

DEFENSE: DISMISS MURDER CHARGE IN DWI

BY ANDREW SMITH
andrew.smith@newsday.com

A Sound Beach man's attorney urged a judge Thursday to dismiss murder and aggravated vehicular homicide charges against his client, arguing that prosecutors failed to prove either charge.

Such motions are routine in criminal trials after testimony ends, but in the case against Christopher O'Brien, 56, state Supreme Court Justice Fernando Camacho said he wanted to hear extended arguments on whether these charges should be dismissed before closing arguments Friday.

Even if Camacho does dismiss those charges, second-degree manslaughter and other

counts will remain.

Both sides concede that O'Brien was intoxicated at 5:35 a.m. on Dec. 23, 2015, when he drove east in the westbound lanes of Sunrise Highway and collided with a car driven by Thomas D'Eletto, 57, an Aqueduct project engineer heading to work in Nassau County.

But defense attorney Scott Gross of Hauppauge argued that O'Brien's acts don't meet the legal standard for second-degree murder or aggravated vehicular homicide.

For the top count, prosecutors must prove that O'Brien acted with depraved indifference to human life, and Gross said there is no evidence he formed the necessary state of

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mind for depraved indifference, a high standard rarely met in vehicular crimes.

In the 2005 case of Martin Heidgen, who was convicted of murder after killing two people while driving drunk the wrong way on the Meadowbrook Parkway, Gross said there was evidence that he was motivated by suicidal despair. Other than a reference to an argument with a girlfriend, Gross said there is no such evidence in the O'Brien case.

"Whether you're a cop or a regular citizen, the evaluation should be the same," Gross said, making a subtle reference to the pending case of former Suffolk police Officer Robert Scheurer. He also is accused of driving drunk the wrong way on Sunrise Highway and killing a motorist last year but was not charged with murder.

Camacho, who is presiding over that case too, smiled at the reference.

Assistant District Attorney Marc Lindemann said evidence to support the murder charge includes testimony that O'Brien seemed to aim at other motorists, forcing them off the road as they honked their horns and flashed their

headlights at him.

"The evidence shows, very dramatically, that the defendant thought only about himself," Lindemann said.

Gross also urged Camacho to dismiss the aggravated vehicular homicide charge, arguing it relies on a mathematical formula that improperly estimates O'Brien's blood-alcohol level to be 0.19 percent at the time of the crash, just above the 0.18 percent threshold to support the charge. The estimate uses "assumptions on top of assumptions on top of assumptions" to reach that conclusion, Gross said.

Lindemann said the science behind the estimate is sound and Camacho should accept it.

Minaj's brother cites \$25M extortion try

BY BRIDGET MURPHY
bridget.murphy@newsday.com

An attorney for the brother of rapper Nicki Minaj told Nassau County jurors Thursday that the child rape charges against his client are based on lies fabricated in an attempt to extort \$25 million from the music superstar.

A prosecutor, however, detailed a harrowing account of alleged sexual abuse in her opening statement in which she said Jelani Maraj, 38, of Baldwin, raped a sixth-grade girl repeatedly over eight months, making her his "indentured sexual object."

Maraj is facing up to life in prison if jurors find him guilty of the top count at his trial in Mineola.

Police arrested him in December 2015, accusing him of predatory sexual assault on a child. He pleaded not guilty.

Assistant District Attorney Emma Slane said the testimony of the victim herself, now 14, and her younger brother — who witnessed some of the abuse — would combine with medical and forensic evidence to prove Maraj was guilty.

Slane said authorities recovered the defendant's semen on the groin area of the victim's pajama pants. She also said Maraj threatened the child — who was 11 when the alleged abuse started — saying that she would be blamed, wouldn't be believed and would end up in fos-

ter care if she told anyone what was happening.

"He used her and abused her to satisfy his sick sexual desires," Slane said.

Defense attorney David Schwartz said the accuser was a "manipulative" and "devious" young woman. He said the accuser was collaborating with her mother who routinely beat her. To avoid more beatings, she went along with a "made-up tale" that boiled down to an "old-fashioned shakedown."

"There are 25 million reasons why this child was brainwashed to lie and make up these charges," the Garden City lawyer said.

Schwartz told jurors the accuser's mother became obsessed with Maraj's "world-famous sister" and tried to use him to extort the superstar, who is worth tens of millions of dollars.

The defense attorney said the accuser's mother contacted the rapper and relayed "that if she was paid \$25 million, these charges could just go away."

Schwartz told jurors that the pajama pants were either cross-contaminated with other laundry, or otherwise contaminated, and that the accuser's mother may have purposely rubbed Maraj's underwear on them.

The defense attorney said after court that the rapper may testify during the trial.

It is to continue Friday.



Local and federal investigators, following a "detailed" tip, look for human remains in a wooded area near the border of Roosevelt and Baldwin on Thursday. ■ Video: newsday.com/nassau

Tip: Find remains there

BY NICOLE FULLER
nicole.fuller@newsday.com

Nassau police and federal investigators have begun searching for human remains in a vast wooded area on the Baldwin-Roosevelt line after receiving a "detailed" tip, police said Thursday.

Acting Police Commissioner Patrick Ryder said Homeland Security Investigations received information Wednesday night from a "person of interest" that there may be remains in the area.

"We have not found or identified any human remains," Ryder said at the scene. "This is going to be a long process.

It's probably going to take a few days for us to get through this wooded area."

Sources said investigators were searching for a possible victim of gang violence.

Ryder said he could not say whether the remains are linked to MS-13 gang violence or any active missing persons cases in the county.

"We cannot link it to any of our missing persons cases, but as soon as we do, our first concern will be notifying families," Ryder said.

He conceded the tip was more detailed than prior ones. One such tip had led officers to search a wooded area in Freeport.

"We've searched a lot of wooded areas over the last several months," Ryder said. "As these tips come, we have to run them all down. This is just another tip that we received. It's a little more detailed, so that's why we're putting as much resources as possible into it.

The approximately 27-acre site contains rugged terrain and overgrown vegetation and includes a lake.

Nassau County police officers remained on the scene into the afternoon, in the area of West Greenwich Avenue and Wilbur Lane.

With Robert E. Kessler and Mark Morales