney is taking over the Monte Hoisington case and the trial has been moved to February. Asotin County Prosecutor Ben Nichols will be representing the state instead of Joshua Choate, an assistant attorney general. Hoisington is represented by attorney C. Dale Slack of Dayton. Nichols filed a notice of substitution of counsel on Friday. He said the attorney general's office didn't have a problem with the substitution and would be willing to assist if needed.

"I became concerned that Mr. Hoisington was going to be released without any real inquiry into whether he constitutes a risk to our community," Nichols said of his decision to step in.

On Monday, Nichols asked Judge Acey for a new trial date, saying he wants enough time to get an independent evaluation of Hoisington and an opportunity to thoroughly examine the materials.

"I don't wish to be unkind, but if Mr. Nichols is late to the party, he has no one to blame but himself," Slack countered. The Hoisington case has been around for years and the civil commitment question has been on the table a year, he said. "We're ready for trial."

The state already has two expert evaluations of Hoisington and discovery is closed. His client has been told since July he would be released, Slack said, and he was assured Hoisington would be set free in the middle of October.

"As far as I know, everybody at the Special Commitment Center recommended

he be released," Slack told the court.

Nichols said the first indication something was going on behind the scenes was last week when Slack filed his motion calling for a ruling prior to the trial. Acey said this was the first he's ever heard of any type of agreement, and the matter would go before a jury. He granted a motion for a continuation, approved the change in counsel and set a trial for Feb. 7-17 in Asotin County Superior Court.

"I'm disappointed," Slack said as he left the courthouse. "I understand, but I don't like it and Mr. Hoisington's not going to like it."

Hoisington has been confined on McNeil Island ever since an Asotin County jury determined he was a sexually violent predator a decade ago. The cases are largely based on expert psycho-logical testimony that details the offender's criminal sexual history and a complex statistical analysis of sex offender recidivism data. Victims and witnesses involved in the offender's crimes frequently testify during commitment trials.

Once committed, sexually violent predators are entitled to annual reviews of their condition, and attorneys must produce evidence the offenders continue to meet the established criteria at a yearly hearing.

Now 60, Hoisington was convicted of two Lewiston rapes in 1977 and an Asotin County rape in 1991.

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