

Former deputy can't be found for subpoena

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A suspected drug dealer was ordered to stand trial Wednesday after the defense was unable to locate an essential witness - former Marin sheriff's Deputy Tyrone Williams - whose credibility is under widespread challenge.

Lawyers for the drug suspect, William Stewart Smith, have been trying to subpoena Williams for more than a month to grill him about sexual misconduct allegations lodged by a drug informant in a different case.

The informant, 19-year-old Sarah Rawlins, accused Williams last year of bringing her wine, offering to drop charges in exchange for three-way sex, and sending a picture of his penis to her cell phone. Defense attorneys have seized on the allegations to try to impeach Williams' credibility in numerous other arrests.

One such arrest involved Smith, who allegedly sold drugs to Williams while the detective was working undercover for the Marin County Major Crimes Task Force. Smith's lawyer, Jon Rankin, has been trying to track down Williams to serve a subpoena, to no avail.

On Wednesday, Rankin said his investigator obtained a private postal box address for Williams, which was traced to a residence in Vallejo. But the people who live at the residence said they do not know Williams.

"My investigator said we're not the first people to come knocking for him," Rankin said. "The people said they did not know Tyrone Williams but they had been receiving mail for him."

The district attorney's office also has issued at least two subpoenas for

Williams since he resigned last month, and they have not been served to the detective.

The misconduct allegations also triggered a series of "Pitchess" motions - demands by defense attorneys for access to the sheriff's internal affairs investigation into Williams' conduct. The only agency known to have investigated Rawlins' allegations is the Marin County Sheriff's Office, and the department, citing personnel confidentiality laws, has not released its findings, even to prosecutors.

But authorities have acknowledged that Williams, 39, violated department policy by contacting an informant without being monitored - either through direct observation or wireless surveillance - by another detective. The aim of the policy is to prevent informants from making unchallenged police misconduct claims.

This violation forced prosecutors to drop the charges against Rawlins in December. Later, the credibility dispute surrounding Williams also prompted a judge to dismiss charges against a DUI suspect Williams arrested.

Some Pitchess motions targeting Williams have already been denied by Marin judges. In one case, Gerardo Fernandez Costa, charged with selling the drug Ecstasy to Williams during an undercover

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operation, lost his motion and pleaded guilty last week in a plea bargain. He faces up to 180 days in jail.

But several other challenges are still pending:

- Gerald Paganelli, a 22-year-old Novato man arrested in a task force case in December 2006, has filed a Pitchess motion seeking the internal records on Williams. Paganelli was identified as a suspected marijuana dealer by a confidential informant working for Williams, according to court documents.

Judge Kelly Simmons is scheduled to hear the motion on April 25. Paganelli has pleaded not guilty.

- Mario Dwayne Griffin, charged with selling cannabis and possession of marijuana for sale in a 2007 sheriff's investigation, has also filed a Pitchess motion against Williams, said his attorney, Deputy Public Defender Bonnie Marmor. A hearing is set for Tuesday. Griffin has pleaded not guilty.

- Rankin, the attorney for William Stewart Smith, filed a Pitchess motion Wednesday after efforts to subpoena Williams failed. And if the case goes to trial, Williams could be subpoenaed by the district attorney's office - and face an arrest warrant if he flouts the subpoena.

According to Rankin, Williams was the only officer who witnessed the alleged drug transaction with his client, so his credibility is essential to the case. Police provided audio and video evidence of the alleged drug sales, but the audio was not incriminating and the video quality is so poor as to be worthless, Rankin said.

"It shows nothing," Rankin said. "The video could have been shot in a coal mine, for all we know."

Smith, who has a 1995 manslaughter conviction in Alameda County, has pleaded not guilty to four counts of selling cocaine and one count of selling methamphetamine. Smith, 33, of Richmond is being held in lieu of \$295,000 bail and is due back in court April 30 before Judge Paul Haakenson.

In addition to those cases, the county public defender's office is reviewing its files to decide whether to lodge challenges in other Williams investigations.

"We are pursuing, as part of our responsibilities and duties, any possibility that there would be any kind of tainted prosecution," said Public Defender Joe Spaeth.

Williams has previously declined to comment.

The Williams matter has raised lingering questions about whether an agency outside the sheriff's department should investigate whether the detective committed wrongdoing.

Evan Lee, a professor of criminal law at the University of California's Hastings School of Law in San Francisco, said that if Rawlins' allegations are true, Williams could be charged for anything from furnishing alcohol to a minor to bribery or extortion.

"He's basically saying, 'Go ahead, bribe me to drop the charges by offering me sex,'" said Lee, a Tiburon resident. "Or it could be extortion. The threat for extortion doesn't have to be explicit.

"If it's really true that she's pretty guilty of

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something and he made it very clear that there was a quid pro quo if she set up sex - that's about as abusive as you could be of your official powers," he added. "That's if the quid pro quo was really clear. It's hard to imagine, other than killing someone, a more significant abuse of your office. It's serious."

District Attorney Ed Berberian said he has no plans to seek an independent investigation, either through his own office, a grand jury, or the state attorney general's office.

"If the sheriff had information that established a basis for a referral to our office that a crime had occurred he would refer the matter to our office for review - that is the standard practice," Berberian said in an e-mail statement. "If the sheriff for some reason believed it presented a conflict of interest there would be a referral to the attorney general's office or other appropriate agency for their investigation and review."

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