

JUDGE GETS OFF CASE INVOLVING A FRIEND

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A circuit judge stepped down Friday from deciding on a new trial for a former Cocoa man who claims the prosecution's key witness against him lied on the stand.

Circuit Judge John Antoon turned over the case to an Orange County judge because the ruling would require him to "determine the credibility" of the prosecutor, Dean Moxley, who now is a Brevard circuit judge and a close friend of Antoon's.

A hearing on the request for a new trial for Nick Lennear on burglary and battery charges will be held May 1 in Orlando before Orange Circuit Judge Ted Coleman.

If granted, the ruling could fuel prosecutors' investigation into whether controversial tracking-dog handler John Preston committed perjury.

Lennear 's attorney, Brian Onek, claims inconsistencies in Preston's 1983 testimony warrant a new trial. To get a new trial, an attorney must prove the disputed testimony was false and that prosecutors used it knowing it was false.

Onek concedes Moxley did not knowingly use false information, but believes a new trial should be granted anyway if the evidence shows Preston lied.

Preston, who has been used as an expert witness in several Brevard felony cases, failed a test of his dog's tracking ability in 1984 and has been accused of falsifying his credentials.

During Lennear 's trial, Preston testified he tracked the man's scent to a Merritt Island home that he was accused and later convicted of burglarizing. Also during the trial, Preston testified he received 240 hours of special training at a Philadelphia school run by expert dog handler Tom McGinn. A copy of his training certificate was signed in September 1975 with McGinn's name.

McGinn, who was set to testify against Preston Friday, claims the certificate is bogus.

"I never trained Preston to do anything," said McGinn, who also is under investigation in Palm Beach for his dealings with the sheriff's department's K-9 unit.

Prosecutors have wanted to interview McGinn for months in connection with the investigation of Preston, but McGinn's attorneys refused, Assistant State Attorney Wayne Holmes said.

McGinn agreed to cooperate Friday, was questioned and gave prosecutors some leads, Holmes said.

Caption: PHOTO John Antoon

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