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Inmate says he escaped for treatment

Doing time in Ky. in Mass. slaying

By **Brett Barrouquere** | ASSOCIATED PRESS JULY 23, 2012

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LOUISVILLE, Ky. — An inmate with Mafia ties is asking a judge to have a heart, claiming his own ticker is in such bad shape that he had to escape from federal custody to seek help.

Derek A. Capozzi, convicted in a gangster-related killing in Massachusetts, said he kicked out the back of a US Marshals transport van in April 2010 because he cannot get the medical care he needs while behind bars.

Prosecutors said that when he was on the lam for several days, he didn't seek any treatment. And when he was captured in a Dairy Queen parking lot in central Kentucky, marshals said, he had a different excuse for escape: "I'm pulling 53 years."

Capozzi is to appear before US District Judge Joseph M. Hood on Monday in Lexington on a federal escape charge.

Capozzi, a former Beverly, Mass., resident, is in prison for his role in the 1996 killing and dismemberment of 19-year-old Aislin Silva of Medford. She was ordered killed by the leader of the Mafia-affiliated gang that Capozzi belonged to so she wouldn't be able to cooperate with federal investigators, prosecutors said.

Witnesses testified that Capozzi helped to hack Silva's body into pieces and bury them after a fellow mobster strangled her. Capozzi was sentenced in August 2005 to 23 years in prison. At the time, he was already serving a 30-year sentence for a 1999 conviction on weapons and extortion charges. Based on his convictions, Capozzi's expected release date is in 2046.

Several other people were convicted in Silva's killing. Gang member Kevin Meuse, who allegedly strangled Silva, hanged himself in prison in 1997.

Capozzi claimed in court documents that several doctors have determined he needs to have his heart repaired after he was stabbed in the chest in 2008 while in a federal prison in California.

"In the time leading up to his escape and subsequent to his apprehension [Capozzi] experienced irregular heartbeats and restrictions of breath," his attorney, Steven Milner, wrote in court documents.

Capozzi contends he has repeatedly been assured his heart problem will be addressed, but each time he is transferred to another state before anything is done.

The judge has not been persuaded by Capozzi's medical pleas, ruling the inmate may not argue that he tried to escape to seek medical attention.

"Moreover, there has been no explanation as to why he believed that escape would provide him sufficient opportunity to seek competent medical care without further interference by (Bureau of Prisons) officials or law enforcement officers, given that he must have known that he would be the subject of an extensive manhunt," Hood wrote.

Motions filed Friday indicate Capozzi intends to plead guilty but reserve the right to appeal the judge's rejection of his medical necessity defense.

Assistant US Attorney Patrick Malloy has said Capozzi didn't seek medical help after his escape.

"He hid out in a dentist's office," Malloy wrote in court documents.

Globe correspondent Matt Rocheleau contributed to this report.

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