

Bail not likely for Evans before trial

Hearing continued; another delayed until after murder case

By JENNIFER L. SAUNDERS
Democrat Staff Writer

ROCHESTER — Whether the man accused of murdering Kassidy Bortner last year violated his probation when he was charged with killing the toddler will remain a mystery until next year.

Judge Franklin Jones agreed that a probation violation trial should begin after the completion of the murder trial. With the murder trial set for November, Jones scheduled the probation trial for January.

Jones' action was based on a request by Alan Cronheim and Mark Sisti, attorneys for suspect Chad E. Evans. The motion was not contested by the state.

The agreement was reached Wednesday afternoon at what was supposed to have been a probation violation trial for Evans at Rochester District Court.

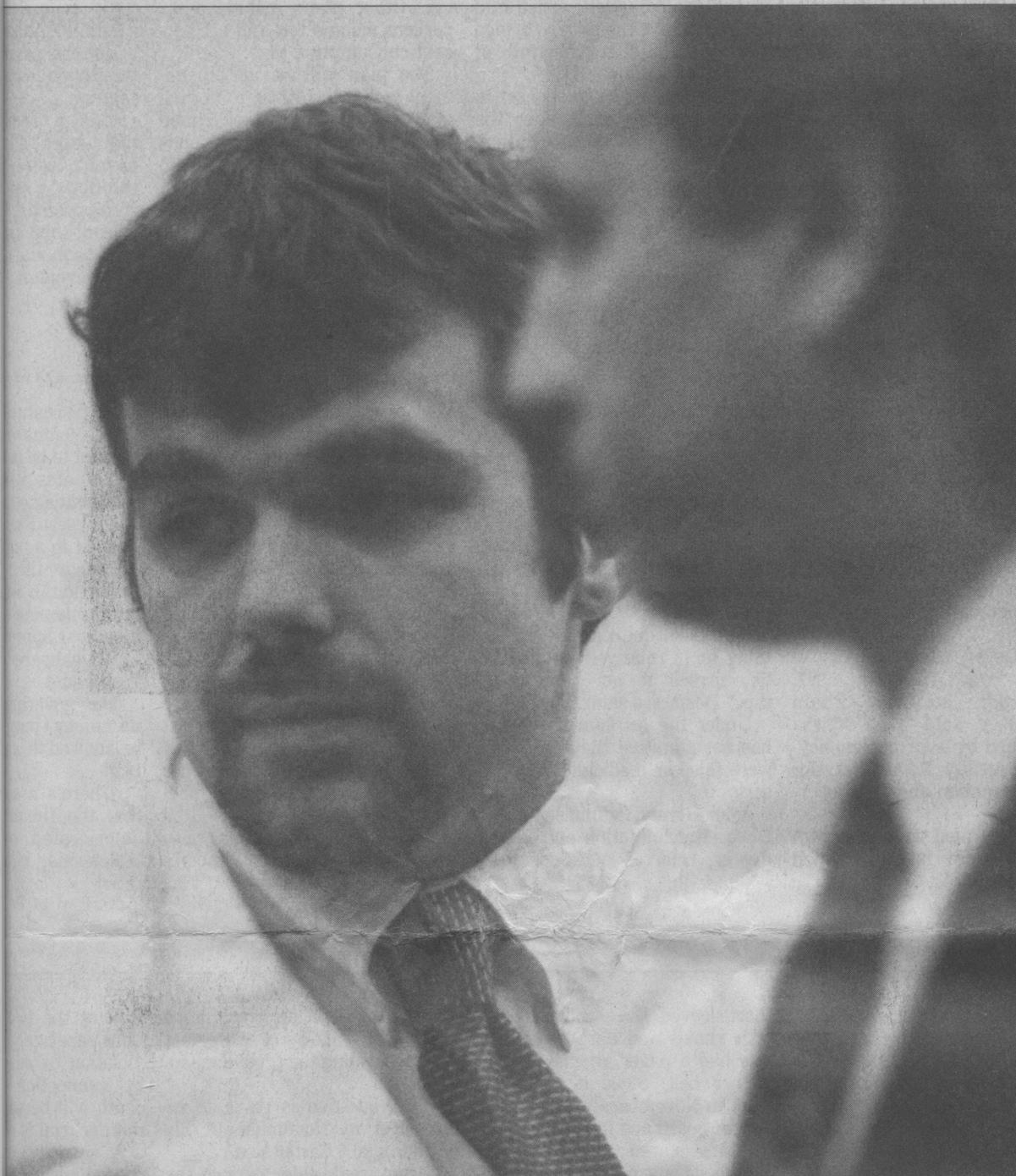
At issue is the connection between the probation violation and the murder trial — and Evans' attorneys' assertion they need disclosure of more information to defend against the lesser charge.

If Evans were convicted on a probation violation, he would most likely be required to await his murder trial behind bars.

Evans, 29, faces second-degree murder and multiple assault charges for allegedly beating Kassidy over a six-week period leading up to her death Nov. 9. Kassidy and her mother, 31-year-old Amanda Bortner, lived with Evans on Milton Road in Rochester.

☆ **Jail not likely**

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Mike Ross/Chief photographer

ACCUSED IN MURDER OF TODDLER — Chad E. Evans was in Rochester District Court on Wednesday for a probation violation hearing stemming from allegations he possessed live rounds of ammunition at his Milton Road home in November. He is currently out on bail awaiting trial on charges of killing 21-month-old Kassidy Bortner of Rochester.

