

The Sun

**Rape trial is to be moved
Publicity forces shift to another jurisdiction, circuit judge rules**

by Caitlin Francke SUN STAFF The Baltimore Sun

November 13, 1996 Page(s): 1B

Edition: HOWARD SUN

Section: METRO

Length: 1023 words

Index Terms:

Columbia

Record Number: BSUN481581

The trial of a man accused of raping a 15-year-old girl behind the Howard County Central Library in Columbia will be moved out of the county because pretrial publicity prevents the defendant from receiving a fair trial here, a circuit judge ruled yesterday.

Over prosecutors' objections, Circuit Court Judge Diane O. Leasure ruled that an article published in the Howard edition of The Sun on Monday was so detailed that finding an impartial jury in the case against Timothy Bryan Chase would be difficult. The article included legal analysis of the case and discussion of evidence that will not be admitted during the trial.

"This issue is troublesome to say the least," Leasure said, making her ruling on a last-minute defense motion the day the trial was to begin. "This {article} goes far beyond" a summation of allegations in the case.

This is the first criminal case moved out of the county over the state's objections in recent memory, said Michael Rexroad, an assistant state's attorney since 1979. Ellicott City attorney Richard J. Kinlein, a former county state's attorney, said it is the first in at least 30 years.

County State's Attorney Marna McLendon said she was discouraged by the ruling. She said her office would have preferred that Leasure first poll jurors to determine whether they had read the article and had formed an opinion about the case.

The trial now likely will be held in Anne Arundel County or Carroll County.

About 40 more jurors than usual -- 115 -- were called yesterday because of the high profile of the case, which drew widespread attention and media coverage at the time of the alleged incident.

All of the jurors were dismissed after the ruling, and none made it to the courtroom.

"I think maybe it was a premature decision and the case could have been heard here in Howard," McLendon said. "My guess is at least half the jurors had not read the article" because Monday was a holiday.

She said moving the case adds logistical difficulties: Prosecutors can't work out of their offices and local witnesses will have to travel to testify.

While it is fairly common for high-profile cases to be moved from the areas where crimes are alleged to have occurred, court officials said they can remember only one criminal case being moved out of Howard in the past four years.

In 1992, the first-degree murder trial of Rodney Eugene Soloman -- accused in the carjacking death of Pam Basu -- was moved to Baltimore County at the request of his attorney. Under state law, such requests are automatically granted for defendants in death-penalty cases.

But a Howard circuit judge denied a motion to relocate the trial of Bernard Miller, also accused in the Basu murder. The judge rejected defense arguments that town meetings and news articles -- including stories in Time and Newsweek magazines -- prejudiced the county against Miller. In court yesterday, a tentative trial date was set for Jan. 27. The trial will be heard in Anne Arundel County or Carroll County -- which, with Howard, make up the state's 5th Judicial Circuit. A site for the trial is expected to be determined

within a week, based on those courts' schedules.

The article was published only in the Howard County edition of The Sun, not in editions distributed in the two other counties.

Byron Warnken, a professor at the University of Baltimore School of Law, said Leasure's ruling showed an abundance of caution and suggested that she was trying to avert an appeal in the case.

"I find it a little bit unusual that she would rule without first making a fact-finding determination about whether jurors were exposed to {the article}," he said.

"When in doubt, if you have got a ruling and you could go both ways then rule with the defendant because you probably eliminate the potential for appeal."

The Sun story used court documents, hearings and interviews to review the evidence likely to be presented at trial.

Chase, a 28-year-old Columbia resident, stands accused of raping a 15-year-old girl while her 7-year-old sister watched.

The girls were waiting for their mother to pick them up from the library last March when they were forced into the woods behind the building, police say.

The Sun article also included an interview with the defendant's wife, quoting her as saying she would refuse to testify for the prosecution, even though police say she had provided vital information in the case. Two law professors also were quoted in the story about the admissibility of certain evidence in the case.

McLendon said there needs to be a balance between the public's right to know information and interference with a pending criminal case.

She said that she understood the basis for the judge's ruling. "The article went far beyond anything we were used to," McLendon said. "I think the article drove {the case} out of Howard County."

In court yesterday, assistant public defender Samuel Truette -- who represents Chase -- argued that the article was only half the reason he wanted the trial moved out of the county. He noted that emotions in the county ran high after the crime outside a spot many considered a safe haven, the library in Columbia's Town Center.

The crime "in and of itself struck at the very heart of the community and causes the most primal instincts to rise up," Truette said.

Assistant State's Attorney Janine Rice argued that the law does not preclude jurors from reading stories about trials, but rather from forming opinions about a case before it begins.

"Newspaper disclosure alone does not suffice," Rice argued in court. She added that the story was printed Monday, not the day of the trial.

"It's yesterday's news," Rice said. "They've read it now. They've moved on."

Pub Date: 11/13/96

Copyright 1996 The Baltimore Sun Company