

# Skakel

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## Skakel lawyers appeal ruling on statements

By J.A. Johnson Jr.  
Staff Writer

Attorneys representing murder suspect Michael Skakel yesterday gave formal notice that they were appealing a Superior Court judge's ruling that incriminating statements prosecutors allege Skakel made can be used as evidence by the grand jury investigating the 1975 slaying of Greenwich teenager Martha Moxley.

The filing in state Superior Court in Bridgeport came less than a week after the judge who made the disputed ruling was issued a "writ of error" by lawyers representing the Maine drug and alcohol abuse rehabilitation center, where prosecutors allege Skakel made "admissions" concerning Moxley's murder.

The writ, filed Thursday against Judge Edward Stodolink, guarantees the appeal by the Elan School rehabilitation center will be heard by the state Supreme Court. It will be at the Supreme Court's discretion, however, whether it will hear Skakel's appeal of Stodolink's ruling. But attor-

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neys for Skakel and Elan School said they believed both actions will be taken up by the high court because they involve issues that are intricately linked.

"I think both matters will be heard by the Supreme Court since they were tried (by Stodolink) at the same time," said attorney John Campbell, who represents Poland Spring, Maine-based Elan School, as well as the rehab center's owner, Joseph Ricci.

"It is our hope the Supreme Court will hear the case rather than go through the intermediary step involving the Appellate Court," said David Grudberg, whose New Haven law firm of Jacobs Grudberg Belt & Dow was retained for the appeal by Skakel's defense lawyer, Michael Sherman.

Sherman, who was vacationing yesterday in Aspen, Colo., said in a telephone interview that his client's appeal should not be seen as a ploy to keep incriminating information from authorities, but rather to uphold the rights of people to talk openly and confidentially while undergoing substance abuse rehabilitation.

"Obviously, we feel all the communications are privileged and the judge is wrong," Sherman said. "But the issue is that important that it is appropriate we appeal, even though there still exists no smoking gun in this body of evidence."

State's Attorney Jonathan Benedict, who is assisting the Moxley grand jury, did not return calls to his office yesterday. His lead investigator on the case, Inspector Frank Garr, said it was "not surprising" Stodolink's rulings were appealed.

"It was expected," Garr said.

Several former residents and staff members of Elan School have testified before the grand jury that has been probing the 23-year-old murder case, and defense attorneys had contended the testimony should be barred as evidence because any statements they may have heard Skakel make during his 1978-80 stay at Elan School were protected by the

doctor-patient privilege.

Attorneys representing Skakel, Ricci and Elan School made their arguments during an open-court hearing held as the result of Ricci's refusal to answer the grand jury's questions. The hearing was convened upon Benedict's application for an order compelling Ricci's testimony. During the proceeding, Stodolink also heard arguments from attorneys representing Skakel, who filed for an injunction blocking all testimony regarding Skakel's stay at Elan School.

Stodolink, however, said in his Dec. 10 ruling he had not been presented with any evidence indicating Skakel received psychiatric care at Elan, where he said treatment largely involved peer-pressure techniques and group meetings run by Elan residents, and therefore the doctor-patient privilege did not apply. In addition to allowing the grand jury to consider Elan School testimony as evidence, Stodolink ordered Ricci to testify.

If Stodolink's ruling on the privilege issue went the other way, the grand jury would have been ordered to disregard any testimony pertaining to Elan School, and Ricci would not have to testify.

In the writ of error, attorneys claim Stodolink's ruling not only violated the rights of recovering substance abusers, but disregarded the law.

"The court's order permitting disclosure of confidential communications and treatment records violated rights of Mr. Skakel and exposes the confidential communications and records of others to improper release," the writ of error states. "Disclosure of any confidential communications and treatment records was, in 1975 and 1979, strictly prohibited under applicable federal law as well as Connecticut and Maine law."