



Spector mistrial: behind the deadlock

Sep 27, 2007

SPECTOR MISTRIAL: BEHIND THE DEADLOCK; Spector mistrial isn't end of case; Prosecutors plan to refile charges. A juror who backed conviction says he 'thought it would be a done deal.'

Jurors failed to reach a verdict in the Phil Spector murder trial Wednesday, forcing a mistrial and further frustrating a district attorney's office still haunted by the murder acquittals of O.J. Simpson and Robert Blake.

Legal experts said the hung jury, coming after 5 1/2 months of trial and 12 days of deliberation, demonstrated the power of wealth, and to a lesser extent, celebrity, in California courts.

"Money makes a difference. This comes down much more to money than fame," Loyola law professor Laurie Levenson said.

The final vote was 10 to 2 in favor of conviction. Prosecutors said they would seek a retrial.

Three jurors, speaking at a news conference, said prosecutors had persuaded most of the panel that the 67-year-old Spector had shot Clarkson when she tried to leave his Pyrenees-style "castle" in Alhambra in the early hours of Feb. 3, 2003. Two of them said they voted for conviction.

"I voted guilty," said Ricardo Enriquez, a 54-year-old facilities manager at a law firm. "I thought it would be a done deal, in and out. It wasn't."

The foreman, a 32-year-old civil engineer who also spoke, declined to give his name or state how he voted. But Enriquez and several attorneys later said the man was one of the defense holdouts. The foreman told reporters that the "inability to reach a decision is controversial at the most, and even on the jury there was deep regret we were unable to reach a unanimous verdict."

"This country has a great judicial system," he added. "The prosecution's burden is to prove to jurors beyond a reasonable doubt the charges are correct."

Less than an hour after the jury was dismissed, Spector, who remains free on bail, stood in the driveway of his mansion and looked to the sky.

Grinning, he waved at a news helicopter, then held his fingers up in a "V" for victory sign. His wife, Rachelle, also beaming, stood at his side.

Though he kept quiet during the trial, Spector had earlier proclaimed his innocence pointedly and in public, once likening the district attorney to Hitler.

District attorney's spokeswoman Sandi Gibbons said her office was "disappointed" by the outcome but would "begin immediately to prepare for a retrial." Los Angeles County Superior Court Judge Larry Paul Fidler asked Spector and the attorneys to return to court for a pretrial hearing Oct. 3 to determine the next step in the case.

Spector would have faced a minimum of 18 years in prison if convicted of second-degree murder, the only charge he faced. Prosecutors now have the option of pursuing lesser charges of manslaughter, seeking a murder conviction once again or negotiating a plea agreement with Spector.

The defense team of seven attorneys argued during the trial -- which began in April -- that Clarkson shot herself, either in a suicide or by accident. The defense contended that she had been despondent over a failed acting career and financial problems, and was under the influence of alcohol and painkillers.

All the jurors who spoke to reporters cited the decision by prosecutors to forgo a "psychological autopsy" of Clarkson as a factor for the two who voted not guilty. They believed the actress' death was a possible suicide, the jurors said.

In addition to Enriquez, a 49-year-old electrician at NBC studios who declined to state his name told reporters he had voted for conviction.

Enriquez, in a later interview with The Times, said the foreman and a 37-year-old woman who works as an assistant for the L.A. County Superior Court had voted not guilty. Enriquez said the 37-year-old woman said she did not think the testimony of five women that Spector had threatened them with guns matched the circumstances of the Clarkson shooting. "She couldn't put the gun" in Spector's hand, Enriquez said in describing the juror's thinking.

He said that Wednesday morning the woman offered to vote for a conviction "under protest" but that other jurors told her she should only vote her true belief.

