

# Trial begins for 1990 murder

## Judge rejects mistrial in UF student's death

By MEGAN SEERY

Alligator Writer  
mseery@alligator.org

A motion for mistrial was considered Monday after defense attorneys objected to a witness' comments during the opening day of the trial of Donald G. Fair, accused of suffocating first-year UF medical student Caroline Cody in May 2000.

Had the motion been granted, it would have further delayed the first-degree murder case, which has taken an atypical four years to go to trial.

After cross-examination, lead prosecutor Tim Browning asked William Hamilton, Alachua County medical examiner, if vaginal injuries are always sustained during nonconsensual sex. Hamilton said no and speculated the defendant may have "taken measures to make a more agreeable experience for himself."

Fair's attorney, Karin Moore, objected to the comment and, after the judge excused the jury, asked for a mistrial based on what she called an "egregious" statement by Hamilton.

Browning said he asked the question as a follow-up to Moore's cross-examination of Hamilton, during which the medical examiner confirmed Cody did not sustain vaginal injuries at the time of her death.

Judge Larry Gibbs Turner declined to grant the mistrial but advised the jury to disregard Hamilton's earlier testimony about his opinions concerning motives of the defendant.

No evidence was gathered to suggest a lubricant was used, Turner said, while striking the contested

comment from the record.

The state presented testimony from a close friend of Cody, the victim's boyfriend and law enforcement officers who responded to the crime scene. The state tried to establish a time frame for her death, Browning said, as well as to establish that the crime was premeditated.

Cody, 22, was last seen alive May 8, 2000.

Her body was discovered in an upstairs bedroom of her apartment three days later by Alachua Sheriff's deputies who were alerted by Cody's friends to her absence.

When prosecutors displayed pictures of the victim's body, Turner asked that the photos instead be passed among the jury to protect Cody's privacy.

Other evidence presented included photographs of Cody's two-story townhouse, including an aerial shot of her apartment complex and the surrounding areas.

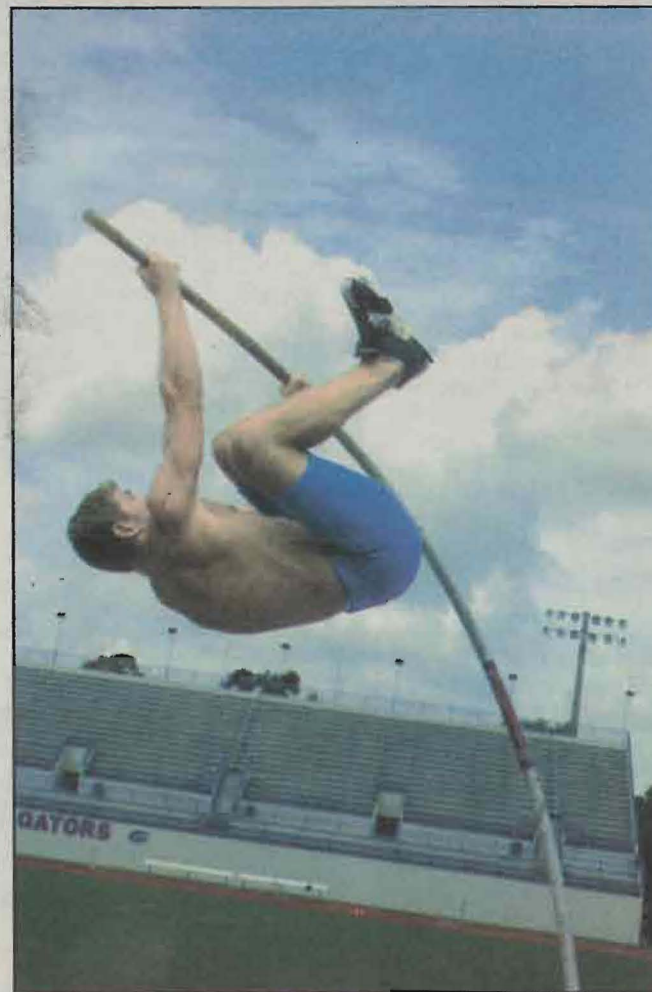
In an attempt to prove the murder was premeditated, prosecutors provided evidence Cody was killed during a struggle. Hamilton was asked by the prosecution to identify autopsy photos, where he pointed out specific injuries indicating a possible struggle.

Spencer Mann, spokesman for the State Attorney's Office, said the state expects to call more forensic experts and witnesses who had contact with the defendant.

"The trial could take the better part of a week," he said, adding there are many variables that make it difficult to predict the trial's duration.

Investigators allege Fair, then 28, broke into Cody's home, suffocated her and stole several items, including her black 1998 Volvo, later found abandoned in Marion County.

The mandated sentence for first-degree murder is either the death penalty or life imprisonment. State Attorney Bill Cervone will seek the death penalty if Fair is convicted in the murder.



Megan V. Winslow / Alligator Staff

### Exit pole

UF sophomore Kurt Lee prepares to clear a 15-foot-9-inch bungee Monday afternoon at Percy Beard Stadium.

### First U.S. gay couples legally wed

CAMBRIDGE, Mass. - Same-sex couples began exchanging marriage vows in Massachusetts on Monday amid scattered protests.

The decision marks the first time a state has granted gays and lesbians the right to marry and making the United States one of at least four countries where homosexuals legally can wed.

See story, pg. 3.



■ As gas prices continue to soar, two Gainesville gas stations were among the most expensive fueling locations in the state Sunday. See story, pg. 5.

### Prison fire kills 103 inmates

SAN PEDRO SULA, Honduras (AP) - An early morning fire at an overcrowded prison in Honduras Monday consumed a cellblock, killing 103 and injuring 25 others. The 1:30 a.m. fire was sparked by an air conditioner short-circuit in a cellblock occupied by 186 prisoners, Police Commissioner Wilmer Torres said.

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