

Highland man arrested, charged with various thefts

BY TAMMY MINNIGH • STAFF WRITER

MONTEREY—After an investigation that lasted more than a year, the Highland County Sheriff's Office has arrested Shaun W. Gwin on charges related to a string of thefts from homes, businesses, and vehicles.

Gwin, 34, is a resident of McDowell. Deputies arrested Gwin on March 28 after conducting two search warrants on March 10.

Gwin appeared in Highland County General District court on April 6, after requesting to be released on bond.

“The Highland County Sheriff's Office has recently served Shawn W. Gwin with 26 arrest warrants,” said Capt. Ronald Wimer. “Eighteen of these warrants are in relation to seven larceny cases that have been under investigation for some time, as well as eight other warrants related to two search warrants.”

Due to technical issues related to a cut fiber cable, Gwin was reached by speakerphone between the courtroom and the Middle River Regional Jail, where he is being held.

Judge Rupin Shah questioned Gwin about his connection to Highland, and Gwin answered that he had lived his whole life in the county, and his grandfather and a brother live on adjacent property. He said he would show up for court dates if released.

“I understand you have many charges pending at this point, is that correct?” Shah asked.

Gwin answered, “Yes.”

“Were you charged with crimes and then let out and then charged with more crimes?” Shah asked.

Gwin answered, “Yes.”

Gwin was convicted of assault and battery and reckless driving on Jan. 19 and released with jail time suspended.

Gwin said he had recently obtained a good job making excellent money at a campground on Skyline Drive in Elkton. He also noted he already has a tracking device installed on his vehicle and asked to be released on bond to keep his job and pay his court costs.

Commonwealth's attorney Melissa Dowd opposed Gwin's release and called Deputy Bob Kelly as a witness. Kelly was the officer who transported Gwin after his arrest.

“He made the comment to me that it might be the best thing for him to run, to escape,” Kelly said. “He said that he wasn’t wanting to go to jail.”

Kelly, the only officer in the transport vehicle, said he talked at length with Gwin and cautioned him against attempting to run. “We did go to jail,” Kelly said. “He didn’t run.”

Taylor Baker, Gwin’s attorney, asked Kelly if Gwin ever used the word “escape,” and Kelly said he did.

“He said, ‘I could escape and go do some work for the state police’ and then turn himself in,” Kelly said.

Baker asked if that was a direct quote or a summary; Kelly said it was a summary.

“Mr. Gwin is a lifelong resident of Highland County,” Baker said, noting Gwin’s good job and family ties. “He has very little criminal history. There is nothing other than Officer Kelly’s testimony to indicate he’s a flight risk.

“He made no movement to escape,” Baker said, questioning why the sheriff’s office did not arrest Gwin immediately after the search warrants were executed on March 10 if he was considered a flight risk.

Due to Gwin’s “utter lack of serious history,” Baker said he should be released on bond, perhaps with substance abuse treatment.

“We are asking that Mr. Gwin continue to be held without bond,” Dowd said.

“These are crimes against people,” she continued, adding that the number of charges and the seriousness of the offenses should keep Gwin in jail.

As for not immediately arresting Gwin, Dowd said the sheriff’s department continued its investigations on many cases and tried to match up evidence to all complaints.

“We now have evidence to go forward with these prior charges,” Dowd said.

Shah deferred a decision on bond until May 4.

“I want him to be clean from the drugs in his system,” Shah said, adding he also hoped to be able to use the video conference for the next hearing. “If I am going to cut him loose, I want to be sure the community is safe and that he is clean.”

After court, Dowd and Wimer said they were happy the judge decided to keep Gwin in jail for at least another month because they consider him a danger to the community. Wimer said he thinks Gwin is responsible for many of the thefts over the past year and he expects more victims to come forward now that Gwin is being held in jail.

The charges brought against Gwin for which he was in court include the following:

- Felonies — Two counts of entering a house to commit assault and battery or larceny; three counts of grand larceny greater than \$1,000; one count of entering a structure to commit assault and battery or larceny; one count of firearm larceny (not from a person); one count of obtaining credit card numbers larceny; one count of distribution of methamphetamine greater than 10g; one count of possession of burglary tools; two counts of possession of schedule I or II drugs; and four counts of possession of a gun on person with schedule I/II drugs.
- Misdemeanors — one count of petit larceny of less than \$1,000 (not from a person); three counts of receiving/buying stolen goods less than \$1,000; one count of destruction of property with intent, less than \$1,000; and two counts of unauthorized possession of drug paraphernalia.

