

"ANYTHING TWO PEOPLE KNOW IS NOT A SECRET."

# THE LEGENDARY CHEYENNE HERALD

FREE TAKE ONE

## the local advocacy journal

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## It is said that a grand jury will indict a ham sandwich. And it can be said our circuit court will bind over for trial an accused whose "victim" exonerated him.

by Dave Featherly

Laramie County Circuit Court Judge Roberta Coates was on the bench.

The accused was at the defendant's table. His private attorney with him.

The arresting CPD officer was at the prosecution table. An ADA was beside him.

One witness besides the police officer to be called was there. A half dozen supporters of the accused were in attendance.

And me. And the court reporter.

Why would I attend a preliminary hearing? One in which the accused was charged with aggravated assault with a deadly weapon and the WT-E had already indicted and convicted him by their choice of words in a "Quick Read" brief in the March 16, 2008 issue. It read:

### Man allegedly threatened to kill woman with knife

*CHEYENNE -- A 41-year-old man was charged with aggravated assault and domestic violence early Saturday after Cheyenne police said he assaulted a woman and threatened her with a six-inch knife.*

*Police were called at about 2:20 a.m. to 1315 E. 20th St. for a report of a man holding a knife to a woman's throat, police said in a release. (Accused name) was taken into custody for assaulting a 32-year-old woman and threatening her with the knife, police said.*

*Responding emergency medical services and fire personnel treated the woman for her injuries at the scene, police said.*

The above makes good reading and might lead WT-E readers to reach conclusions based on what was written.

Unfortunately, little of it is right. Or true.

The reason I attended this hearing was that the sister of the accused called me and gave me enough information to make the case interesting. Of particular interest was her statement that the "victim" did not make the complaint and said that the accused did not threaten her in any way

that early morning in mid-March.

At the preliminary hearing, the police officer testified about his responding to the call that morning and one witness testified for the defense.

The witness for the defense was the so-called "victim."

You can count the number of times a woman believing she was being two-timed by the defendant would show up to testify on his behalf on one hand.

The defendant in this case faced punishment of up to 10 years in prison and up to a \$10,000 fine. The purpose of this hearing was for the judge to determine if the "State" (the district attorney's office in this case) had met a burden of proof of probable cause that such a crime had been committed and the accused should stand trial on the charges.

The rookie police officer was hired by the Cheyenne Police Department in December 2005, undergone training at the Police Academy and took to the streets by himself in July of 2007. He testified capably and did not leave the impression that he was lying about anything. If he or other officers didn't do something in the investigation that a jury might think they should have, he readily admitted that.

He took a dispatch call at about 2:20 am on the morning of March 15. He was nearby and reached the residence across from the Cheyenne Eye Clinic within "two or three minutes." Dispatch had said that there was "a man holding a knife to a female subject's neck."

When he arrived, the "victim" was speaking on her cell phone in the yard and the accused was in his apartment. The building has two apartments. His was the lower apartment but still at ground level.

As the officer waited for his backup, the accused came out of the apartment to where the officer was standing.

The officer asked the accused where the knife was. The accused responded, "what knife?" He had no knife on him and said he had taken it back inside. The accused was cuffed and placed inside a patrol car

by another officer who had responded and was senior to the first respondent.

The responding officer questioned the "victim." He learned that she and the accused had been dating for about five to six months. They had argued back and forth over the phone that day - texting seemed the choice of communication. She believed that he had an ex-girlfriend in his apartment and drove to 20th St. to confront him.

When she arrived, the accused came out of the building to the door of her truck. He opened the door and "by gesture," took her by the arm and she departed the vehicle. He said to her, "you better not do anything to my dad's truck." It came out that he was concerned that she or acquaintances of hers that he referred to as "hoodlums" potentially might vandalize the truck - in his opinion.

According to the officer's statement, "she observed a large kitchen knife in his hand." She testified and her own statement written within an hour of the incident made no mention of this visual sighting.

The officer continued to testify - he said the victim had told him that the accused took the knife back inside and came back outside at which time he grabbed her to take her down in a headlock.

While the accused did this, the officer testified the "victim" had told him, he (the accused) threatened to call the police on her.

When the victim testified, she said she had, at no time, seen what she could positively identify as a knife in his hand and that she saw a "shape" when she trailed him up the sidewalk. It was 2:30 am in March - chances are light was slim.

The officer testified that the "victim" had told him that she had "pursued" the accused toward the house.

Her objective, according to testimony from the police officer, was to enter the house and "kick C----'s ass." Her rival was known to her by name as "C" had been the accused's girlfriend previously.

There were two children sleeping in the apartment. Whether C---- was in there or

not was never ascertained this day. The officer further testified that the "victim" had "seemed to be getting a lot of things confused," and "she said she didn't remember being threatened" by the accused.

There was no testimony whether either the accused or "victim" had been drinking or using drugs and there is no reason to believe either had been. In fact, after the questioning ended, the "victim" was allowed to drive away in her truck - a confirmation, according to the officer, that police didn't believe she was drunk.

Next, the officer testified about the allegations made by the tenant in the upstairs apartment. She was not at the hearing and there was no opportunity for the defendant's attorney to cross-examine her or use her statement to impeach her testimony. That must be normal for a preliminary hearing. I seriously doubt that a high percentage of those accused have the charges dismissed at the preliminary hearing. It is most likely that the circuit court judges act as little more than traffic cops or military gate guards - waving all cases on to district court.

The neighbor, whose allegations are the basis for the complaint and an upcoming trial, said that she had heard "loud banging," and that the accused was "chasing" the victim around the front yard and into the street, yelling he was going to "kill her unless she got back in the house."

There's the rub. The contradiction.

The "victim" wanted to get into the apartment to do an attitude adjustment on her rival and her "boyfriend" wouldn't allow that to happen.

Yet this upstairs witness alleged that the guy was threatening to kill the gal "unless she got back in the house."

Looking out her bedroom window, she alleged that she saw the accused "carrying a large knife." Also, that the accused was chasing the "victim" and "swinging the knife."

I have been told by relatives of the accused that the upstairs occupant did not get along with nor like the accused.

(Story continues on page 7)

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