

EVERETT HERALD

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Jury selection begins in Scherf murder trial



Mark Mulligan / The Herald

Court staff sort through the hundreds of number badges they need for the almost 300 potential jurors filling the ballroom at Comcast Arena in Everett Tuesday morning. Snohomish County Superior Court was held in the ballroom to accommodate the number of potential jurors for the trial of Byron Scherf, who is accused of killing corrections officer Jayme Biendl.

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Mark Mulligan / The Herald

Snohomish County Superior Court Judge George Appel addresses hundreds of potential jurors filling the ballroom at Comcast Arena in Everett Tuesday morning.

By **Diana Hefley**, Herald Writer

EVERETT -- Jury selection began Tuesday in the case against an inmate accused of killing Monroe corrections officer Jayme Biendl.

Snohomish County Superior Court Judge George Appel said that choosing a jury will take weeks and the first witness likely won't testify until the end of the month or early May. The trial could last a month or so.

About 270 people filed into two ballrooms at the Everett Events Center Tuesday morning. The large crowd was silent as Appel read the aggravated murder charge against Byron Scherf. The potential jurors also learned that if the defendant is found guilty, they would then be asked whether Scherf should be put to death.

Scherf, 54, was introduced to the crowd, standing with his attorneys and nodding his head.

He had been moved under heavy security from the Snohomish County Jail, where he's been kept since shortly after Jan. 29, 2011.

Jurors were told that prosecutors allege that Scherf was in prison at the time he is accused of killing Biendl.

It is unclear how much jurors will hear about the repeat rapist's criminal history. His defense attorneys have indicated in court documents that they should be allowed to ask potential jurors whether they would be biased against Scherf because he is a "twice convicted sex offender." The defense also wrote that they should be able to ask whether a juror would consider a life sentence even though Scherf is already confined to life behind bars without the possibility of release.

The jury pool is expected to be questioned extensively about their views on capital punishment.

On Tuesday, the panel was instructed to fill out a 23-page questionnaire. Beginning Thursday, they will be coming back to court in small groups for individual questioning.

Appel warned panel members not to discuss the case. He and court staff also repeatedly instructed them to avoid any media coverage.

It would be fundamentally unfair to base a decision on any information received outside the courtroom, the judge said.

Meanwhile Scherf's lawyers are expected to make more arguments Wednesday challenging whether prosecutors can seek the defendant's execution. The defense filed a motion last week, calling the state's death penalty unconstitutional.

They also have asked the state Supreme Court to review Appel's decision from last month in which he declined to remove the death penalty as a possible punishment. The defense again made arguments that its client's rights were violated by the way Prosecuting Attorney Mark Roe reached his decision to seek the death penalty.

Roe reviewed nearly 6,500 pages of police reports about the killing and records about Scherf's years in prison. He made his decision, however, before the defense provided him any information about why Scherf may deserve leniency.

Scherf is accused of ambushing Biendl inside the prison chapel at the Washington State Reformatory in Monroe. He claimed that she said something offensive about his wife.

Biendl, 34, was strangled with an amplifier cord.

A few days after the killing, Scherf wrote detectives and prosecutors saying he wanted to plead guilty to aggravated murder and he expected a death sentence. He wrote that Biendl's family deserved "swift justice." A short time later he agreed to speak with detectives and confessed to killing Biendl.

Last year, he sent letters to The Herald claiming that his decision to later fight the murder charge was motivated partly because he was denied privileges in jail that he said the detectives promised him.

Corrections records show that Scherf has been a prolific letter writer in the decades he has spent behind bars. His letters often included complaints about conditions in prison such as the quality of prison-issued ear plugs and not being able to wear a sweater.

He also has written governors, prison secretaries and corrections department staff demanding sex-offender treatment, warning that he could present a danger to others in prison.

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