

# Jennings jurors deliberate

By Rick Temple  
Staff writer

A six-member Richland County magistrate's jury began deliberations this morning to determine if Horrell Hill Magistrate David Dewitt Jennings was driving under the influence on Nov. 3.

The jury was charged by Columbia Municipal Court Judge Ann Furr, who is serving as a special magistrate in this case at the direction of state Supreme Court Justice J. Woodrow Lewis.

In closing arguments this morning, defense attorney Jack Swerling attacked the actions of Richland County Sheriff's Deputy Randy Owens, who arrested Jennings at about 1:15 p.m. on U.S. 378 near McEntire Air National Guard Base.

Swerling questioned Owens' decision to follow Jennings after he saw him briefly at The Store on U.S. 378.

Owens testified yesterday that he followed Jennings because he felt Jennings was acting strangely.

Swerling asked the jury to question why Owens did not say something to Jennings at the store. Swerling said that Owens instead decided to "lie in wait" for an opportunity to arrest Jennings.

In closing arguments for the prosecution, John Barton told the jury that a videotape of Jennings taken at the sheriff's department on Nov. 3 showed Jennings' physical and mental faculties were impaired. He repeatedly invited the jury to watch the tape again before reaching its decision. The jury saw the tape yesterday.

Barton, of the state Attorney General's office, is trying the case. He said the Attorney General's office is handling the case at the request of the  
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## Magistrate

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Richland County Sheriff's Department. He said the 5th Circuit Solicitor's office declined to prosecute the case.

Owens testified yesterday that he made the arrest after he saw Jennings drive about 100 feet on the grass beside the eastbound lane of U.S. 378 near Horrell Hill.

Jennings took the stand yesterday in his own behalf and testified that he had pulled off the road to look for a fallen tree. He said he was looking for the tree because the Rev. James T. Montgomery of Temple Zion Baptist Church was seeking permission to cut it up and use it for firewood.

Montgomery had testified earlier that he had discussed the tree with Jennings at about 11:30 a.m. on Nov. 3. He said Jennings was "a sober man" when he met with him that morning.

Jennings said he had not had any alcoholic drinks on Nov. 3 and that he was not under the influence of any type of intoxicant.

Jennings testified that his relationship with Owens had been "eroding for the past two or three years." He said Owens had been "disrespectful" to him on several occasions.

Jennings said that Owens often did not appear in court when his traffic cases came up. Jennings said he had dismissed charges several times when Owens failed to appear.

Defense witness Dan Lowe testified yesterday that he had overheard Owens say to two other deputies, "Well, you didn't get the judge; I did." Lowe said Owens sounded "boastful"

when he made the comments.

The defense presented 12 witnesses yesterday who testified they had contact with Jennings on Nov. 3. They all said Jennings showed no signs that he had been drinking.

Among the defense witnesses were state Rep James Kinard, D-Richland; Richland County Probate Judge John V. Green; Eastover Mayor Lewis Scott; former Richland County Council member W.D. "Son" Grimsley; Richland County Magistrate Walter Jones; and Faye Bales, Jennings' secretary.

Kinard and Green said they had spoken with Jennings on the telephone between noon and 1 p.m. They said Jennings had called to congratulate them for their election victories the day before, and they testified they noticed nothing unusual about Jennings.

Scott said he had spoken with Jennings at his office on Nov. 3 between noon and 12:30 p.m. He said they had discussed garbage pick-up in the area and Jennings had acted in his usual manner.

Ms. Bales said she had worked throughout the morning with Jennings and had no indication that he had been drinking.

Grimsley said he and his wife had been driving west on U.S. 378 when they saw Jennings walking back from his car to Owens' car. Grimsley said Jennings appeared to be walking without any difficulty.

Jones said he set the bond for Jennings on the afternoon of Nov. 3. He said Jennings did not appear to have been drinking. Jones said he did not smell alcohol on Jennings.

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# Deputy denies grudge in arrest of Jennings

By Rick Temple  
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The Richland County sheriff's deputy who arrested Horrell Hill Magistrate David Dewitt Jennings on drunk driving charges denied today that he made the arrest because of a grudge against the magistrate.

Deputy Randy Owens was responding to intense questioning in Columbia city court by defense attorney Jack Swerling as Jennings' trial began its second day.

Swerling asked if Owens had ever

bragged about his Nov. 3 arrest of Jennings on a charge of driving under the influence.

Owens said that he may have "joked" about the arrest with other deputies. However, Owens said he could not recall specifically anything that had been said. The defense attorney also asked Owens if he had ever said, "I got me a judge and you can't top that." Owens testified he did not recall saying that.

