

# Gerald Day bound over for trial

By Melissa Walsh  
*Staff Writer*

**GROSSE POINTE FARMS** — Grosse Pointe Farms Municipal Judge Matthew Rumora bound the April 23 Farms home-invasion cases over for trial in Third District Court following Monday's preliminary examination hearing for charges of two counts of first-degree home invasion, fourth offense, against Gerald Duane Day Jr., 28, of Detroit. An "arraignment of the information" hearing is set for 9 a.m. Monday, Nov. 13, before Judge Kevin J. Cox. Reviews of other charges

against Day for crimes committed in Grosse Pointe Woods April 15 and the City of Grosse Pointe April 22 also will be held before Judge Cox Nov. 13.

Assistant Wayne County Prosecutor Melissa Palepu submitted evidence supporting probable cause linking Day to home invasions occurring in succession during the early morning hours of April 23 — in the 300 block of Lothrop and 400 block of Madison. The initial report of these crimes was called in about 4:40 a.m. Following a manhunt, Public Safety Officer Thomas Dionne

arrested Day at 10:44 a.m. in the backyard of another home on Madison as Day attempted to break into a car. In testimony, Dionne described the events of the manhunt, the perimeter established to contain Day during pursuit by Grosse Pointe police and evidence collected, including gloves found on the garage roof of the yard in which he was arrested.

Farms Detective Ryan Ford, the officer in charge of investigating the April 23 home invasions, testified to photos he took supporting probable entry into the home and

of footprints supporting the suspect's path across the backyard. Images of dirt footprints and shoe impressions made by moisture on concrete were submitted from the locations of the home invasions and arrest.

Other evidence included a gas can public safety officers allegedly saw Day drop while running and picture wire found on the sidewalk in the 400 block of Manor. Police also recovered a firearm at a second home in the 400 block of Lothrop matching the description given by the

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victim of the April 15 first-degree criminal sexual conduct case in the Woods.

Officers from the City and Woods presented other evidence linking Day, including footprints Michigan State Police cast from the backyard of the home invasion on Washington matching the tread of the shoes Day was wearing when arrested April 23; cell phone records obtained in the investigation of the Woods case; and items collected with a search warrant from Day's Detroit home on Moross, which were consistent with witness accounts of what the suspect was wearing and items he used during the crimes.

City of Grosse Pointe Lt. John Alcorn, who interviewed Day after he was arrested, testified that Day signed Miranda documentation with his left hand. The victim in the City case reported Day held the firearm with his left hand, he said.

Day pleaded not guilty to all charges.

# Day to stand trial for home invasion, sexual assault

By Melissa Walsh  
Staff Writer

**DETROIT** — Gerald Day Jr. appeared in the Wayne County Third Circuit Judicial courtroom of Judge Kevin J. Cox Monday, Nov. 13, in the arraignment on information hearing for two April 23 home invasions in Grosse Pointe Farms. Day left the courtroom with signed trial orders for crimes he allegedly committed in Detroit and Grosse Pointe Woods.

Day was arrested April 23 by Farms public safety officers following an hours-long manhunt in a perimeter closed off by police following calls from home-invasion victims.

During Monday's hearing, Cox reviewed four additional cases in which Day is the prosecution's prime suspect — two home-invasion cases with additional criminal charges in Detroit and Grosse Pointe Woods, a separate felon in possession of a firearm case in Grosse Pointe Woods and an auto theft case in Grosse Pointe Farms. Day's defense attorney, Christine Grand, entered on the record a competency report dated Oct.

24, assessing Day as competent to stand trial in the Woods cases.

Following a bond hearing Dec. 1, and final conference for all six cases Feb. 2, 2018, Day will stand trial Monday, March 12, for charges in the Detroit case of first-degree home invasion, unlawful imprisonment, two counts of felonious assault and domestic violence. Monday, March 19, 2018, he will stand trial for crimes he allegedly committed April 15, in the 19000 block of Raymond, namely first-degree home invasion, two counts of first-degree criminal sexual assault, second-degree criminal sexual assault and assault with intent to commit armed robbery.

The AOI hearing, which launched the trial phase of the prosecution's criminal cases accusing Day, follows the submission of evidence during preliminary examination Monday, Nov. 6, supporting probable cause linking the April 23 Farms home invasion cases to April 15 and April 22 home invasions in the Woods and City, respec-

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tively. Though the City case was dismissed, due to a victim not wishing to testify, evidence gathered

at the home was included in the prosecution's list of people's exhibits.

A stand mute plea was entered on the record on Day's behalf for the Farms home invasion cases.

# Day to stand trial for home invasion, sexual assault

By Melissa Walsh  
Staff Writer

**DETROIT** — After refusing a plea deal offered by the Wayne County Prosecutor's Office, Gerald Day Jr. will stand trial for a plethora of charges in six criminal cases occurring in Detroit, Grosse Pointe Woods, City of Grosse Pointe and Grosse Pointe Farms.

