

Test Newsflash

by Administrator

WOODLAND, CA- After an initial closed-door arraignment, an accused cop killer can't get a fair trial before any Yolo County judge, claims the defense attorney for Marco Antonio Topete. That locked-door hearing on June 18 has now opened a legal can of worms threatening the entire case. "I would ask as presiding judge you recuse yourself and the entire judiciary of Yolo County," Dean Johansson told Judge David Rosenberg during the continued arraignment of Topete in Woodland Friday morning.

In an unprecedented move last week which Rosenberg called a "mistake," a county commissioner held Topete's initial arraignment in a courtroom locked up during the proceedings, with only the victim's family and law enforcement allowed inside. Topete's family and reporters were among those locked out. Later, Sheriff Ed Prieto apologized and said his deputies simply forgot to unlock the doors. On Friday, all but one of the deputies and bailiffs were unfamiliar faces in Department 9.

Topete is accused of mortally wounding Yolo County Sheriff's Deputy Tony Diaz after stopping Topete for suspicion of DUI in Dunnigan off Interstate 5 on the night of June 15.

Rosenberg wanted to read the formal charges again at the Friday hearing, but Johansson, a public defender, stopped him because of the motion he was filing.

"I believe there's not only a constitutional issue of the original arraignment not being a public hearing but an issue of fairness and impartiality of the bench," said Johansson. Rosenberg kept his composure but was obviously flustered that the turmoil caused before seems to linger over what promises to be an extremely high profile criminal case.

In a new revelation, Johansson also claimed that on June 18, virtually the entire main Yolo County Courthouse across the street from the arraignment court was shut down for about 30 minutes. He claims other courts stayed closed to allow deputies and bailiffs working the courts to come over to witness Topete's arraignment. Johansson is filing a subpoena for court video security tapes to prove his claim.

Topete sat unshackled and in street clothes, wearing a shirt and tie in the jury box. It's extremely rare for felony prisoners to appear before a judge in street clothes when there's no jury. However, Rosenberg agreed to the street clothes after he granted cameras to be allowed in court. When the judge said he wanted to read the full complaint again, Johansson protested that Topete had already heard it at the first arraignment the defense is challenging.

"You can't have it both ways," Rosenberg shot back. "I'm simply asking if he (Topete) wishes me to arraign him at this time."

Topete, through his attorney, said no.

Friday's tumultuous hearing came just hours before a public memorial service to honor the slain deputy. When Topete's family left court, they said they declined to answer questions but made a brief statement.

"Today is about Deputy Diaz. Our hearts go out to his family," said Topete's wife, Angelique, comments echoed by his sister Elizabeth.

Topete, a parolee, faces murder with special circumstances and several other felony counts, a case which could bring him a death penalty.

Rosenberg said he'll issue a ruling next week on July 3. Topete is being held at Sacramento's jail "for his own safety," according to Prieto.