

# Attorney's request for change of venue from Forsyth denied

By Steven H. Pollak  
Staff Writer

In the wake of a trial here last month where a black defendant was convicted by an all-white jury, another attorney with a black client has asked that his case be moved out of Forsyth County.

The attorney, R. Parker McFarland Jr., argued Friday that the case needs to be moved because blacks are not fully represented on the jury pools and the county has a history of racial prejudice.

However, Chief Judge Jeffrey S. Bagley of the Superior Court of Forsyth County has denied the request unless a "fair and impartial" jury cannot be found in Forsyth, he said.

McFarland's client, 30-year-old Patrick Anthony Petty of Chamblee, stands accused of theft by receiving a stolen motor vehicle, giving a false name to a law

enforcement officer and obstruction of a law enforcement officer.

Although his trial could be called as early as this week, it will most likely not begin until at least next month.

According to the census estimates used by the courts, black residents make up only 0.7 percent of Forsyth County's population.

However, within the jury pools, blacks account for just 0.3 percent of the potential jurors.

"That's less than half of what that should be," McFarland said. "Without question, black persons are underrepresented."

The prosecutor in the case, Assistant District Attorney C. Todd Hayes, noted that recent decisions by the Supreme Court of Georgia have allowed for a disparity of at least 5 percent in the jury pools.

Indeed, Bagley also earlier, she said, she heard another potential juror say he would "hate to be a black man on trial in Forsyth County."

McFarland filed his request for a "change of venue" after Lee was convicted, saying Forsyth County "has a history of racial prejudice" that may prevent his client from receiving a fair trial.

"This defendant is going to start with a strike against him," McFarland said Friday.

For his part, Hayes accused McFarland of taking one juror's reported comments and trying to turn them into a sign of widespread community bias.

The prosecutor pointed out that before the Lee trial began, Bagley questioned each of the remaining jurors individually to ensure none of them harbored any prejudice or sympathy toward the defendant because of his race.

noted the Supreme Court's decisions and said the juror pools appear to be within the law.

In addition, the current juror pools will be replaced in October, the judge said.

As for the history of racial prejudice against blacks in this county, McFarland said he became even more concerned for his client after reading about juror comments during the Shelton Lee case last month.

Lee, a 47-year-old Norcross man who is black, was found guilty of sexually molesting a 65-year-old disabled nursing home resident who is white. Bagley sentenced him to serve 12 years in prison two weeks ago.

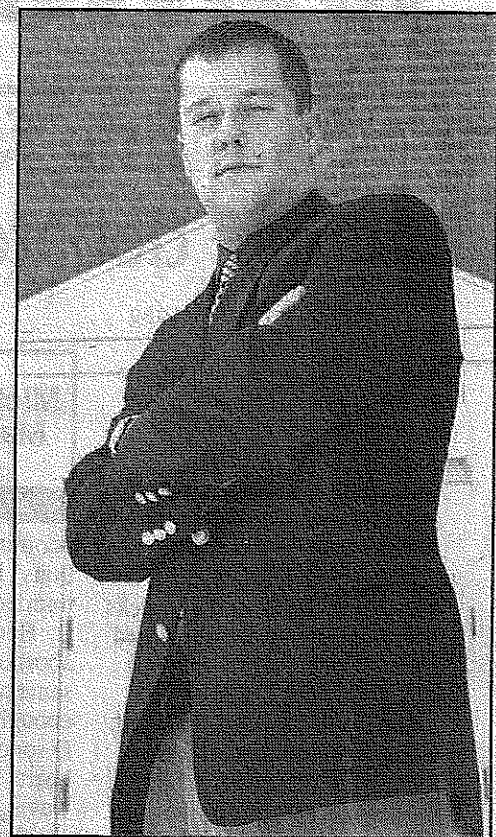
Before the trial began though, one of the jurors who was later dismissed from the case, said she overheard comments about "O.J. Simpson" in the jury deliberation room. A day

On Friday, Bagley also acknowledged the steps taken during the Lee trial to make sure the defendant received a fair trial.

The judge then noted that the county's population has more than doubled since 1990 and he believes that most of the new residents know little of Forsyth's racial problems during the early part of the 20th century, particularly the events of 1912 when a black man was lynched in Cumming.

Bagley said the passage of time and the influx of residents in Forsyth County have diluted any type of community prejudice that may have existed.

The judge then said he may revisit the issue if a "fair and impartial" jury cannot be found in Forsyth County but — for now at least — he was denying McFarland's request to move the case somewhere else.



R. Parker McFarland Jr.

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