

Legal scholar says judge was correct to dismiss one warrant

09/03/03

By CHRISTIAN BOTTORFF and IAN DEMSKY

Staff Writers

A Nashville legal scholar said better training of police officers could have prevented a judge from throwing out a rape charge against the man who police say killed a Nashville businessman Friday.

At the time that he entered the Electric Picture Co. armed with a shotgun, Thomas Edgar "Eddie" Harrison was free after posting \$65,000 bond. Harrison was looking for his ex-girlfriend but shot the co-owner, Gregory Griffith, Metro police said. Harrison then killed himself in a restroom.

In June, a Davidson County judge had dismissed one of two rape charges against Harrison in which the ex-girlfriend accused him of raping her. The judge dismissed the charges because an officer used the same narrative on two separate warrants.

The judge's action led to a reduction of Harrison's bail from \$90,000 to \$65,000. According to audiotapes from the court proceedings, the judge was critical of the warrants being "identical" and said "nothing ... differentiates one from the other."

Police, however, said yesterday that the officer did everything by the book by using one description of two rapes — in which Harrison was accused of handcuffing his victim, the ex-girlfriend.

"The Police Department has not heard of this being an issue in the past," Metro police spokesman Don Aaron said. "We believe these two warrants, charging two specific sex acts, were included in the narratives."

Officer Matthew Chance, who wrote the warrants, told the newspaper earlier that it was a common practice to use the same narrative. He said he was surprised that the charge was dismissed.

"Just because they've done it in the past, doesn't make it OK," said David Raybin, a lawyer and legal scholar. "It's simply a training issue. The people who take out warrants should be trained in the fact that you have to specify the charges differently."

Chance highlighted one of the two acts of rape by using bold print in one of the warrants to distinguish it from the other charge.

"Bold print is totally inadequate," Raybin said. "It's absolutely meaningless. You have to infer the intent when it's so much easier to put (charge) A on one warrant and (charge) B on the other."

Furthermore, Judge Aaron Holt acted appropriately by throwing the charge out, Raybin said.

"Where there are multiple similar allegations, the warrant or the affidavit has to distinguish between them in some significant way so that the charges are distinct," he said. "The reason for that is ultimately, if the person were convicted of both, you wouldn't be able to tell which one it was."

The Davidson County district attorney's office argued at Harrison's initial court appearance that both rape charges should stand and that his bail should have stayed at \$90,000.

District Attorney General Torry Johnson said yesterday that he thought the charges should have remained in place, although the judge was within his power to use judicial discretion.

"Certainly, on the Police Department's part, it could have been done differently," Johnson said. "But all the facts were in there. There were two types — two things — two acts that would constitute rape. I thought, and think now, that that warrant was sufficient. Could it have been done better? I suppose it could have been. Was it an insurmountable problem? No."

The Police Department yesterday said there has never been notification that it needed to change policies that allow officers to file separate charges with identical descriptions.

"This has not been an issue," spokesman Aaron said. "If it is believed by the courts to be an issue, then the Police Department will certainly take a look at it, as with any issue brought to us by judges or the district attorney."