

Teenage-Sexual Assault Case Goes Before Fourth N.J. Judge: Trial Date Remains Unknown (Order Denying Acquittal)

Court Order by Third Judge Denies Elderly Defendant's Acquittal Motion. Still No Jury Trial Scheduled After Almost 4 Years (State of New Jersey v. Franklin Horton)



Freehold Township, New Jersey Dec 2, 2021 ([Issuewire.com](https://www.issuewire.com)) - On December 2, 2021, the case of State of New Jersey v. Franklin Horton is scheduled for a hearing in the Monmouth County Superior Court on Mr. Horton's recently filed *pro se* motion claiming he has had ineffective assistance of counsel in violation of his Sixth Amendment right under the U.S. Constitution. Horton is asking to represent himself with current counsel, being required to be stand-by counsel until the case files can be transferred to a newly appointed counsel.

Presiding Judge Marc C. Lemieux, the fourth judge assigned to this case (succeeding Judge Joseph W. Oxley), will hear the motion. Judge Lemieux is the first prosecutor appointed as a judge in Monmouth Co., N.J.

According to Horton's affidavit in support of the current motion, the 68-year-old African-American was arrested in August 2018. More than three years since his arrest, Horton has been held in custody without bail eligibility at the Monmouth County Correctional Institution in Freehold, New Jersey.

Horton is charged with first, second, and fourth-degree sexual assault on a girl under the age of 13. If

convicted on all charges, Horton faces a sentence of 25 years to life in prison.

Since his arrest several years ago, Horton has never waived any of the constitutional rights afforded defendants during criminal proceedings, including his right to a speedy trial, his right to the due process of law, or his right to effective assistance of counsel.

Mr. Horton brought the current pro se motion following a dispute with his current court-appointed attorney, who Horton claims became hostile when Horton questioned why the case continues to languish in the system. There has never been a discovery motion filed, never a motion for suppression of evidence, no expert witnesses consulted, and among other things, no trial date ever set. And according to court papers, Horton was told by his current attorney Albert Kapin that defense investigation had begun in or about September. But presently, nothing appears in the case record to this effect.

The case has suffered delays due to the recusal of the original judge and prosecutor. In addition, the state agency Division of Family Youth & Family Services (DYFS) closed the parallel administrative action against the defendant amid the criminal trial process.

Horton previously filed a petition for acquittal on the allegations of sexual assault on a child under the age of 13. The petition claimed that evidence in front of the grand jury showed the alleged acts of the defendant, according to the testimony of the complaining witness (the alleged victim), did not occur until after her 13th birthday.

On November 15, 2021, Judge Oxley denied Horton's petition for acquittal. The court acknowledged there was conflicting testimony as to the alleged victim's age, but that conflict alone was not enough cause to dismiss the indictment. Nonetheless, Judge Oxley ordered the case to proceed.

Although the defendant here has couched his pro se motion as one founded on his right to effective assistance counsel, he has raised the additional issues of violating his constitutional rights to a speedy trial and due process of law. How Judge Lemieux chooses to address those issues will be of continuing interest to the public.

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See also related law journal article '*To Kill A Mockingbird*' (in 2021?): *Racial inequity a substantial question of law or fact in State v. Horton*' by Ishita Sharma

<https://www.law.com/legalnewswire/news.php?id=2958863> [read more>>](#)

Supporting Media Source(s):

Acquittal Petition Hearing Is Scheduled in N.J. Sexual Assault Case (State v. Horton) (September 3, 2021)

<https://www.yahoo.com/lifestyle/acquittal-petition-hearing-scheduled-n-200000137.html>

Third Judge Appointed in Sexual Assault Case (Well Into Third Year) Involving N.J. Handyman, White

Teenage Girl (September 13, 2021)

<https://www.universityresearchtimes.com/article/551251524-third-judge-appointed-in-sexual-assault-case-well-into-third-year-involving-nj-man-and-teenage-girl>

See also: Related court transcripts and other court papers from *State of New Jersey v. Franklin Horton* (Monmouth Co., N.J. Supr. Ct., Crim. No. 18003427) at <https://tinyurl.com/state-v-horton-court-records>)

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