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Eisenberg wants to drop James Oswald case

Dreyfus says change wouldn't affect trial date

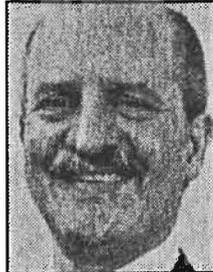
By Kay Murphy Nolan
Freeman Staff

WAUKESHA — Alan D. Eisenberg no longer wants to defend James Oswald.

The Milwaukee attorney filed a motion Friday to withdraw from the case, but gave no reason for the decision.

Judge Lee S. Dreyfus Jr. agreed to schedule a hearing on the matter at 3:30 p.m. Jan 13.

James Oswald faces trial in April for dozens of charges



Eisenberg

will face trial on the same charges.

In an interview later, Dreyfus said he has the authority to deny Eisenberg's request, but said it would be unusual for a judge to do so.

"For example, a judge may not grant such a request if it

stemming from an April 28, 1994, crime spree that resulted in the murder of Waukesha police Capt. James Lutz.



J. Oswald

until the end of April. If there is new counsel, they would have 3½ months to prepare.

"There may be a reason that will mandate his withdrawal," Dreyfus added.

Eisenberg simply said, "I'm moving to withdraw for cause," and said he would explain more at the hearing.

was very close to the time of trial," Dreyfus said. "At least right now, we're not at that point. James Oswald's trial is not scheduled

He said he made his decision Thursday night, but has been thinking about it for some time.

Eisenberg is James Oswald's second attorney.

Last October, Oswald fired his court-appointed attorney, Daniel Fay. Among the reasons Oswald cited for the firing was that Fay's neckties were too flamboyant.

Interviewed later, Eisenberg said he took Oswald's case because Fay asked him to.

"I took the case because I was hired," Eisenberg said. "His attorney called me and told me Oswald wanted me to represent him. Fay urged me and pleaded with me to take the case.

"I don't take cases because they are high publicity, but this one turned out to be one of them, and I needed that like a hole in the head. I did not ask to take this case at all."

Eisenberg said he had discussed his decision with Oswald but would not comment on the conversation. Sam Benedict, attorney for Ted Oswald, said he did know why Eisenberg filed the motion.

"It won't affect me or my case, but I'm sure Judge Dreyfus will be very interested to hear his reason," Benedict said.

Dreyfus said a change of attorney probably would not delay James Oswald's trial.

Oswalds' possessions to be allowed as trial evidence

By Kay Murphy Nolan
and Lori McGinnis
Freeman Staff

WAUKESHA — Judge Lee S. Dreyfus Jr. ruled Friday that about 25 items seized by police from the home of James and Theodore Oswald may be used as evidence in their trials.

Police searched the Oswald home following an April 28, 1994, rampage during which the Oswalds allegedly robbed a

Wales bank and murdered a Waukesha police captain.

Last month, Dreyfus agreed to suppress about 90 items as evidence at the request of the Oswalds' attorneys. They said the objects were seized illegally because they were not listed on search warrants.

The disputed items include boxes and cases from guns, a suitcase containing makeup and a fake mustache and goatee, a wallet containing a driv-

er's license altered to show James Oswald's photo with a false name, handwritten plans to rob banks, a receipt for a rifle, automobile steering columns and car keys, a book about serial killers, and magazines and articles about guns.

District Attorney Paul Bucher convinced Dreyfus that police acted properly when they spotted and seized items that seemed to be connected with the crimes.

"These things were in plain view," Bucher said. "What were the officers supposed to do — cover their eyes?"

Randy Koshnick, an attorney for Ted Oswald, argued that the officers were only supposed to be looking for cash from the bank robbery.

Referring to the damaged steering columns that were seized, Koshnick said, "Sure, it's unusual to have one in your living room, but you're allowed to be eccentric in this country.

It's not a reason for police to confiscate it."

But Dreyfus said police officers would naturally be suspicious, knowing that removal of steering columns is a common way to steal cars.

"In this case, we had additional knowledge that stolen vehicles were involved in the crime," he said.

James Oswald is scheduled for trial April 24. Ted Oswald's trial is Feb. 13.