

# Judge rules in favor of prosecutors

By JOELLA LOVVORN

Friday afternoon, Lamb County District 154 Judge Felix Klein, affirmed an order of Jan. 2004, and will continue to allow Lamb County DA Mark Yarbrough and Assistant DA Scott Say, to represent the state in the habeas corpus hearing for Alberto Sifuentes and Jesus Ramirez.

Sifuentes and Ramirez were convicted by two juries for the Aug. 6, 1996 murder of Jolly Roger Convenience Store Clerk Angie Cruz, and have already served seven years on their life prison terms.

Judge Klein denied the request from attorneys from Haynes and Boone of Dallas, Friday morning, asking the judge to take them off the habeas corpus hearing case.

"Separation of Powers in Texas don't give me that authority — except in extreme cases," the judge said.

After reviewing some published cases that have dealt with similar circumstances, the judge made his ruling Friday afternoon.

The habeas corpus hearing was recessed a week ago Thursday in

Lubbock, to determine whether the local attorneys would remain on the case.

"They (Yarbrough and Say) will continue to serve as lead attorneys for Lamb County, unless they take themselves off," said Judge Klein. "That will be up to them," he continued.

Haynes and Boone attorneys, Sarah Teachout and Barry McNeil approached the judge with a motion to disqualify Yarbrough and Say, while Say and Yarbrough told the judge why they can't be witnesses.

Say said, "They haven't shown us why they can't get the same information from another source."

He continued, "We were asked to provide an affidavit answering pertinent questions, and an affidavit and live testimony are not the same."

Attorney Teachout said, "It's not our intent to get them off the case. All we're seeking is their testimony, so we can develop evidence.... We want to know what they know, and their testimony is

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needed."

Judge Klein clarified that in his previous order, the prosecutors were allowed to testify about Brady rule facts (which relates to the sharing of evidence with the other side).

Say told the judge, "They haven't provided any evidence that we have violated any Brady rule."

In closing the meeting Friday morning, Attorney McNeil said, "We all but completed the testimony last week. Once we determine who the attorneys will be for the state, we will reach an agreement on one more day of testimony."

"We hope to schedule a continuance in a couple of weeks," McNeil said.

Judge Klein then took the cases for review, and announced he would make his ruling that afternoon.