Day's attorney, Christine Grand, clearly articulated the people's offer to her client on the record during Monday's motion hearing and final conference in front of Wayne County Circuit Judge Kevin J. Cox.

With a guilty plea to

home invasion and criminal sexual assault, Day, 28, would serve 27 to 50 years in prison with parole and lifetime registration as a criminal sexual offender, plus another two years for a felony firearm count and 10 concurrent years for unlawful imprisonment charges.

With the resolution, the prosecution would drop two Farms home-invasion charges and unlawful use of a motor vehicle, also committed in the Farms.

"I want to go to trial," Day told the court, pleading "not guilty" with the knowledge he could be given a prison sentence of 177 to 257 years upon a guilty verdict by the jury.

Day was arrested the morning of April 23, 2017, by Grosse Pointe Farms police following a mutual-aid manhunt to apprehend the suspect of two overnight home invasions in the 300 block of Lothrop and 400 block of Madison. Evidence discovered by investigators of previous crimes in Detroit, Grosse Pointe Woods and the City of Grosse Pointe links Day to a wave of crimes, the prosecution alleges.

Six active criminal cases amount to 18 felony counts against Day. On March 12, he will stand trial for the April 15, 2017, home invasion and sexual assault crimes that occurred in

the 19000 block of Raymond. The trial for a home invasion in Detroit Dec. 15, 2016, is scheduled March 19.

"That is the people's one and only offer," Wayne County Assistant Prosecutor Danielle Bennetts said of the resolution offered three weeks ago by the prosecutor's office.

Bennetts requested Cox allow "other acts evidence" as admissible during the trial.

Grand objected, arguing that admitting "other acts evidence" would be "extremely prejudicial against Gerald Day."

"It seemed legislators had this person in mind

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when they wrote the 'other acts evidence' (Michigan Rules of Evidence) rule 404 (b)," Bennetts told the court.

Bennetts said she will introduce other acts of criminal misconduct with the common scheme of home invasion to com-

mit sexual assault against females unknown to Day.

"The people want the court to take notice of these other acts," Bennetts said.

Granting "other acts evidence" as admissible during trial, Cox said the evidence must meet a three-part standard:

◆ Is the evidence offered for the proper

purpose?

◆ Is the evidence relevant?

◆ Is the probative value of the evidence not substantially outweighed by unfair prejudice under MRE 403?

MRE 403 addresses "exclusion of relevant evidence on grounds of prejudice, confusion, or waste of time." MRE 404 addresses "character evi-

dence not admissible to prove conduct; exceptions; other crimes."

Cox added he will allow the prosecution's application of 404 (b) with "limiting instruction to be delivered to the jury."

In 1994, the Michigan Supreme Court clarified MRE 404 (b) as requiring the prosecution to give pretrial notice of at least 14 days before the trial date of intent to introduce other acts and the trial judge to require the defendant to state the theory or theories of defense, limited by privilege against self-incrimination. The same year, the Michigan State Court amended the rule to allow trial courts flexibility in evaluating admissibility of "other acts" to prove motive, opportunity, intent, scheme, plan or system of the accused.

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# Mistrial

## New date for home invasion and rape case

By Melissa Walsh

Staff Writer

**DETROIT** — With eight witnesses sequestered outside the courtroom on the third day of trial charging Gerald Day Jr. of first-degree home invasion and armed criminal sexual assault in Grosse Pointe Woods, Wayne County Circuit Judge Kevin J. Cox declared a mistrial Wednesday, March 14.

Monday, March 12, Cox gave the newly selected jurors their instructions for evaluating elements in the seven criminal counts accusing Day, 28, of breaking into a mother of four's home and raping her at gunpoint in the 19000 block of Raymond April 15, 2017, including, "If the defendant does not testify that does not change the People's burden to prove all elements beyond reasonable doubt." He instructed Day is presumed innocent until proven guilty.

"Only the answers by a witness are evidence," Cox added. "The ques-

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tions the attorneys ask are not evidence."

Proceedings were expected to continue six days with the jury deliberating no earlier than Tuesday, March 20.

The first day of trial concluded with the assistant prosecutors and defense attorney giving opening statements to the jury.

The prosecution told jurors they would be presented evidence of an eight-day crime wave in three Grosse Pointe communities, where Day "left his calling card."

Christine Grand, defending Day, told the jury, "We are here because the prosecution has made a lot of serious allegations. You are here because we believe you are a fair and impartial jury."

The rape victim would be the first of 27 witnesses summoned by the prosecution to give testimony. But when the court gathered 9 a.m. Tuesday, March 13, Cox released the jury, announcing the defendant was not in attendance and the trial would resume 9 a.m. Wednesday, March 14.