He also was convicted of two misdemeanors in January, for assault and battery and reckless driving.

Highland man not released following bond hearing

BY TAMMY MINNIGH • STAFF WRITER

MONTEREY — A Highland County man facing multiple thefts, drug, and weapons charges remains in Middle River Regional Jail after the General District court judge last week recessed a bond hearing until June 15.

Shaun W. Gwin of McDowell faces 22 separate charges, including seven misdemeanors and 15 felonies, which commonwealth's attorney Melissa Dowd said will also go to preliminary hearings on June 15.

Gwin did not appear in court last week, May 4. His attorney, Taylor Baker, was present to represent Gwin for the bond hearing.

Baker first asked Judge Rupin Shah to grant bond during a hearing on April 6, but Shah delayed a decision until May 4.

“Judge Shah indicated at that time that he was refusing bond primarily because he wanted all illegal substances to be gone from Mr. Gwin before considering releasing him,” Dowd explained after last week's court date.

Baker and Dowd consulted privately before the hearing began, and Highland County Sheriff David Neil said he was “100 percent against” any bond release.

“For the citizens of Highland County, it's an injustice,” Neil said.

Neil asked Shah for permission to address the court. Shah granted permission, recognizing Neil as the chief law enforcement officer for the county.

“I’m strongly opposed to any bonds,” Neil told the court, citing a deputy’s testimony that Gwin had said he would run from facing charges.

“There’s more charges coming,” Neil said. “It’s a total of 30 charges all over this county. It’s countywide. The citizens are tired of this.”

Shah asked Dowd if she had talked to Neil about her and Baker’s agreement on bond. Dowd said she had not spoken to Neil, but had worked with Captain Ronald Wimer.

Shah sent Dowd, Neil, and Wimer to a private chamber to talk. After several minutes, the three returned to the courtroom.

“The sheriff and I have agreed to disagree,” Dowd said.

“Given that the legislature has done away with the presumption against bond, I don’t have much to work with,” she explained.

Dowd told the court she was also considering the victims, and Gwin’s ability to pay restitution. “I have a lot of victims here, Judge,” Dowd said. “He was a one-man crime spree in Highland County.”

Dowd said she did not believe Gwin was a flight risk. She proposed Gwin stay with his father in Winchester or a brother in Bath County, and only return to Highland for court appearances.

Baker asked for a bond to be granted. “He (Gwin) has no criminal history really to speak of,” Baker said.

Baker acknowledged Gwin faces many charges but noted, “Mr. Gwin is innocent until proven guilty.”

Shah asked Dowd if she had consulted the victims before bringing the bond recommendation to the court, saying he thought she was required to consult them even if she disagreed with their views.

After court, Dowd clarified the situation. “There is no obligation for me to contact the victims about bond,” Dowd wrote in an email. “I always talk to victims before agreeing to a plea agreement, however, which is required by statute.”

Dowd told the judge Gwin was facing Highland County Circuit Court charges on May 25. In March, a grand jury found probable cause that Gwin committed seven additional crimes in Highland County — four felonies and three misdemeanors.

Dowd said Gwin also faces charges in Hanover County and Staunton.

Gwin will appear in Staunton General District Court on May 20 for three grand larceny charges. He will appear in Hanover Circuit Court on July 25 for a charge of tampering with a vehicle and theft.

Baker is not representing Gwin in Hanover County and told the judge he didn't have any information on those cases.

"I need to know what the circuit court outcome is and what the Hanover outcome is," Shah said. "It gives me heartburn to even consider bond at this time."

Shah recessed and continued the bond hearing until June 15. The judge told Baker to have Gwin's father or brother present on that date if either is willing to allow Gwin to live with them as a condition of his bond.

Shah also said any agreement must include "substantially more than \$2,500" in bond since the cost to the county to get Gwin if he runs would be high.

Shah said he also wants a clear list of all warrants served and all pending cases by number. Shah asked Neil if the additional charges would be filed by June 15. Neil said several would, but more could still be coming.

"It's still an ongoing investigation," Neil said.

