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Wife's remarks OK'd for use in NY hotel heir case

Associated Press

WHITE PLAINS, N.Y. — A federal judge ruled Friday that a Florida woman's "chatty" statements to police after the killing of her millionaire husband were voluntary and can be used as evidence at her murder trial.

Some of the statements by Nancy Novack, of Fort Lauderdale, will be admissible only if she takes the witness stand, the judge said.

Novack, 54, and her brother, Cristobal Veliz, of New York, are accused of arranging the 2009 killing of Ben Novack Jr., son of the man who built the Fontainebleau hotel in Miami Beach. They are also charged in the killing earlier that year of Ben Novack's mother, Bernice Novack.

If convicted of murder in aid of racketeering, they could be sent to prison for life.

Friday's hearing concerned only the killing of Ben Novack, who was beaten to death in his hotel room in suburban Rye Brook, N.Y. Nancy Novack denied any involvement when questioned by police.

However, the prosecution claims Novack made false statements about some evidence found at the murder scene, and her lawyer, Howard Tanner, wanted to keep the jury from seeing any of the three days of recorded questioning.

Novack testified two weeks ago that her statements were pressured rather than voluntary. She claimed she never got food or bathroom breaks and felt she had "no choice" but to submit to questioning. She said she often felt suicidal.

But Judge Kenneth Karas said Friday that Novack hadn't been arrested, restrained or searched during the questioning and the video recording "makes it crystal clear that she knows she's free to leave, that she can get a lawyer."

"She appears to be relaxed and quite chatty," he added, noting that Novack discussed "some remarkably intimate details" of her sex life.

The judge also said, "Watching the video, I didn't come away with the idea she's suicidal." He said Novack was being "melodramatic" when she said the electric chair would put her out of her misery.

The judge said Novack wasn't in custody during the first questioning session and wasn't entitled to be read her Miranda rights. The prosecution concedes, however, that Novack was technically in custody during a second session, so her statements from that questioning can be introduced only if she testifies.

The judge also ruled that police questioning of Veliz was admissible, saying it, too, was voluntary and Veliz's rights were not violated.

On a separate issue, Novack's attorney, Howard Tanner, complained that he should have been told before this month that in 2010 a detective on the case gave \$5,000 to Novack's daughter. The daughter, May Abad, is expected to be a key prosecution witness.

Tanner said the information supports his theory that "this was a flawed and biased investigation from the start."

Prosecutors disclosed March 12 that Westchester County police Detective Alison Carpentier gave Abad \$5,000 to help her move after she expressed fear for her safety.

Tanner said he had heard that Carpentier lost her job after giving Abad the money, but when he asked the prosecution for more information, he said, he was told to "take a hike."

Prosecutor Elliott Jacobson responded in court that the police commissioner told him Carpentier was taken off the case but not disciplined or fired. She then retired, he said.

Tanner expressed doubt about that, and the judge assured him that he's entitled to any documents about how the Carpentier incident was handled by the county and by federal prosecutors.

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