Swerling also asked Owens if he knew of any plan among law enforcement personnel to try to arrest two

Richland County magistrates. He asked if one of the two magistrates was Jennings.

Owens said he knew of no such plan.

Municipal Judge Ann Furr is serving as a special magistrate to hear the case at the direction of Supreme Court Chief Justice J. Woodrow Lewis.

John Barton of the state Attorney General's office is prosecuting the case. Yesterday, he said the attorney general's office is handling the case at the request of the Richland County

Sheriff's Department. Barton said the 5th Circuit Solicitor's office declined to prosecute the case.

Owens testified yesterday that he arrested Jennings shortly after a brief encounter with him at The Store, which is located on U.S. 378 near Horrell Hill. Owens said he thought Jennings was acting strangely in the store and he followed him to determine if something was wrong.

Owens said he made the arrest after Jennings had driven his car for

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# Magistrate

(Continued from 1-A)

about 100 feet on the grass beside the eastbound lane of U. S. 378.

Bobby Nunley, owner of The Store, testified yesterday that he had spoken briefly with Jennings in the store Nov. 3.

Nunley said Jennings had appeared to be "very elated, very happy, talking a good bit," and he said Jennings "possibly" had been drinking.

However, under cross-examination by Swerling, Nunley said he had not noticed any smell of alcohol from Jennings and he said Jennings had not staggered or slurred his speech.

Frank Nunn, a former owner of The Store and the second witness to testify yesterday, said he had discussed politics with Jennings on Nov. 3 in the store.

Nunn testified that the main thing he had noticed about Jennings was that "he used language that I had never heard him use before." After questioning by Barton, Nunn said he was referring to the use of profanity by Jennings.

Judge Furr yesterday allowed Swerling to present Jack Allison, a magistrate from Gaffney, as a defense witness before the prosecution finished its case so that he would not have to make another trip to Columbia.

Allison said he had spoken by phone with Jennings at about noon on the day of Jennings' arrest. Allison said nothing in the conversation indicated to him that Jennings had been drinking.

Allison also said he had never seen Jennings take a drink.

The trial was delayed several hours yesterday as attorneys haggled

over whether Jennings could be served with an arrest warrant.

Swerling argued that Jennings had been given a ticket and taken into custody but never had been served with a warrant, and he argued the trial should not proceed.

Judge Furr decided she would issue the warrant before the jury was sworn in. However, after she had issued the warrant, Swerling argued that Jennings should not be tried for another 10 days.

"Mr Jennings is being arrested during his trial," Swerling said.

Judge Furr ruled that the intent of a required 10-day waiting period after issuance of an arrest warrant was to ensure that a defendant had adequate time to prepare a trial. She said Jennings had known he faced the charges since his arrest in November, and had had adequate time for his defense.

Judge Furr also ruled yesterday that Jennings' refusal to take the Breathalyzer could not be admitted as evidence by the prosecution.

She said she would not have allowed the Breathalyzer results if Jennings had taken the test, so she felt testimony about his refusal to take the test should be excluded from the trial.

A Breathalyzer is a device used to measure the percentage of alcohol in a person's blood.

Judge Furr made her ruling after lengthy arguments by Swerling. He said the accuracy of the Breathalyzer machine at the sheriff's department had been questioned by its maker.

Swerling introduced a warning from Smith & Wesson, makers of the Breathalyzer at the sheriff's department, that radio transmissions could

cause the machine to give incorrect readings.

The company's warning said use of walkie-talkies within 25 yards of the machine could cause it to malfunction.

Sheriff's deputy Nathaniel Trusdale, who attempted to administer the Breathalyzer to Jennings, testified at the pre-trial hearing that he could not say for sure that a walkie-talkie was not being used within 25 yards of the machine at the time he attempted to give the test to Jennings.

Testimony also disclosed that Smith & Wesson had recommended a test of the machine to ensure it was working properly even in the presence of radio transmissions, but that test was not administered to the sheriff's department Breathalyzer until after the day of Jennings' arrest.

Swerling also argued that his client had not refused to take the test. Jennings testified in the pre-trial hearing that he had breathed into the machine but had been told by Trusdale that he was not blowing hard enough.

Judge Furr also ruled that a videotape of Jennings taken at the sheriff's department could be used as evidence by the prosecution.

Swerling had argued that the videotape should be barred from the trial because Jennings had been led to believe he was required by law to submit to being videotaped when there is no such legal requirement.

He also argued that Trusdale had overstepped his authority by telling Jennings it would be to his advantage to be videotaped.

However, Judge Furr ruled that Jennings' rights had not been violated when the videotape was made.