

TRIAL UPDATES with Santa Barbara News-Press

Cameras out, n-word possible, in Hollywood murder trial : As jury selection nears, judge makes rulings on key issues

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The Santa Barbara judge set to preside over the murder trial of Jesse James Hollywood ruled Friday that cameras will not be allowed in the courtroom, that testimony about a "secret room" with money inside the home of the defendant's father is not admissible and that the defense won't be able to ask key prosecution witness Ben Markowitz whether he or his slain younger brother, Nicholas Markowitz, ever used the n-word.

With jury selection set to begin in about 10 days in the trial of Mr. Hollywood, the 29-year-old accused of masterminding the 2000 kidnapping and shooting death of 15-year-old Nicholas in the hills west of Santa Barbara, Superior Court Judge Brian Hill is entertaining motions from both sides, aimed at, depending on your point of view, leveling the playing field or gaining a competitive advantage.

This is the time in a case when the prosecution and defense seek to have evidence being offered by the other thrown out, question the prejudicial versus probative value of witness statements, trade a barb or two and generally do whatever they can, with the law as their guide, to ensure they put on the best case possible.

Some of the requests have to do with juror perception of the accused. The defense, for example, on Friday questioned the number of sheriff's deputies that would be in the courtroom at trial.

"The appearance is very heavy," defense co-counsel Alex Kessel told Judge Hill, noting the armed and uniformed deputies scattered throughout the courtroom on Santa Barbara Street -- including two seated behind Mr. Hollywood.

Judge Hill said he is aware of how the deputies' presence might affect the jury and offered to place one behind the defense and another behind the prosecution.

"I don't want anyone behind us," said lead defense attorney James Blatt. "It's not in the best interest of the defendant to have a deputy behind him."

The judge noted that protecting everyone involved is his responsibility, so there would be deputies in the courtroom. He told the lawyers that he would do what he can to balance that with protecting Mr. Hollywood's right to a fair trial.

Judge Hill's first order of the day was "no cameras in the courtroom of any type."

Next item to be heard was whether Deputy District Attorney Josh Lynn, who is prosecuting the case, could show a photo of Nicholas alive at trial. Mr. Lynn told the judge the image, likely to be placed in the center of an 8-by-10-inch piece of paper, would be affixed to a poster board along with the "various players" in the teenager's death. They include Ben Markowitz, whose apparent \$1,200 drug debt to Mr. Hollywood resulted in teenager Nicholas' slaying; Jesse Ruge, who was convicted of aggravated kidnapping; William Skidmore, who pleaded guilty to kidnapping and burglary; Graham Pressley, who dug the grave in which Nicholas was shot and buried and was later convicted of second-

degree murder; and Ryan Hoyt, who shot Nicholas dead, allegedly on Mr. Hollywood's order. Mr. Hoyt was convicted of murder and sits on California's death row.

Mr. Blatt said the layout of the board could be prejudicial to the jury.

But upon hearing the prosecutor's plans, Judge Hill disagreed. "Doesn't seem to me that that's so inflammatory," he said. "Doesn't seem to me to be out of balance."

In the end, Judge Hill ruled that the defense could see the prop before trial.

"There will be no surprises," said Mr. Lynn.

The judge also ordered the prosecution to provide the defense with a copy of a 28-minute videotape, a portion of which -- said to have been shot by Mr. Hollywood -- involves Mr. Hollywood "grilling" Mr. Hoyt about a debt owed to Mr. Hollywood by Mr. Hoyt. The payoff of that debt, it is alleged in this case, was the murder of Nicholas.

Mr. Lynn described the tape, shot within a month or so of the killing, as showing "who was in charge in that particular relationship."

Mr. Hollywood, who faces the death penalty, spent the hearing seated between his defense team, whispering to one or the other in response to something Mr. Lynn said. He smiled at times, shook his head, and when presented a photocopy of the timeline prosecutors will use at trial, Mr. Hollywood studied it for several minutes.

Judge Hill sided with the defense that statements by a prosecution witness about a supposed secret room containing money in the home of Jack Hollywood have nothing to do with the charges before the court and therefore would not be allowed.

Some time during Friday's hearing was given over to the prosecution's desire to introduce at trial evidence that Mr. Lynn said ties Ben Markowitz's apparent "ratting Jesse James Hollywood off" over an insurance scam provided further motive to order Nicholas' killing.

According to Mr. Lynn, Mr. Hollywood went to a restaurant where Ben Markowitz's girlfriend was a waitress and stiffed her on a bill, telling the woman to "take it off Ben's tab."

She called Ben, who apparently got so enraged that he went to a nearby insurance office and told someone there that Mr. Hollywood had committed insurance fraud to the tune of about \$29,000, according to Mr. Lynn.

"You're kind of smearing Mr. Hollywood with the insurance fraud that he allegedly committed," said Judge Hill.

But Mr. Lynn countered that if a \$1,200 drug debt was enough reason for Mr. Hollywood to get upset and possibly order a hit, "\$29,000 is certainly a better reason."

"If this isn't classic motive evidence, I don't know what is," said Mr. Lynn.

While the evidence could have some relevance, Judge Hill ruled that it is more prejudicial than probative.

Judge Hill was also asked by the prosecution to prevent the Hollywood team from questioning Ben Markowitz about his use of the n-word or questioning any witness about whether Nicholas ever used the word.

"They intend to go after Ben Markowitz in a way that will damage his perception to the jury," Mr. Lynn told the judge; adding the goal is to "smut him up."

Upon questioning by Judge Hill, Mr. Blatt said the word has so many uses these days -- from a horrific racial slur against blacks to a greeting among friends.

The defense, Mr. Blatt added, did not intend to question Ben Markowitz about his perception of blacks.

Mr. Blatt called the matter a "minor issue" and "not of significant importance." Soon after, however, he let loose this comment about Ben Markowitz: "He's a man of Jewish background who associates with neo-Nazis."

Mr. Lynn said the use of the n-word by Ben Markowitz or his late brother has no connection to the case.

Despite Judge Hill ruling in favor of the prosecution, Friday's pre-trial maneuvers proved there is plenty of room for the defense to pursue that line of questioning.

"The door is open," said Mr. Kessel, "if Ben Markowitz says, 'I'm not prejudiced against anyone.' "

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