

Drug lab scandal could undermine murder case

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San Francisco's growing drug lab scandal, which has already led local prosecutors to drop hundreds of narcotics cases, could also undermine a triple murder conviction that federal prosecutors won last year against a gang member who faces life behind bars.

The conviction of Dennis Cyrus Jr. last spring was based in part on the testimony of Deborah Madden, who retired from the police drug analysis unit last month after suspicions arose that she had skimmed cocaine and possibly other drugs from the crime lab.

Cyrus, 25, was found guilty of three murders committed in the summer of 2002, including the slaying of Ray Jimmerson Jr., a gang member turned federal witness. Jurors concluded that Cyrus tortured one victim and belonged to the Page Street Mob, which had brutally fought rivals and defectors.

Cyrus faces three life terms without the possibility of parole, but has yet to be sentenced by U.S. District Judge Maxine Chesney. While his defense tried to put the crime lab on trial last year, jurors rejected the claim that underlying drug charges were based on unreliable evidence.

Since the failed effort to undermine those charges, though, the drug lab scandal has erupted. And federal prosecutors are scrambling to blunt the impact of the scandal on the case.

Much of the prosecution of Cyrus rests on drug charges, which formed a foundation for federal racketeering allegations. Such cases can only be built on certain federal crimes, such as narcotics trafficking.

Court's options

The judge could either toss the drug-based charges altogether, or order a new trial on the same offenses to allow the defense a chance to challenge them before a jury. The court could also rule that that the jury would have reached the same verdicts, regardless of the recent revelations related to the crime lab.

If the underlying cocaine distribution charges were dismissed, prosecutors could still salvage at least one and possibly all of the three murder cases, based on a finding that drug trafficking was not the only underlying federal offense.

The Cyrus case could also provide a deeper look at the drug lab scandal. His lawyer, John Philipsborn, has asked for access to an ever-mounting pile of potentially damaging material involving both Madden and the lab - documents already in the hands of San Francisco prosecutors.

So far, local prosecutors have not been forced to turn over the material to defense attorneys. Instead, they have dropped 250 cases on the eve of trial and have said they will likely drop hundreds more, while salvaging 423 cases by testing the evidence outside the drug lab. Prosecutors said Monday that drug testing by those labs is at a "bottleneck."

Favoring disclosure

Brian Buckelew, a spokesman for District Attorney Kamala Harris, said his office is in favor of disclosing the documents in the proper forum. The federal case may ultimately be that forum.

Philipsborn said Monday that he had not heard from federal prosecutors about his demand for the documents.

"We need to get the information first and make the judgment on how to litigate the issue," Philipsborn said. "We need to know: How was the lab conducting itself?"

Among the new questions that have been raised, Philipsborn said, is what exactly Madden meant when she referred to the general "sloppy" work at the drug lab during an interview with police investigators last month.

"We don't know how far the problems go," Philipsborn said. "If it turns out that we can demonstrate that the lab has been allowed to play a bit of a shell game with drug analysis and the quality assurance was lacking, then the question is whether that threatened the integrity of several of the convictions."

U.S. Attorney Joseph Russoniello said Monday that his office is reviewing a "large number of documents and we will make the appropriate disclosures at the appropriate time." He said prosecutors are working long hours to do the review.

"I'm happy that I don't have to pay lawyers overtime," he said. "They have been putting in a lot of time - the debacle with the San Francisco crime lab wasn't something that we planned or budgeted for. But we'll deal with whatever we have to, with whatever resources we have to."

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Today, Russoniello's prosecutors must respond to a defense motion that seeks to delay Cyrus' sentencing and asks for documents related to Madden and the lab where she worked for 29 years.

Plea in drug case

Madden, 60, pleaded not guilty Monday in a South San Francisco courtroom to a felony cocaine possession charge that is not directly related to the drug lab scandal.

San Francisco police officers who had searched Madden's home reported finding one-tenth of a gram of cocaine on a bedroom shelf as well as a gun in a sewing box. She was arrested March 3 on weapons charges, which were dropped last week when prosecutors filed the drug charge.

Prosecutors said they could not prove Madden knew she still had the gun, given that she had surrendered two others after her conviction in a domestic violence case in May 2008.

San Mateo County Superior Court Judge John Runde said Madden could have her attorney appear in court on her behalf until her preliminary hearing. The case will return to court May 18.

Madden's lawyer, Paul De Meester, said he wants to look at the evidence this week. He said he will ask the court to let him see the sealed search warrant used to authorize the raid on his client's home before making any decisions.

Madden faced a bank of cameras both inside and outside court because of the ongoing controversy.

"It's tough for her but she's holding up," De Meester said.

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