



Spector jury says it's deadlocked

Sep 19, 2007

Spector jury says it's deadlocked; Judge may let the panel consider the lesser charge of manslaughter.

Jurors in the Phil Spector trial said Tuesday they are split 7 to 5 on whether the famous record producer murdered actress Lana Clarkson four years ago, striking a powerful blow to Los Angeles prosecutors hoping to prevail in the celebrity case.

"At this time I do not believe anything else can change the position of the jurors based on the facts in evidence," the panel's foreman, an engineer from Alhambra, told Los Angeles County Superior Court Judge Larry Paul Fidler. At Fidler's behest, the foreman did not reveal whether the majority favored guilt or innocence.

After more than four months of testimony and 28 hours of deliberation, the jury of nine men and three women was unable to agree unanimously on a second-degree murder charge. Prosecutors said Spector fired the gun that killed the 40-year-old actress. Spector's lawyers argued that Clarkson, depressed over career and money problems, shot herself.

Now, Fidler must decide whether to instruct the jury to continue to try to reach a verdict. Fidler said Tuesday he also may ask the jury to consider the lesser charge of manslaughter -- reversing his earlier ruling that second-degree murder was the only legal option.

If convicted of involuntary manslaughter, Spector, 67, would face two to four years' imprisonment, with a possible enhancement for use of a firearm ranging from three to 10 years, district attorney spokeswoman Sandi Gibbons said.

Gibbons said the office would not comment on the jury deadlock. Spector's defense attorneys also declined to comment.

If the deadlock persists and a mistrial is declared, prosecutors would have the option of retrying Spector, offering him a plea bargain or dropping the case. Dist. Atty. Steve Cooley has tenaciously pursued convictions in other cases after a jury deadlocked, with mixed results. Leif Taylor, a Long Beach man whose 1994 murder conviction was overturned by an appellate court, was convicted in 2006 after his first retrial earlier that year ended in a hung jury.

But Juan Ortiz, a Los Angeles hotel owner accused of murder for an arson fire at his hotel, was acquitted after four trials, the last this year.

Clarkson, who starred in the cult movie "Barbarian Queen" and had many television roles, was found shot through the mouth in Spector's Alhambra mansion on Feb. 3, 2003. She and Spector were the only people in the house, and he did not testify.

Prosecutors had argued that Spector, who they said had threatened other women with guns, pointed the weapon at Clarkson, and it went off in her mouth. Even if the gun went off accidentally, Spector under California law would be guilty of second-degree murder because his actions showed a conscious disregard for human life, they said.

Jean Rosenbluth, a USC law professor and former federal prosecutor who is following the trial, called Tuesday's developments "a huge, devastating surprise to the prosecution."

Rosenbluth said she was perplexed when the prosecution initially said it did not want an instruction on a manslaughter offense. She said that indicated prosecutors were "supremely confident" of their position and that at that point, their confidence appeared to be justified.

"There was nothing wrong with the way the prosecution case came in," she said. "Everything worked the way they wanted it to. Now they have to be saying, 'We do not want to retry it; maybe we can't get a second-degree murder conviction; let's take this bone the judge is throwing to us.' "

Legal experts said, however, that if Fidler gave the belated manslaughter instruction, and a conviction resulted, it could be vulnerable to appeal. Both prosecutors and Spector's attorneys asked Fidler last month that murder be the only charge presented to the jury, and he agreed.

But on Tuesday, after the jury reported it was deadlocked, Fidler said a review of case law had led him to believe an involuntary manslaughter charge might be appropriate. Fidler said he might have a "duty to re-instruct the jury on manslaughter."

Veteran Los Angeles defense lawyer Harland Braun said he found the idea that the jury would be re-instructed "unbelievable."

"The entire case was argued on the basis that it was second-degree murder or not guilty," Braun said. "How can you, after all the arguments and days of deliberations, throw in a lesser included instruction which suggests to the jury that that is what the judge wants. I have never heard of anything like this.

"You can't unscramble the egg this way," Braun said.

Loyola Law School professor Laurie Levenson agreed it would be "extremely unusual" for a judge to give an instruction at this stage of a trial "after saying he had not found facts or law to support" the use of that instruction earlier in the case.

She said that if the jury is instructed to consider a manslaughter charge and then convicts Spector, it will "unquestionably create a juicy appellate issue for the defense."

Levenson said that is particularly true given that the jury is deeply split -- 7 to 5 -- and that nine of the 12 jurors said Tuesday that they thought nothing else would help them reach a verdict.

"The bigger the split, the more coercive" the instruction would look, Levenson said. The defense will easily argue that if the jury then comes back with a guilty verdict on manslaughter, it was "a tainted compromise verdict," she said.

"I am not saying [Fidler] can't do it. But it is a dicey issue," she said.

At the request of three jurors Tuesday, Fidler said that today he will repeat a legal instruction that prosecutors must prove a defendant guilty beyond a reasonable doubt. A juror also asked the judge to go over an instruction that stated jurors must acquit if they cannot agree that the prosecution proved Spector pointed the gun at Clarkson.

After the instructions, Fidler said, he will hear from attorneys on both sides on whether an involuntary manslaughter charge would be appropriate.

Spector's defense team plans to submit a brief in court this morning opposing the lesser charge, arguing that it "is both utterly lacking an evidentiary basis and as to which the defendant was deprived of an opportunity to present a defense."

To present such an instruction to a deadlocked jury, wrote San Francisco attorney Dennis P. Riordan, "is reversible error."

Spector appeared in court Tuesday in a dark pinstripe suit and a red necktie. He stared straight ahead as Fidler told attorneys he was considering a manslaughter instruction.

His son Louis, who has attended much of the trial, said outside the courtroom, "It's frustrating that this could go on longer. I want closure." Closure, he said, would be either a conviction or acquittal -- anything but a hung jury.

Spector, who produced landmark music for John Lennon, Ike and Tina Turner and the Ramones, faces a sentence of 15 years to life if convicted of second-degree murder. Spector's trial began in April, and the jury began deliberating Sept. 10.

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Credit: Times Staff Writers