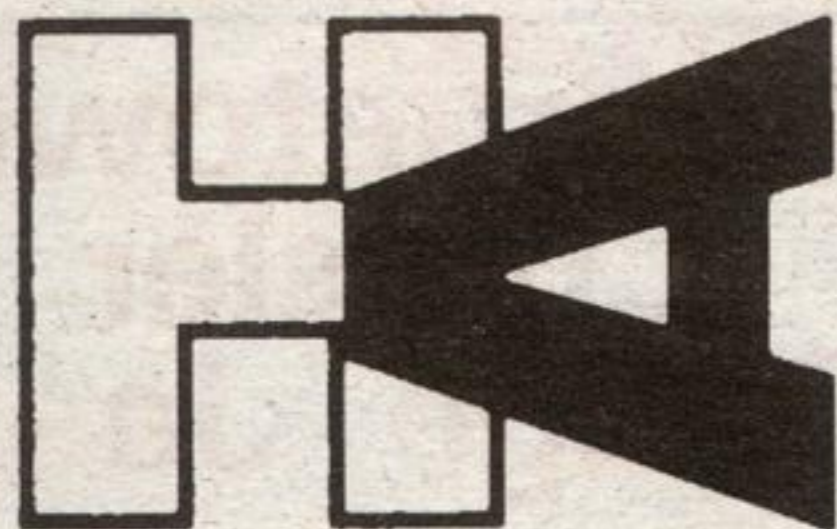


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Pleads not guilty...

continued from page 1

facts read to the court, but not entered as an exhibit, Crown Brian O'Marra detailed how the accused invited Getty and an 11-year-old neighbourhood boy into this mother and step-father's Danville Avenue house for breakfast after playing road hockey just before 11 a.m. on December 31.

For many of the two dozen Getty family members in the courtroom, it was the first time they heard how Ray Getty died.

The accused was on a Christmas holiday leave from a Brampton group home and had been a ward of the



Raymond Getty

Mississauga Children's Society for three years.

O'Marra said the accused asked the boys if they "want to see something neat," and cautioned them "this never happened" as he led them upstairs to the bedroom of a boarder and took one of two rifles from a closet. O'Marra said the accused loaded the rifle with a bullet he found on a shelf in the closet, and first pointed it at the 11-year-old boy who became scared and moved behind Getty.

According to the statement of facts, the accused told the boy that the safety was on, and he shouldn't be a "wussy."

Getty also tried to calm the 11-year-old, with his last words, telling the frightened boy "_____, it's okay - the safety is on."

The accused then pointed the rifle at Getty, who was holding his arms at his sides out from his body, and "a shot was fired into Raymond Getty, killing him almost immediately." The bullet exited his back and went through a wall to the bathroom.

"Oh my God - I just killed Ray," the accused said before carrying Getty downstairs to the living room and calling 911 at 11:51 a.m., saying "someone's been shot."

The court heard the accused tried to convince the 11-year-old boy to tell police that they were in the kitchen and Getty was upstairs alone when they heard a shot.

The accused, who was charged with second-degree murder later that day, did not make a statement to police, and has been held in custody since his arrest.

The court heard the gun owner, Carl Blanchard of Brampton, was charged with breach of firearms storage regulations contrary to the

Criminal Code.

O'Marra said the second-degree murder charge was withdrawn when a forensic examination found that the rifle was capable of being fired with the trigger lock in place, and that no evidence of tampering by the accused was found - in fact, the trigger had undisturbed dust on it.

The accused was interviewed by police on April 15, when he gave his version of what happened, including the admissions that he loaded and pointed the gun and caused Getty's death, but did not intend to shoot him and believed the rifle could not be fired because of the trigger lock.

O'Marra said the accused admitted to "tapping the trigger lock with his hand" before the rifle discharged.

The accused's lawyer, Charlie Waite of Brampton, did not call any evidence, but said his client had no animus or intention to cause death or harm to Getty.

