

TUESDAY, NOVEMBER 16, 2004 BOSTON HERALD

## Judge in rape trial said to be victim's ex-lawyer

By J.M. LAWRENCE

A Worcester judge who refused to grant a new trial in a high-profile rape case based on newly uncovered fingerprint evidence once served as attorney for the victim's family, the Herald has learned.

Superior Court Judge Timothy S. Hillman ruled the 59-year-old victim's consistent identification of her Leominster neighbor Benjamin LaGuer as her rapist far outweighed LaGuer's argument that police withheld key fingerprints two decades ago.

LaGuer's backers complained in October to the State Ethics Commission and the Judicial Conduct Commission that Hillman should have recused himself. Neither commission would confirm nor deny that they have received complaints. LaGuer's former lawyer, David Siegel, never asked the judge to give up the case.

Convicted in 1984 and serving a life sentence, LaGuer, 41, still maintains he is innocent despite DNA testing funded by his defense that linked him to the crime in 2002. His attorneys contend the testing was contaminated by improper handling of underwear seized from LaGuer's apartment.

The Worcester district attorney's office was the first to raise the question of the judge's impartiality during a March 2000 hearing but did not seek his recusal, according to a transcript.

The judge acknowledged he advised the victim's daughter about her father's estate after his death but had little memory of the work.

"I don't see that I have any difficulty in deciding this case fairly and impartially," Hillman said at the hearing. Siegel agreed.

LaGuer's new attorney, James Rehnquist, the son of Supreme Court Chief Justice William Rehnquist, argues police withheld four fingerprints found on a telephone in the victim's home. The phone cord was used to bind her hands.