



Spector's former lawyer may be held in contempt

By Michael Muskal, Times Staff Writer
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Sara Caplan, a former lawyer for Phil Spector, will be held in contempt of court if she refuses to testify about whether she saw a defense expert mishandle material that could be evidence in the music producer's murder trial, the judge ruled this morning.

The decision carries criminal penalties, but the contempt ruling was immediately stayed until June 22 to allow Caplan time to appeal to a higher court.

Los Angeles County Superior Court Judge Larry Paul Fidler also gave the parties until Monday at 9 a.m. to work out a compromise.

Fidler said it was the first time in his 25 years on the bench that he has had to punish an attorney with contempt. The jurist was clearly sorrowful that the dispute over Caplan's testimony led to his decision.

"It goes without saying that nobody wants to be here today," Fidler said as he recited his ruling from the bench. "Nobody has any personal animus against Miss Caplan.

"I admire her for taking the stance she is taking; I don't agree with it," Fidler said, adding later that as a judge he had no choice. "You often have to do things you don't like."

"I see no reason why Miss Caplan should not testify," said Fidler, who was a defense attorney for 10 years. "There is no other person who can testify to what she saw."

Caplan was part of the defense team that searched Spector's Alhambra mansion the day after the body of Lana Clarkson was found shot in the mouth on Feb. 3, 2003. Spector, 67, is charged with the murder of Clarkson, 40, an actress and hostess at the House of Blues where Spector met her hours earlier.

The prosecution maintains that Spector killed Clarkson after a night of drinking and that he has a pattern of threatening women with weapons. The defense has argued that Clarkson accidentally killed herself and is counting on a series of scientific experts to prove that claim to the nine-man, three-woman jury.

One of the defense's experts is forensic scientist Henry Lee, who has won fame in numerous high-profile cases, including O.J. Simpson's acquittal on murder charges.

Caplan, in an evidentiary hearing, testified that she saw Lee pick up a small piece of white material that the prosecution claims was part of an acrylic fingernail from Clarkson's hand. The prosecution contends that the material supports its case.

Lee has repeatedly denied that he took anything from the death scene. He has publicly issued statements saying that claim was an attempt to discredit him before his testimony.

As a former lawyer for the defendant, Caplan was put in a ticklish situation.

Spector has claimed her testimony violates his privilege with an attorney, and Caplan maintains she is barred from taking the stand in open court, though she testified at the hearing.

Caplan was called by the defense, Fidler said, saying that the action prevented the defense from claiming the privilege. Even if there was a privilege originally, it had certainly been waived by the defense action in calling her, he said.

"What you asking me to do is so prejudicial to the fundamental rights of Mr. Spector," Caplan said before the ruling. "This is just so unethical for the prosecution to put me in this position."

Fidler had previously ruled that the privilege doesn't apply in an area where a mishandling of evidence took place.

After the evidentiary hearing where she and Lee both testified, Fidler on May 23 ruled that Caplan was more credible and that the jury should hear the testimony.

Last week, Fidler threatened to hold Caplan in contempt of court if she refused to testify.

At the time, Caplan begged Fidler to reconsider, saying she was in an unprecedented position.

"I never in my life thought I would be in a position like this. It is a horrible position," she said last week.

Replied Fidler: "I'm basically begging you not to do this."

Said Caplan's attorney Michael Nasatir to the judge: "I'm begging you."

Earlier, Fidler for the second time rejected a defense request for a mistrial.

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Times staff writers Peter Y. Hong and John Spano contributed to this report.