

Swain will stand trial for murder in Caribbean

By Sam Bari

Former Jamestown Town Council member David Swain, 51, has been committed to stand trial in a British Virgin Islands court for the 1999 murder of his wife, Shelley Tyre.

The Eastern Caribbean Supreme Court sitting at the High Court, in Road Town, Tortola will try the case on a date yet to be announced.

Senior Magistrate Judge Valerie Stevens on July 17, ruled that sufficient evidence was presented during a preliminary inquiry for the Swain case to go to trial. The proceedings are tentatively scheduled to begin in the October, 2008 Criminal Assizes, when BVI courts usually schedule capital cases.

Swain is a Jamestown resident and former owner of the Ocean State Scuba dive shop on North Main Road. He is charged with murdering his wife, Shelly Arden Tyre, on March 12, 1999 while the couple was scuba diving at the twin wrecks off Cooper Island, in BVI territorial waters. At the time of the incident, the Swains were vacationing with Christian and Bernice Thwaites, formerly of North Kingstown, and their 9-year-old son.

Tyre's death was originally ruled an accident by BVI authorities and the case was closed unless evidence to prove otherwise came forth. Tyre's parents, Richard and Lisa Tyre, now of Canton, Mass., hired Warwick Attorney J. Renn Olenn to investigate the case in the BVI.

Olenn worked for a year and amassed enough evidence, although circumstantial, to warrant a wrongful death lawsuit which the Tyre's initiated in 2002. The case went to trial in 2006 and the Rhode Island Superior Court found Swain responsible for Tyre's death. The court awarded Tyre's family more than \$5 million in compensation.



David Swain

Swain appealed the case and lost his bid to overturn the 2006 wrongful death verdict on May 13 of 2007. In a 21-page decision, the Rhode Island Supreme Court rejected Swain's arguments for a new trial. While Swain was going through the appeal process, BVI authorities reopened the case and asked that Swain be extradited to face charges in Tortola based on evidence brought forth in the Rhode Island civil trial.

In November of 2007, almost nine years after Tyre died, federal marshals presented Swain with a murder warrant from Tortola, and arrested him at his Jamestown dive shop.

Swain formally waived his right to contest extradition on January 25, 2008 and was extradited to the Virgin Islands on Feb. 13 in the company of Royal Virgin Islands Police Force members. He has been remanded ever since at Her Majesty's Prison, Balsam Ghut, in a remote area of Tortola. While in prison, Swain learned that he had lost his appeal in the RI Supreme Court.

The preliminary inquiry into the case in the BVI began on April 18, 2008, and concluded on July 16. The following day, Senior Magistrate Judge Valerie Stevens ruled that sufficient evidence had been

presented to take the case to trial.

Stevens' decision came after hearing testimony or taped depositions from witnesses for the prosecution. Included in the depositions was testimony from Bruce Hyma, the chief medical examiner for Miami-Dade County, Fla. He gave damning testimony during Swain's 2006 RI civil trial saying that Shelley Tyre's death was in fact, a homicide.

Christian Thwaites also gave testimony as a witness for the BVI prosecution. At the RI civil trial he said that he had found Tyre unconscious, and possibly dead, on the ocean floor in about 80 feet of water.

In the BVI system of justice, the press and the public are not allowed in court during a preliminary inquiry. Consequently, the exact content of testimony given at the inquiry was not disclosed.

After the announcement was made to take the case to trial, the Tyre's attorney J. Renn Olenn was quoted as saying, "The Tyres are delighted and gratified by the move and they have every confidence that the people of Tortola will make sure justice is done."

Swain's Boston attorney, Jeffrey A. Denner, of Denner Pellegrino, LLP, said in an Aug. 4 telephone interview, "Swain has maintained his innocence and is looking forward to his day in court. He is anxious to get a speedy resolution to this matter."

Denner said that Swain's spirits are good and that he is holding up well in difficult conditions. "They are treating him as well as can be expected under the circumstances, but life is hard in any prison," Denner explained.

He expressed confidence in Swain's BVI counsel, Hayden St. Clair-Douglas of McW Todman & Co. "If everything goes as planned, we will be working right along side of them throughout the trial," Denner said.

Meanwhile, Swain will remain incarcerated in Balsam Ghut until the trial begins sometime in October.

'Cranky Yankee' gives book talk

The South Kingstown Public Library will present local author Virginia Leaper with her new book, "The Cranky Yankee," on Wednesday, Aug. 20, at 7 p.m.

Anyone with New England in their blood will enjoy these vignettes about hurricanes, clambakes at the farm, walks by the sea and reminiscences about the Fourth of July and Christmases past.

Leaper's work is not all about bygone days, however. Included are her pithy, thoughtful and often controversial pieces on current events and world affairs. Copies of the book will be available for sale and autographing after the talk.

The event is free of charge and open to the public. The library is located at 1057 Kingstown Rd., Peace Dale.

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Newport Hospital welcomes Jacques P. Fontaine, MD



Jacques P. Fontaine, MD

Dr. Fontaine, a thoracic surgeon, has joined Newport Hospital's medical staff. He earned his medical degree from McGill University in Canada and completed his surgical internship and residencies at the University of Montreal and Boston University. Dr. Fontaine completed a fellowship in thoracic surgery at Brigham and Women's Hospital.

Dr. Fontaine is an assistant professor at the Warren Alpert Medical School of Brown University and is certified by the American Board of Surgery and the American Board of Thoracic Surgery. His local practice is with University Surgical Associates, 220 Bellevue Avenue, in Newport.



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