

**Trial**

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Upon being shown the report from Komning's interview of Smith's accuser and the coworker, Palmer said he told Komning to take the investigation to an outside agency.

Zach Mobley testified that, other than receiving a phone call that Smith had left his kids at home unattended and turning the report over to the John Day Police Department, he had no recollection of being involved with initiating any kind of formal or informal investigation into Smith.

Komning said he asked the Wheeler County sheriff to conduct an internal affairs investigation of Smith, and the sheriff recorded another interview with Smith's accuser.

In that interview, according to the recording that was played in court on April 20, Smith's accuser acknowledges placing a tracker on Smith's vehicle and keeping the Grant County Sheriff's Office updated on Smith's whereabouts.

Komning testified that he was not aware of Smith's scheduled interview with the DOJ to talk about alleged misconduct by his sister at the time he conducted his interview with Smith's accuser. According to Komning, he was acting on Palmer's concerns about the safety of Smith's accuser and the children.

In court, the defense pointed to what it called contradictions between Komning's statements and Palmer's April 27 testimony. Under cross-examination, the former sheriff said he did not remember saying those things to Komning.

"I don't recall what the conversation was with Danny Komning," Palmer said. "If that's what he testified, then that's his testimony. I don't recall it."

Additionally, Komning testified that Palmer was concerned that Smith had been spying on the Mobleys.

In the interview, Komning told Smith's accuser that Smith had changed and that he was concerned about the safety of those around him. The accuser asked Komning to go off the record. In Komning's report, the accuser makes contradictory statements, first claiming



Steven Mitchell/Blue Mountain Eagle

**Grant County Sgt. Danny Komning takes the witness stand Wednesday, April 20, 2022, during a hearing of a former Grant County sheriff's deputy, Tyler Smith, accused of attempted rape and two additional counts of domestic violence toward his wife in 2019. Smith's attorneys have made a motion to dismiss the charges after an audio recording of an interview between Komning and Smith's accuser and 300 pages of documents were turned over as evidence on the first day of trial.**

Smith had been "abusive" with the children, then saying he is good with the kids but that he was neglecting them.

The defense asked Komning if he reported the abuse to the Department of Human Services given that, as a patrol deputy and a mandatory reporter, he was required by law to report such an allegation.

Komning said what the accuser told him did not meet the threshold of abuse. Moreover, he said he thought submitting the report to Palmer was enough to meet the mandatory reporter requirement.

Asked why he did not turn over the recording to prosecutors, Komning said that he did not think the recording was relevant to Smith's criminal case.

**Palmer and the prosecutor**

After the first day of the hearing on April 20, the defense amended its motion to dismiss based on testimony by Jim Carpenter, Grant County's district attorney.

Carpenter testified that Palmer had emailed him asking for assistance in finding a legal avenue to arrest Haley Olson, Smith's girlfriend, who claimed on social media that she had documents that proved Smith was innocent of the

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charges brought against him.

Carpenter said he directed Palmer to work with Gretchen Ladd-Dobler, Wheeler County's district attorney, one of the special prosecutors, along with Kimberly, who was handling Smith's case.

The defense attorneys argue that Carpenter's testimony shows Palmer was looking for a way to suppress documents that could be used to exonerate Smith. They have asked the state to produce additional emails in a thread between Palmer, Carpenter and Ladd-Dobler that was among the discovery materials submitted in October.

In Kimberly's cross-examination of Carpenter, she asked if Palmer's inquiry went any further than the email thread.

Ladd-Dobler's participation in the case has come under

scrutiny given that she is the wife of Grant County Sheriff's Deputy Dave Dobler. The defense asked Carpenter — who asked her to take on the Smith case — if he saw a potential conflict of interest because of that relationship.

Ladd-Dobler told the newspaper in September of 2020 that Smith's criminal case was investigated by the Oregon State Police and not the Grant County Sheriff's Office. She went on to say that district attorneys, not victims, decide if criminal cases move forward.

The failure to turn over the recordings and related documents until just before the start of trial, according to Smith's defense attorneys, points to a consistent pattern on the part of the prosecutors of improperly withholding evidence that could exonerate the defendant.



Steven Mitchell/Blue Mountain Eagle

**Klamath County Circuit Court Judge Dan Bunch.**

The prosecutors, however, reject that line of reasoning entirely, arguing that none of those materials are relevant to the criminal charges against Smith. Therefore, they insist, the charges against him should not be thrown out.

**'Hide the ball'**

Smith's attorneys claim the evidence suppression has been a constant for two and a half years.

"This case," Andrew Coit said during a court hearing on April 27, "has been for the DA's Office and law enforcement about hide the ball."

The controversy, which could change the course of Smith's case by leading to another continuance or even a dismissal, began on the first day of the trial in late October.

After the issue of the last-minute discovery dump was raised, Circuit Court Judge Dan Bunch called an on-the-record hearing in his chambers with the attorneys for both sides, court transcripts show.

During that conference, Bunch told Kimberly that it sounded to him as though Smith had patrol deputies within the Sheriff's Office working against him.

"They have not made your

job easy," Bunch told the prosecutor. "(I) am concerned there are officers not shooting straight with you. (I) will tell you, as far as a conviction you have an uphill battle."

For her part, Kimberly told the judge she appreciated his concerns but that the prosecution was confident in its case.

The trial is slated to get underway on May 16, but Smith's attorneys filed a motion on Friday, April 29, for a postponement to allow time for more testimony on their motion to dismiss.

The state objects to the postponement.

"The facts tend to suggest that Grant County has played a significant role in both the development of the criminal allegations and the pursuit of the indictments," Smith's attorneys argue.

"Yet the state continues to both hide evidence it is required to disclose and to interfere with the Defendant's right to a fair trial, evidenced again by its opposition to this request for a continuance of the trial date."

An oral argument on the postponement motion is scheduled for 9 a.m. on Monday, May 9, at the Grant County Courthouse.

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