

# Trial awaits appeal on insanity defense

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Honolulu businessman Robert W. Hall won a postponement of his trial for attempted murder while he appeals a decision last week which bars him from using Hawaii's so-called insanity law.

Hall last week sought an acquittal under that statute, but Circuit Judge Richard Au on Friday turned down that request and ruled that Hall's attorneys could not pursue that defense in the jury trial.

That ruling cleared the way for the trial and about 60 prospective jurors showed up at court for jury selection yesterday morning.

But Hall's attorney, David Schutter, asked for the immediate appeal, contending that Au's ruling involves an issue of "first impres-

sion," one that has not been raised before.

Despite objections by deputy prosecutor Keith Kaneshiro, who claimed that the defense was merely seeking a delay, Au dismissed the prospective jurors and granted Schutter's request.

Hall, 47, who is not in custody, is contending that he was suffering from an unusual allergic reaction to the white wine he drank when he shot at four persons and wounded three of them at the Waikiki Yacht Club in May 1980.

Au last week ruled that since Hall voluntarily drank the wine, his case comes under a Hawaii law dealing with the defense of "pathological intoxication."

Schutter argued that he should be able to use both the "pathological intoxication" defense and the in-

sanity defense.

Schutter predicted that if he went to trial, lost and then appealed Au's ruling, an appellate court would reverse the conviction, thereby setting up a second lengthy trial.

Schutter also said Hall would have to spend at least \$40,000 to \$60,000 to bring the expert witnesses back to testify, and to pay for their transportation and other costs.

"Dave Schutter wins a delay, again," Kaneshiro said afterwards.

Kaneshiro said the state's case is hurt by the postponement because

witnesses might not want to testify at a later date.

He also said the prosecution flew in three witnesses from the Mainland and will now have to send them back.


Kaneshiro pointed out that in a speech last month, Schutter characterized himself as a "master of delay" and said delay was the defense attorney's best weapon.

Schutter, however, said an immediate appeal actually "speeds up" the judicial disposition of the case. Instead of two trials, he said, Au has "limited the probabilities to one appeal and one trial."



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