

Prosecutors obtain sample from Irvin

DENTON (AP) — Authorities working on the year-old drug case against former Dallas Cowboys receiver Michael Irvin obtained a saliva sample from him Monday after executing a search warrant.

District Judge Lee Gabriel had denied the defense attorney's motion for a hearing to oppose issuing the warrant.

Irvin's attorney, Peter Ginsberg, said prosecutors wanted to test the saliva against a marijuana cigarette allegedly found when Irvin was arrested last summer.

Ginsberg said he opposed the search warrant because Irvin is not charged with a marijuana-related crime. Irvin has pleaded innocent to a felony charge of possessing less than a gram of cocaine.

"I think Michael Irvin has been singled out in this case," Ginsberg said after a court hearing Monday. He added that taking the saliva sample was an "unwarranted invasion of Mr. Irvin's privacy."

The judge also set an Oct. 19 hearing date to consider Ginsberg's motion to dismiss the charge. A trial date was set for Jan. 14.

Irvin did not speak to reporters as he left the courthouse Monday.

Irvin was arrested Aug. 9, 2000, two months

after completing probation on a no-contest plea to felony cocaine possession. He was at a Dallas apartment where law officers said they found marijuana and ecstasy pills, which Irvin denies were his.

But Irvin was not indicted until June. If convicted, he could face six months to two years in jail and up to a \$10,000 fine.

Ginsberg has said Irvin was arrested on one charge and is being prosecuted on another. Ginsberg also said he had concerns about the 10-month span between the arrest and indictment.

Assistant District Attorney Lee Ann Breeding has said her office didn't receive the case until February, delaying prosecutors in presenting it to the grand jury.

Breeding said Monday she could not explain the delay in seeking the search warrant for Irvin's saliva sample. She declined to comment on why investigators want the sample.

The case evolved after officers with the Collin-Denton County Drug Task Force, of which the FBI is a part, tried to arrest Rhonda Adaham on a federal warrant at her apartment.

Adaham was not there, but her sister, Nelly Adaham, and Irvin were found and arrested. Nelly Adaham also was indicted on the same charge as Irvin, but Rhonda Adaham was not indicted.

Court orders dismissal of Bush daughter's record cleared of

AUSTIN (AP) — An underage drinking case against President Bush's 19-year-old daughter Barbara was dismissed Monday in Austin Municipal Court, city spokeswoman Patty Gonzales said.

The dismissal comes after Barbara Bush, who pleaded no contest to a charge of minor in possession of alcohol in June, completed eight hours of community service, which she performed at Goodwill, attended an alcohol awareness class, paid \$100 in court fines and stayed out of trouble for three months, Gonzales said.

The charge will be wiped from her record, Gonzales said.

Jenna was fined a total of \$600 in July and her driver's license was suspended for 30 days after she pleaded no contest to trying to use someone else's ID to buy liquor, stemming from the May incident, and a judge convicted her of underage drinking, stemming from an April incident.

Jury to determine mother's competence

HOUSTON (AP) — Andrea Yates' ability to assist her attorney in her defense and to rationally and factually understand the case against her could be fragile and change no matter what a jury determines this week, legal experts say.

Jurors were being picked beginning Tuesday to hear evidence if the Houston mother, accused of drowning her five children in the family's bathtub in June, is fit to stand trial.

Yates, 37, is accused of two counts of capital murder for the deaths of three of her five children.

When testimony likely begins Wednesday, the jury won't consider Yates' innocence or guilt but if she can understand the case against her and consult with her attorneys about it, said Daniel Shuman, a law professor at Southern Methodist University.

If Yates is found competent to stand trial, another jury will determine her degree of responsibility and whether she was insane at the time of the killings.

And if jurors seated this week find Yates incompetent, they'll also have to determine the likelihood she will regain competence.

"If the jury finds her incompetent, what that means is that the state is constitutionally

barred from proceeding with the criminal prosecution until she becomes competent," Brian Serr, a Baylor University Law School professor, said.

If found incompetent, the state can commit Yates to a mental institution for 18 months to try and get her competent, Serr said.

Harris County District Attorney Chuck Rosenthal has said his office will pursue the death penalty against Yates.

Her defense attorneys, contending she is innocent by reason of insanity, have submitted to the court hundreds of pages of medical records detailing Yates' treatment for depression, postpartum depression and showing two suicide attempts after the birth of her fourth child.

The records show Yates wanted to kill herself to keep from hurting someone else. She told doctors she had her first homicidal thought after the birth of her first child, but "blew it off."

Dick DeGeurin, a Houston criminal defense attorney, criticized Rosenthal's office for being "shameless" in its prosecution of Yates since police officers arrived June 20 to find four of the children's lifeless bodies still wet under a sheet on a bed. The oldest was dead in the bathtub.

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