

"Court Dismisses Elan owner's appeal;  
Testimony still in question in Moxley probe."  
By J.A. Johnson Jr., Greenwich Time

The owner of a Maine drug and alcohol abuse rehabilitation center has been denied an appeal of a judge's order that he give grand jury testimony concerning his alleged knowledge of admissions to the 1975 Martha Moxley murder.

The state Appellate Court last week granted a prosecutor's motion to dismiss the appeal of Elan School owner Joseph Ricci which claimed the state's second highest court lacked jurisdiction over the matter.

Ricci's testimony is being sought, according to court documents, because prosecutors allege Ricci heard, "admissions" about the Moxley murder from suspect Michael Skakel, following Skakel's admission to Elan School for treatment of an alcohol problem in 1978.

"Joseph Ricci was present and overheard Michael Skakel make admissions as to the murder of Martha Moxley," a prosecution affidavit states. "(The) admissions were made by Michael Skakel in response to being confronted by Mr. Ricci and other Elan staff members as to Skakel's involvement in the matter."

But the dismissal of the appeal does not mean that Ricci will be testifying any time soon, according to an attorney representing the rehabilitation center owner.

Tara Knight, a New Haven attorney who has been working with Ricci's lawyers in Maine, said Ricci can not be ordered to give grand jury testimony while another type of appeal "a writ of error" is pending before the state Supreme Court.

The state's motion to dismiss Ricci's appeal, which was granted Feb. 10, stated that the Appellate Court lacked jurisdiction because it could only review final judgements, and the Superior Court judge's order that Ricci testify is only an interim judgement. According to the motion, if Ricci was to go before the grand jury and refuse to testify, he could be held in contempt, and subsequent ruling on a contempt citation would then be deemed a final judgment that the Appellate Court could review.

Knight said the Appellate Court's refusal to hear the appeal had been anticipated, and that was why attorneys representing Ricci and Skakel had simultaneously filed the

writ of error with the Supreme Court. She said writs of errors are the "appropriate vehicles" in appealing interim judgments.

"We decided to use both avenues (of appeal) that were available to us, and now that one of roads is blocked off, we have the writ of error," Knight said.

Ricci first went before the Bridgeport grand jury on Sept. 23, at which time he refused to testify on the basis the sought information was protected from disclosure by physician-patient privilege. The prosecutor for the Moxley case, State's Attorney Jonathan Benedict, subsequently applied for an order directing Ricci to testify. Skakel's lawyers then intervened, seeking to block the testimony of several former Elan School residents and staff members who had already appeared before the grand jury.

After a hearing that ran from October through early December, Superior Court Judge Edward Stodolink ruled the claimed privilege did not apply.

In his Dec. 10 decision, Stodolink said he had not been presented with any evidence indicating Skakel received psychiatric care at Elan, where he said treatment largely involved peer- pressure techniques and group meetings run by Elan residents, and therefore the doctor-patient privilege did not apply. In addition to ordering Ricci to testify, Stodolink said the grand jury can consider other Elan School testimony as evidence.

In the writ of error, attorneys claim Stodolink's ruling not only violated the rights of recovering substance abusers, but disregarded the law.

"The court's order permitting disclosure of confidential communications and treatment records violated rights of Mr. Skakel and exposes the confidential communications and records of others to improper release," the writ of error states. "Disclosure of any confidential communications and treatment records was, in :1975 and 1979, strictly prohibited under applicable federal law as well as Connecticut and Maine law."

Briefs in the writ of error are due Friday.