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Attorney says rape trial would be waste

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By The Associated Press

Brian Nichols was in the middle of a retrial on rape charges when he allegedly shot three people, including the judge on his case. Those killings -- and another while he was on the lam -- have put the Atlanta rape case in doubt.

Fulton County District Attorney Paul Howard would like to resolve the rape trial, spokesman Erik Friedly said Sunday. Nichols' defense attorney on the rape charge said continuing with that case would be a waste of time and tax dollars.

"He's facing four homicide charges that could carry the death penalty. In the best case scenario, he's in jail for life. What's the point?" defense attorney Barry Hazen said Sunday.

Hazen also questioned how jurors could continue on the case.

"It would be rude to say 'All you jurors who ran out of the courthouse, come back and try to pretend you can hear the case without this knowledge,'" Hazen said.

The other option would be to start the trial over again -- for a third time -- which Hazen said would put the alleged rape victim through more trauma.

"And where would we have this trial? It would have to be someplace where no one reads or has electricity," Hazen said.

Nichols is accused of bursting into his ex-girlfriend's home with a loaded machine gun, binding her with duct tape and sexually assaulting her during three days. Nichols claimed the sex was consensual.

Hazen said he did not know whether he would remain as Nichols' attorney in the rape case if it proceeds.

"I don't know what's going to happen with it," Hazen said. "The thought of sitting next to him has got my family very afraid. I need to think about that."

Nichols' first rape trial was declared a mistrial last week when jurors voted 8-4 for acquittal, but in the hours after the courthouse shootings, Hazen said a second trial might have gone worse for his client.

"My guts tell me he faced a greater chance of conviction in the second trial," Hazen said.

He faces a possible life prison sentence if convicted of rape.

Nichols could appear in federal court as early as Monday to face a charge of possession of a firearm by a person under indictment, the charge authorities are using to keep Nichols in custody while they sort out charges in the slayings, said U.S. Attorney David Nahmias.

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