The woman's vote belied the defense's perception of her. During the trial, Spector attorney Roger J. Rosen complained that she would not look at grisly death scene photographs of Clarkson. Fidler declined to take any action. The foreman, Enriquez said, was persuaded by forensic evidence presented by defense experts, who said Spector did not have enough blood on him to have been the shooter. The defense's experts also testified that gunshots in the mouth are almost always suicides. Clarkson was shot with the muzzle of Spector's .38-caliber special revolver in her mouth.

Enriquez said he and other jurors felt that the defense experts presented shoddy science that "insulted our intelligence."

"We are not idiots," he said. He added that Spector's wealth enabled the defense to bombard the jury for hours and weeks with forensic evidence.

"They threw so much [expletive] some of it stuck."

The defense had hired several of the nation's most prominent forensic scientists to make their case. But the judge found misconduct by two of their eminent experts, Henry Lee, who was accused of removing evidence from Spector's house, and Michael Baden, who Fidler said ambushed prosecutors with an eleventh-hour theory.

Lee never testified. Prosecutor Alan Jackson skewered the experts who took the stand in his place.

Enriquez and the two other jurors at the news conference said they did not believe anyone was in awe of Spector's celebrity or sympathetic to him because of his fame.

The jurors' first vote during deliberations was 4 for guilty, 5 for not guilty and 3 undecided.

After seven days of deliberation, they were split 7 to 5 in favor of guilt, at which point they told Judge Fidler they were at an impasse. The judge withdrew a jury instruction they found confusing and replaced it with specific scenarios of how Spector might have shot Clarkson.

The jurors' divide continued to narrow, Enriquez said. One juror, a Vietnam veteran, said he had seen people shot in combat and expected to see more blood on Spector, Enriquez said. But Enriquez said that

after the panel viewed a videotape of Spector's driver, Adriano DeSouza, repeating his assertion that Spector told him, "I think I killed somebody," the man, a 60-year-old mechanic, decided to vote guilty.

Enriquez said some jurors attempted artfully to persuade the two holdouts. One male juror, a 56-year-old county environmental health specialist, told the foreman in front of the rest of the panel that he would change his vote to not guilty, because he found the foreman to be so thoughtful and reasonable. Enriquez said the juror did so with a plan: to spark a debate that might ultimately sway the foreman's vote toward guilty.

That prompted the other jurors to further press for a guilty verdict; in the end, neither man changed his position, Enriquez said.

At another point, a 41-year-old producer for "Dateline NBC" told his fellow jurors, "Maybe Phil Spector is just the unluckiest man in the world," having a troubled stranger come into his house, find a gun and shoot herself. The hypothesis sparked a discussion that may have strengthened the feelings of those who found Spector guilty, but did not turn the two who voted not guilty, Enriquez said.

The case recalled earlier failed efforts by the district attorney's office to gain murder convictions against celebrities. Simpson, represented by a so-called dream team that also called upon expert witnesses Lee and Baden, was acquitted in 1995 of charges that he murdered his ex-wife Nicole and her friend Ronald Lyle Goldman. In March 2005, a Van Nuys jury found Blake not guilty of killing his wife, Bonnie Lee Bakley, in their parked car.

Legal experts who watched the Spector trial believed prosecutors skillfully executed their case. One mistake, some said, was not asking the judge to include an option of manslaughter in the jury instructions. USC criminal law professor Michael Brennan said he was sure the prosecutors would ask for an instruction on involuntary manslaughter in a retrial.

Spector, one of the seminal figures in early rock and roll, produced songs that revolutionized popular music, for artists including the Beatles, Ike and Tina Turner and the Righteous Brothers. He did not talk to reporters as he left the courthouse. Defense lawyer Christopher J. Plourd said his client was emotionally and mentally spent.

Plourd called the mistrial "certainly not a defeat. I can't say it's a victory when we have only two jurors voting for not guilty. We could have and should have done better."

--

peter.hong@latimes.com

john.spano@latimes.com

Times staff writers Henry Weinstein, Joe Mozingo and Greg Krikorian contributed to this report.

Credit: Times Staff Writers