Wednesday morning, Day again was absent from court and, for the first time during her son's scheduled court appearances, Day's mother also was absent.

The court record began that morning with Wayne County Assistant Prosecutor Danielle Bennetts stating Day's absence due to hospitalization was allegedly the result of his own actions. She requested a continuance.

Grand objected, arguing the cause of her client's hospitalization remained unconfirmed. He was found unconscious in his jail cell overnight, she said, adding statements made to a Detroit Free Press reporter by Grosse Pointe Farms Lt. Detective Rich Rosati on Tuesday should lead to a mistrial.

"Unfortunately the court is in the position of declaring a mistrial," Cox responded. "That Day is in the hospital due to his own action is the best information I have. ... I can't assume (the jury) will be able to be here beyond next Tuesday."

Calling Rosati's statements to the Free Press, published that morning, "beyond the pale" and "very troubling," Cox

said, "It's beyond ridiculous and regrettable that Mr. Rosati told a reporter about other alleged incidents that are not before the jury. I wonder, was Detective Rosati trying to invoke a mistrial?"

Grand said, "If I have any other information, if (Day) is returned to jail, I will tell the court and the four prosecutors."

According to Wayne County Jail inmate data, Day was in jail Monday, March 19, the day he was scheduled to appear in Cox's court for the start of the jury trial for charges of home invasion and felonious assault occurring in Detroit Dec. 20, 2016.

In the Woods case, Wayne County Assistant Prosecutor and Director of Communications Maria Miller released a statement the afternoon of Wednesday, March 14, explaining, "Today Judge Kevin Cox declared a mistrial because the defendant is medically unavailable."

Miller announced July 10, as the date for jury trials for both the Woods and Detroit cases, beginning concurrently in Cox's courtroom.

At press time, the prosecutor's office had no comment on the reason for Day's hospitalization.

Grosse Pointe Farms Director of Public Safety Dan Jensen told the Grosse Pointe News he feels there is no damage to the case with Rosati's statements to the Free Press — "that if Rosati hadn't said anything, it would've been the same outcome."

The Woods charges are for one of six active criminal cases appearing on Cox's docket in which Day is the defendant. Feb. 5, 2018, Day waived a plea resolution offered by the prosecution to serve 27 to 50 years in prison, pleading not guilty to 18 felony

counts that, if found guilty, could lead to a sentence of 177 to 257 years. In proving the elements of the seven counts in the Woods case, Cox granted the prosecution's request to allow "other acts evidence" from other cases linking Day.

# Day's sentence: 92 to 157 years

By Melissa Walsh  
Staff Writer

**DETROIT** — Gerald Day Jr. sat in green Wayne County Jail scrubs, back facing Wayne County Circuit Judge Kevin Cox, during his Aug. 24 sentencing for crimes com-

mitted in Detroit and Grosse Pointe Woods in 2016 and 2017, respectively.

Day, 29, will spend 92 to 157 years in prison,

"It was a very complicated and involved case that took all of the law enforcement resources of all the Grosse Pointes in cooperation with the Wayne County Prosecutor's Office and Michigan State Police and we were able to serve justice," said Woods Public Safety Detective Anthony Chalut, lead investigator in the Woods case. "And nothing can undo what happened to the victim in this case, but we do feel that justice has been served."

Prior to sentencing, the

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victim of the Woods crimes spoke before a full courtroom, expressing "deepest appreciation to my team who fought for me," which included Woods Public Safety detectives and officers and the Wayne County prosecution team, "and all those who cried with me and for me."

Wayne County Assistant Prosecutor Danielle Bennetts reminded the court Day was charged with home invasion and sexual assault crimes in the Grosse Pointes in April 2017, following his release on bond for a home invasion, where he tied a woman up and tazed her, while threatening her with a knife, Dec. 20, 2016, in Detroit.

Cox sentenced Day to 20 to 40 years in prison for

the jury convictions of home invasion and felonious assault in the Detroit case, to be served consecutive to a sentence of 50 to 70 years for convictions in the Woods case of home invasion, criminal sexual assault and assault with intent to commit armed robbery, plus another consecutive two years for a felony firearm conviction.

Reminding the court that Day, a habitual fourth offender, committed the Woods crimes while released on bond, Cox added, "(Day) breached the trust of the court and the criminal justice system," leading the court to find "a compelling basis to impose consecutive sentences."

Calling Day's actions "evil," Cox said, "You damaged the victim in countless ways, in unspeakable ways."

Cox also ordered Day undergo lifetime elec-

tronic monitoring and treatment as a sexual offender before advising him of his right to appellate review.

In jury trials beginning Aug. 27, Day faces charges for home invasion crimes in Grosse Pointe Farms April 23, 2017, the day he was arrested. Other acts evidence from those crimes and a home invasion in the City April 22, 2017, were allowed as part of more than 240 pieces of evidence presented to the jury in the Woods case.