After court, Dowd clarified aspects of the case.

Dowd said she and Baker believed from Shah's discussion in April that the judge was considering releasing Gwin on bond in May.

"It was my determination that it was important to include restrictions on any possible release, and therefore, I agreed to propose a bond for Mr. Gwin that included the many restrictions that I found desirable to ensure the safety of the public and the appearance of Mr. Gwin in court," Dowd explained.

"Virginia Code §19.2-123 lays out the permissible conditions of release that may be considered," Dowd explained. "The draft bond that Judge Shah did not accept included all of those conditions, and even included a few extras, such as Mr. Gwin not being permitted in Highland County at all during the bond period except for court appearances."

Dowd explained the purpose of a bond is to ensure the defendant's presence at court hearings and protect the public from further harm by the defendant during the bond period.

She opposed bond for Gwin in April but acknowledged that changes in Virginia's laws make arguing against bond more difficult.

Dowd also explained the differences in viewpoints between her and Neil.

“The sheriff and I have different roles to play in the criminal justice system,” Dowd said. “His job is to investigate alleged crimes and arrest suspects. The standard for his actions is probable cause. Probable cause exists when the facts and circumstances are sufficient to warrant a reasonable or prudent person to believe the suspect has committed a crime.

“As commonwealth’s attorney, I think of cases based on what evidence I can prove beyond a reasonable doubt, which is the criminal conviction standard in Virginia,” Dowd added. “Beyond a reasonable doubt basically means that there can be no other plausible set of facts that explains the evidence presented to the court. It is a higher standard than probable cause.

“I also must always be aware that someone is innocent until proven guilty,” Dowd said. “So, Mr. Gwin, even though he has confessed to certain crimes, is innocent until I can prove he is guilty of something.”

Dowd said a defendant’s confession alone is not enough to convict someone in Virginia and that the commonwealth must prove additional facts to corroborate the defendant’s confession.

“Many of us in this community believe that Mr. Gwin is guilty of committing the crimes with which he is charged, but believing that and proving that beyond a reasonable doubt are two different things,” she said.

“In considering a bond for Mr. Gwin, I must also balance the danger to the community of his release against the restitution that I will ask the court to order. In just one case alone, the restitution owed a Highland County couple is around \$9,000. Unless Mr. Gwin is working, he cannot make restitution payments to victims of his crimes.”

Dowd said she also considered that Gwin has no prior felony convictions or failure to appear convictions. Dowd said his family and life-long connections to Highland make him less of a flight risk and would be factors favorable to granting a bond.

“Ultimately, the sheriff, the court, and I have the same concerns of keeping the public safe, assuring the defendant’s appearance in court to answer the criminal allegations, and protecting and representing the rights of victims of crimes while granting a defendant his constitutional rights,” Dowd said. “As in most things, the criminal justice system is constantly balancing potentially competing and often contradictory issues.”

Gwin will face charges for seven crimes in Highland County Circuit Court on May 25. He will have a preliminary hearing on 22 cases in Highland General District Court on June 15 and the continued bond hearing.

If the General District Court finds probable cause, Dowd said those 22 cases would be sent to the Highland County Circuit Court grand jury on Term Day, June 29.

Escaped inmate surrenders, taken into custody last week

BY TAMMY MINNIGH • STAFF WRITER

MONTEREY — After two and half days on the run through the woods, escaped prisoner Shaun W. Gwin turned himself in to Highland County Sheriff's Office on Sept 22.

Gwin, 34, was being transported on the morning of Sept. 20 from a court appearance in Monterey to Middle River Regional Jail in Augusta County when he jumped out of an open window in the back seat of the sheriff's office's vehicle.

Officers from Highland County Sheriff's Office, Bath County Sheriff's Office, Augusta County Sheriff's Office, Virginia State Police, the Department of Corrections, and U.S. Marshalls responded to aid in the search. The search included K9 units and helicopters.

"It was quite a group for assistance," said Highland County Sheriff Ronald Wimer.

He said he has not calculated how many man-hours went into the search, but that will be part of the review his office will complete over the next few weeks.

Despite the extensive mobilization of law enforcement, Gwin eluded capture for more than two days, leaving county residents on edge, jumping at every sound in the woods along the Cowpasture River.