Shortly before 4 p.m., Evans departed company with his attorneys and left the courthouse a free man.

At the time he was charged, Evans was on probation for a previous domestic assault conviction. Evans pleaded guilty in March 2000 to a charge he assaulted his former wife, Tristan Evans. The two were married at the time the assault occurred, but were separated several months later when Bortner moved in with Evans.

After the court recessed for the day, Special Senior Assistant Attorney General Christopher Carter explained the legalities contributing to the postponement.

As part of Evans' probation violation trial on the arrest, Carter said, "under New Hampshire law he is entitled to have the facts giving rise to his arrest proved by a

preponderance of the evidence. Because of the unique nature of the case, these facts are the same that are the case for the prosecution of the second-degree murder and assault charges."

Carter, who joined probation and parole officers Kevin Callaghan and Dick Allen in the courtroom, explained that because of the ties between the probation violation and the murder trial, the attorney general's office is assisting as a courtesy.

When the hearing began about 2:30 p.m., Callaghan, Carter, Cronheim and Sisti approached the bench. Evans, who arrived at court alone, sat in the front of the courtroom, wearing a pale yellow

short-sleeved shirt and dark tie with khakis and dark shoes. He also had a pager attached to his leather belt. Since his arraignment in November, he has grown a short beard and mustache.

Evans stared straight ahead and kept his arms folded in front of him as the attorneys spoke softly with the judge.

Several of Jones' comments, which could be heard by the public, alluded to the delays in the probation violation trial.

Evans received a suspended sentence for the simple assault conviction last spring. He is to remain "arrest-free" and demonstrate good behavior, according to his probation agreement.

However, Evans' attorneys have argued the validity of the arrest itself in fighting the probation violation.

"That question is going to be answered in November at his murder trial," Carter said.

Carter would later explain the defense's position is "they do not yet have all the information they claim they need to defend against the probation violation" because information related to that arrest is being handled in Strafford County Superior Court as part of the murder trial.

Under due process, Carter said, that is an appropriate request for the defense to make.

It soon became clear the probation violation trial would again be postponed, and Cronheim smiled at Evans as he turned to leave the courtroom.

Cronheim and Sisti escorted Evans out of the courtroom and were joined by Carter and the probation officers for a closed meeting.

"We're not finished yet," Cronheim told members of the press.

The hearing resumed a short time later when Jones agreed to

look at the two probation violations separately. The trial for the violation based on Evans' arrest in connection with Cassidy's death will be scheduled after the murder trial is completed.

A second probation violation charge alleges Evans had a large quantity of live ammunition at his Milton Road residence when it was searched during the investigation of Cassidy's death.

Carter and Callaghan explained that issue would be handled separately because it is not interwoven with the Cassidy case. But Evans' attorneys indicated they will raise legal issues on that part of the violation.

Jones set a trial date of July 19 after Cronheim and Sisti agreed to present their "issues" by May 11. The state will then have 10 days to respond and a two-hour hearing on the legal motions will be held at Rochester District Court on June 7.

Callaghan asked Jones to reiterate that the bail conditions remain in effect on the probation violation charges just as they do for the murder and assault case, and Jones said the conditions stand until the trials are complete.

Shortly before 4 p.m., Evans parted company with his attorneys and left the courtroom alone. He looked pleased as he strode down the steps, past photographers and across the street.

Officials have said 21-month-old Cassidy died after receiving blunt-force injury to her head at that her small body was covered with bruises and other signs of abuse.

During the investigation Bortner told police that Evans abused Cassidy by throwing her into walls, squeezing her face against her head, and choking the girl. Bortner also stated she and Evans agreed not to seek medical attention for Cassidy's injuries and lie about the cause of the marks on the toddler's face and body.

Bortner has not been charged with any crimes in connection with her daughter's death. Several weeks ago, when reached by telephone and asked for his thoughts on the case, Evans said, "Should I speak with my heart or with my head?" A spokesman declined to comment.

Since his arrest, Evans reportedly has been on leave from his job as a district manager for a corporation that oversees McDonald's restaurants. He is free on \$100,000 corporate surety bail.

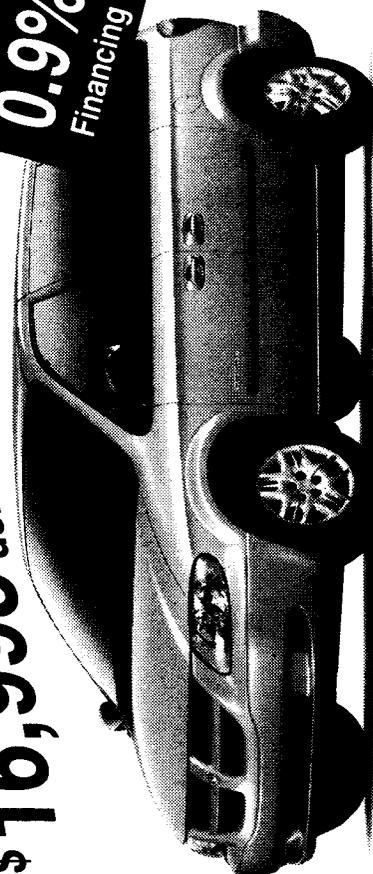
Cronheim has stated he will not discuss Evans' alleged involvement in Cassidy's death because they do not intend to try the case in the press.

Evans' next court appearance is scheduled for May in Strafford County Superior Court for a status hearing on the murder trial

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