

# Hollywood attorney seeks new trial

By COLBY FRAZIER — Jan. 27, 2010

Six months after Jesse James Hollywood was convicted of first-degree murder and kidnapping, his attorney yesterday filed a motion in Superior Court that seeks a new trial for his client.

The roughly 30-page document accuses the court, and prosecutors, of making a number of errors before and during Hollywood's trial last year, including the court's refusal to grant a change of venue.

In the motion, Hollywood's defense attorney, James Blatt, charges that the mountain of media coverage surrounding the trial and the major motion picture, "Alpha Dog," which was based on the prosecution's theory of the case, prejudiced some jurors and ultimately made it impossible for his client to receive a fair trial in Santa Barbara County.

"This court committed error when it denied defendant Hollywood's motion to change venue," the motion states. "The error alone warrants an order granting a new trial."

The motion highlights a number of other alleged errors, including the possibility that the court provided inaccurate instructions regarding the kidnapping; that the court allowed improper evidence to be presented and that at least one juror prejudged the case, while others improperly considered prejudicial information, including content in the film "Alpha Dog," while deliberating.

Hollywood was convicted in July of kidnapping and ordering the execution of then-15-year-old Nicholas Markowitz in 2000.

Hollywood kidnapped the boy from a street in the San Fernando Valley and, with a group of friends, drove the boy to Santa Barbara. Prosecutors said the kidnapping was fueled by a drug debt owed to Hollywood by Nicholas' older brother.

Once in Santa Barbara, Nicholas partied with his captors for several days, and ultimately, was shot to death and buried in a shallow grave at a popular hiking spot off West Camino Cielo known as Lizard's Mouth.

During his trial, Hollywood, who testified in his own defense, acknowledged kidnapping the boy, but insisted he never intended any harm.

Prosecutors contended that Hollywood, a drug dealer who had acquired a loyal posse, sent his childhood friend, Ryan Hoyt, to execute the boy. However, Hollywood insisted that he sent Hoyt to Santa Barbara to pick Nicholas up and take him back to his parents.

Ultimately, Hoyt drove the boy to Lizard's Mouth and executed him with Hollywood's fully automatic TEC-9 machine pistol.

The tragic and bizarre case quickly drew media attention, which was fueled by the fact that Hollywood managed to evade arrest until 2005, when authorities arrested him in a beach town in Brazil.

While authorities were searching the globe for Hollywood, prosecutor Ron Zonen consulted with the "Alpha Dog" filmmakers. Zonen, though vindicated of any official wrongdoing, was removed from the case.

Although prosecutors sought the death penalty for Hollywood, the jury opted for a sentence of life in prison without parole.

On Feb. 5, if a judge denies Blatt's motion for a new trial, Hollywood would likely be formally sentenced.

Tied to Blatt's argument that Hollywood didn't receive a fair trial due to publicity are claims by juror No. 3 that another juror prejudged the case and routinely made inappropriate comments about witnesses.

An affidavit from juror No. 3, which is attached to Blatt's motion, says juror No. 5 might have been reviewing news stories about the case, despite being told not to, and even joked that a witness, who was one of Hollywood's friends and is an electrician, was helping ensure the defendant would get the death penalty.

The juror says that at one point during deliberations, another juror “indicated that she was confusing evidence heard during the trial with what she remembered from the ‘Alpha Dog’ movie.”

“After much reflection I am providing these statements because I truly believe [the] defendant did not get a fair trial, that jurors considered extraneous matters outside the evidence presented in this case ...” the juror wrote.

Blatt also argues in the motion that the prosecution erred by arguing inconsistent theories. Essentially, the attorney says prosecutors, in the earlier trial of Graham Pressley, who dug Nicholas’ grave, accused him of lying while testifying in his defense.

But when Pressley took the stand during the Hollywood trial, prosecutors dealt with the man’s testimony as though it was truthful: in fact, Pressley was a key witness for the prosecution.

“A prosecutor’s goal is not merely to obtain convictions,” Blatt writes, “but to seek justice using tactics that are fundamentally fair and calculated to bring forward the truth.”

Blatt also feels the court improperly instructed the jury on a complicated theory known as felony murder.

In his conclusion, Blatt says authorities have had a singular goal since Nicholas’ body was found: to convict Hollywood.

“In this case, as defendant Hollywood warned when he discovered the prosecutor became a consultant to filmmakers intent on creating a major motion picture to be released prior to his trial, reality has effectively blurred with fiction,” the motion states. “Defendant Hollywood had no chance of a fair trial, and indeed, did not receive one.”

Acting District Attorney Joshua Lynn, the prosecutor in the case, declined comment until he could file a response with the court.