

The Miami Herald

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The Miami Herald

March 23, 2004
Tuesday STATE
EDITION

SECTION: METRO & STATE; Pg. 3B

LENGTH: 283 words

HEADLINE: JUDGE DISQUALIFIES
LAWYER IN RETRIAL OVER CANAL
DEATHS

BYLINE: Associated Press

BODY:

A judge on Monday disqualified the lead attorney for a man facing a murder retrial for driving an SUV carrying his two sleeping sons into a canal.

Michael Diaz cannot serve as Kirk Douglas Billie's top defender because he represented four prosecution witnesses during Billie's original trial, Miami-Dade Circuit Judge Bertila Soto ruled.

Billie's co-counsel, Scott Srebnick and Arturo Alvarez, said they would appeal to have Diaz reinstated. But they said they would be ready for the retrial's May 3 start date regardless of the appeal's outcome.

Prosecutors Reid Rubin and Christine Zahralban asked Soto to disqualify Diaz because he represented four prosecution witnesses in the first trial, during which Billie was convicted of second-degree murder and sentenced to life in prison for the 1997 deaths of 5-year-old Kurt and 3-year-old Keith Billie.

Soto noted that Diaz had represented the four witnesses - Billie's girlfriend and the owner of the SUV, Sheila Tiger; her mother, Marie Jim; and two others, Howard Cypress and Melody Osceola - until at least March 1.

An appeals court overturned Billie's murder conviction in July, saying his jury should not have heard his history of violence toward girlfriends, including beatings with a baseball bat and broomstick. The father said he didn't know the boys were in Tiger's vehicle when he drove it into a canal to get back at her.

Billie's conviction followed years of legal wrangling between state prosecutors and Miccosukee Indians about who had jurisdiction over Billie, a tribal member, and tribal witnesses. Leaders of the 500-member tribe said they forgave Billie and denounced his prosecution as "white man's justice."