

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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