Residents were advised to lock houses and vehicles and to report any sightings to the sheriff's office.

The sheriff's office received a call at 6:50 p.m. Thursday from a resident in the 3100 block of Cowpasture River Road North who said Gwin was there and wanted to turn himself in.

Wimer and another trooper, who were patrolling nearby, arrived within 10 minutes of each other and took Gwin into custody at 7:10 p.m.

"We took him into custody and processed him here," Wimer said around 10:30 p.m. Thursday.

Gwin now faces an additional class 6 felony for escape from custody charge, which can carry up to five years in prison. "I expect there to be more charges coming," Wimer said, adding that the sheriff's office is consulting with commonwealth's attorney Melissa Dowd on additional charges related to Gwin's time on the run.

Gwin was transported back to Middle River Regional Jail that evening by one deputy. He was secured in handcuffs, a waist belt, and shackles.

"He has some scuffs and bruises and other minor injuries you'd find normal for anyone wandering around in the woods for three days," Wimer said, noting Gwin did not ask for medical aid. "His comment was that he was tired, cold, and hungry and that he was tired of running," he said.

The sheriff said Gwin did not explain why he chose to run, saying only, “The court and the plea offered scared him.”

Gwin did not enter an expected plea agreement on 13 felonies and 10 misdemeanors in Highland County Circuit Court on Sept. 20. Instead, his attorney, Taylor Baker, asked for a non-jury trial.

Dowd requested a jury trial, and Baker then asked to sever the charges and have separate jury trials. “There are different charges, different fact sets, and we’ll probably need different trials,” Baker said in court.

Judge Ed Stein told Baker and Dowd to determine which cases would be part of the trials and select dates. The judge continued proceedings until Oct. 12 for motions and to set trial dates.

After court ended that morning, Highland Deputy Robby Vandevander was driving Gwin and William Kincaid to Middle River Regional Jail when the escape occurred. Kincaid also appeared in court Tuesday; Judge Stein had sent Kincaid to jail after failing a courthouse drug test.

“They complained that it was hot in the back,” Wimer said, adding that heat and car sickness are common complaints when transporting prisoners over the mountains.

Vandevander rolled the back seat window down what he thought was part way. The sheriff’s office vehicle has buttons for the driver to control the rear windows and lock them in place.

On a horseshoe turn along U.S. 250 near the top of Shenandoah Mountain, Gwin jumped out the window, which was fully open at the time. “That part is still unclear because the officer thought it was only down halfway,” Wimer said. The sheriff’s office is checking to be sure all locks and window controls are functioning properly in its vehicles.

Gwin was in metal handcuffs when he escaped. “He was handcuffed,” Wimer said. “There was no waist belt on ... With everyone, we don’t always do the waistbelt. That’s usually up to the officers.”

Wimer said having only one officer to transport prisoners is not unusual. “For two individuals, it’s not uncommon for us to do one officer, especially since we have the caged vehicle,” he said.

Vandevander noticed Gwin going out the open window and pulled the vehicle over, but Gwin escaped. Wimer said Kincaid did not attempt to escape. Kincaid was later transported to Middle River Regional Jail.

Wimer said a Ring doorbell camera caught images of Gwin at a camp where Gwin stole a 2005 Yamaha 4x4 four-wheeler. “He was still in the jumpsuit,” he said. “His hands were free.”

It was not clear from the images if Gwin had totally removed the handcuffs or just gotten them separated, he added.

Last Tuesday night, the sheriff's office received a call from a resident who spotted Gwin near a cabin on Shaws Ridge close to the intersection of U.S. 250 and Route 614. "We sent a team in about midnight and found that the cabin had been broken into," he said. "The cabin had supplies that he can use for survival in the woods for a few days on his own."

The sheriff's office is waiting for the cabin's owner to come to Highland to check the cabin for a complete list of items that may have been stolen. "There was clothing there, and there were food supplies," Wimer said, noting it was "very possible" at that point that Gwin was in different clothing.

"There was no sign that he arrived at the cabin on the four-wheeler," Wimer said. "I believe that he dropped the four-wheeler before he went to the cabin."

The four-wheeler has not been found.

Asked whether he plans to change any policies related to transporting prisoners, Wimer said, "I'll look at that based on what I find when we go over what happened."

"There will be a review," he said.