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1975 SUTHERLAND SLAYINGS

Judge won't 'gamble' on releasing Simants

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 WORLD-HERALD BUREAU

LINCOLN — Multiple psychiatric experts have evaluated Erwin Charles Simants in the 38 years since he killed six members of a family in a small western Nebraska town.

But only one carries weight

with Lincoln County District Judge Donald Rowlands, who decided Tuesday that Simants will remain locked in a state mental hospital.

In 2005, Dr. Jack Anderson diagnosed Simants with schizophrenia, pedophilia and necrophilia, which is a sexual attraction to the dead. The doctor said Simants will

always suffer from the disorders that led him to take six lives in 1975, including a grandmother and young girl who were raped after they died.

The opinion of one expert trumps four others who said last month that Simants is no longer

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Simants, seen here in 1993, might decide to appeal, his attorney said.

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Simants: Confined for another year, though he could appeal ruling

mentally ill and is a candidate for release, the judge said in his 17-page order.

"This court is not inclined to gamble with the safety of the public, particularly as it relates to young girls and older women who would be defenseless targets if the defendant were to violently re-offend," Rowlands wrote.

The decision calmed fears that Simants was on the verge of walking out a free man.

"I thank God for answered prayers," said Audrey Brown of North Platte, whose parents and brother were among the dead.

On Oct. 18, 1975, Simants was

a 29-year-old unemployed alcoholic who gunned down members of the Henry Kellie family in Sutherland. He escaped a probable death sentence when he was found not guilty by reason of insanity.

Under the law, Simants must be released from locked treatment once he is no longer mentally ill and dangerous. Now 68, he undergoes annual reviews to gauge his mental health.

At a hearing in September, four psychiatric professionals agreed that Simants is now mentally sound. It was the first time since his commitment that at least one evaluator has not

found him mentally ill.

Robert Lindemeier of North Platte, Simants' attorney, argued that without a mental illness diagnosis, the judge should have released his client.

But he said that because of the fear Simants inspires, the judge was under tremendous pressure to keep him locked up.

"He was disappointed, but I don't think it was unexpected for him," said Lindemeier, describing Simants' reaction to the judge's order.

He and Simants will decide whether to appeal the decision within the next 30 days. They may also ask the judge to allow

Simants to resume supervised community outings, which were stopped several years ago after another patient escaped.

Lindemeier has said his client has never behaved violently during his years of treatment or tried to escape from the center. His doctors have long described him as an exemplary patient. Simants also has made hundreds of supervised community outings without incident.

But the judge cited the opinions of several experts over the years who warned that without supervision, Simants would most likely drink again and perhaps lash out again.

“The fact that the defendant has been a model patient at the Lincoln Regional Center does not mean that his mental illness will remain in remission if he is subjected to the stresses of life outside of that sheltered environment,” Rowlands said.

The judge also disagreed that he is bound by the most recent testimony of experts. Rather, he said, the Nebraska Supreme Court has previously ruled that such experts are “purely advisory” and that the judge is the “trier of fact.”

Lincoln County Attorney Rebecca Harling said it was appropriate to consider past evaluations of the defendant. She argued in September that although Simants’ disorder may be in remission, he continues to have underlying mental problems.

“He is a terribly dangerous human being,” Harling said Tuesday. “I hope the ruling gives some a reprieve from the thought he will be out, at least for the next year.”

Attorney General Jon Bruning also called it the right decision.

“I think Mr. Simants has lost his opportunity to live among the rest of us,” Bruning said.

“I’m very grateful for the judge for recognizing he continues to be a danger.”

Few mass killers even have a chance to gain their freedom, but the Simants case took an extraordinary turn more than three decades ago.

Simants killed Henry and Marie Kellie; their son, David, 32; and three of their grandchildren: Florence, 10, Deanna, 7, and Daniel, 5.

Simants worked on and off for Henry Kellie and lived next door to the family. After the killings, he confessed to at least three people and then gave another statement to investigators when he was arrested the next morning.

A jury found him guilty of six counts of first-degree murder in 1976, and he was sentenced to die in the electric chair. But the Nebraska Supreme Court overturned his conviction when it was learned that the sheriff had played cards with sequestered jurors.

At the second trial in 1979, the jury agreed with the defense experts who said Simants was insane at the time of the killings.

Dr. Anderson, who testified

for the defense, was the only psychiatrist who evaluated Simants immediately after the murders. The judge summarized some of Anderson’s reports.

They said Simants is a schizophrenic who had been delusional and suffering from hallucinations. For seven or eight months prior to the slayings, Simants had been having fantasies of killing and raping young girls and older women.

Anderson concluded that if Simants were released, he would most likely seek seclusion, start drinking again and the delusions and fantasies would return.

“There would be a very high risk of the defendant again being involved in violent sexual activity,” the judge wrote.

Pamela Stryker, the mother of Deanna and Daniel Kellie, said the judge applied common sense to an imperfect situation.

“I think it’s wonderful news,” said Stryker, who now lives in Nunn, Colo. “He (Simants) is where he should be.”

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He says the 68-year-old killer remains too great a risk if left unsupervised.