Of the actual shooting, Waite said his client "tapped the trigger lock, like mimicking the action of firing a gun he knew could not be fired."

He argued his client had no criminal culpability in Getty's death because he "reasonably, honestly believed that gun could not be fired."

Citing case law, Waite said the facts of this case don't meet the threshold of criminal negligence, but the death "sadly" happened because "a safety mechanism designed to prevent tragedy didn't work," and that while it is true his client loaded and pointed the rifle "he took care not to pull the trigger."

Waite said that the key was whether by putting a bullet in the chamber did his client cross the line into criminal culpability because he didn't believe the rifle could be fired.

"The trigger was not pulled - that's what is absent in this case," Waite said, adding it was "unfortunate" his client chose to load the gun.

Justice LeDressay said he would review the case law submitted by the crown and defence, along with a psychological assessment and pre-sentence report, before today's court hearing.

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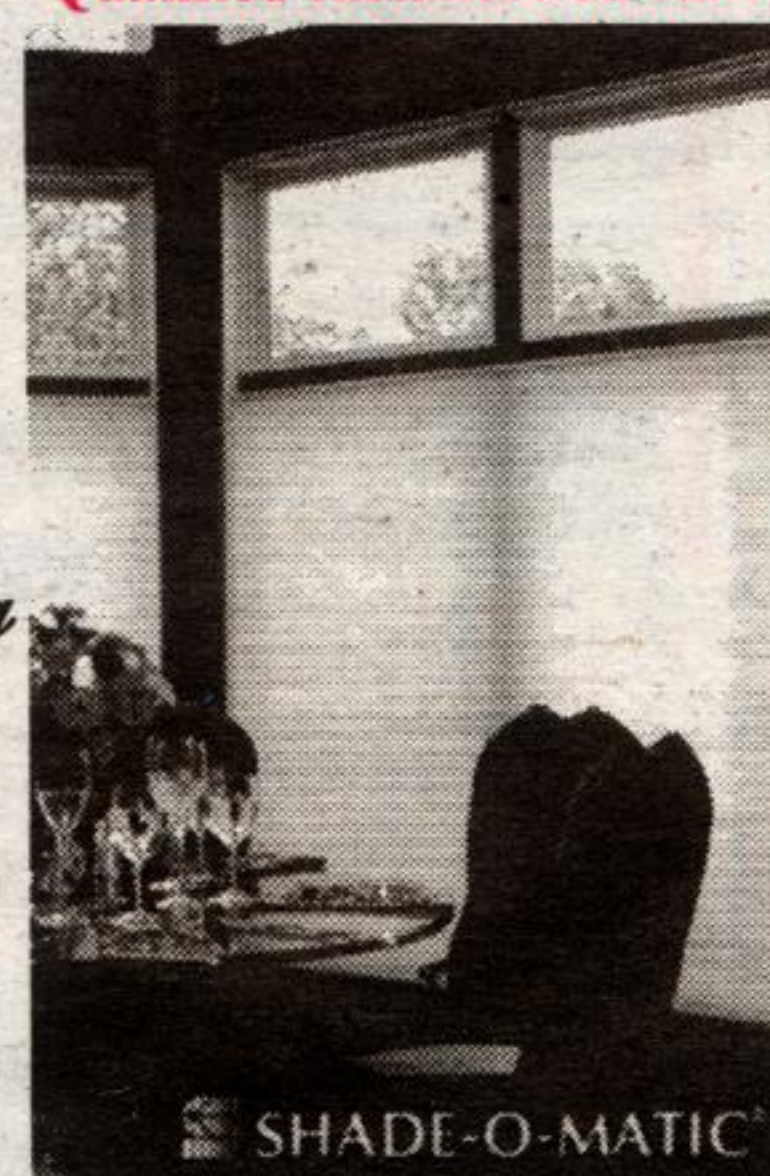
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