

Mistrial in King killing

*Ernie
(murder)*

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SANTA CRUZ — The Robert Spedding trial ended in a hung jury Wednesday as some exasperated jurors accused their foreman of ignoring evidence and not understanding the law. The jurors said this kept them from convicting Spedding of first-degree murder in the death of Ernie King.

The foreman, Harry R. Allen III of Ben Lomond, said in response: "I felt that I did my job properly." He declined further comment.

Judge Bill Kelsay declared a mistrial after the foreman declared the jury hopelessly deadlocked at 11-1. The jury had deliberated for more than four days.

Allen did join the other jurors in convicting Spedding, 30, of attempted robbery in the case. But, according to juror Willie King, Allen would not believe that Spedding ordered Ernie King out of the back of a fast-moving pickup truck on Summit Road when Ernie King held out an empty wallet.

The jury had been instructed that any killing that follows a robbery attempt — whether the killing was intentional or not — is first-degree murder under the felony-murder rule.

"He (Allen) just could not understand the felony murder rule," Willie King said.

Allen confirmed to reporters that he was the holdout vote, but refused to discuss his position.

"They (other jurors) were frustrated as I was. I really don't want to talk," he said as he left the courthouse.

Beginning on the first day of deliberations, Allen brought the jury back into the courtroom several times, saying there was a question whether someone could be guilty of attempted robbery and not of murder.

Willie King said that Allen did not believe Ernie King jumped out of fear from the robbery attempt, but rather at the speed and swerving manner the truck was being driven down the windy mountain road.

Witnesses at the trial testified that King was beaten and ordered into the back of the pickup truck after approaching Spedding and two other men for a ride at a commuter lot on Summit Road. They testified that Spedding later appeared to order King to jump from the back of the truck after King held out an empty wallet.

One witness who was following the truck said he at first thought

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that Spedding even pushed King out.

Spedding testified that he was shocked when King jumped, and believed King did so because he was afraid that the truck was swerving and picking up speed.

King's wife, Nancy, testified at the trial that her husband was legally blind and could not drive and so depended on others for rides to and from his graduate classes at San Jose State University.

On June 24, 1988, King rode back from schools to the turnout with a classmate who lived in that area. There he was to call his wife to pick him up, but apparently approached Spedding for a ride, instead.

One juror who would not identify herself and said she was too upset to talk, gave the Sentinel the following note as she left the courtroom:

"I'd like ... Allen to look into the faces of Ernie King's family and tell them, 'I didn't think King was in any fear.'"

"If these poor people have to go through this again it will be due to the ignorance of the law on the part of one person!" the note concluded.

District Attorney Art Danner said that based on the strong feelings of the other 11 jurors and the evidence in the case that he would refile murder charges against Spedding.

The attempted robbery conviction will stand, said Assistant District Attorney Christine McGuire, who tried the case. She said that verdict can be used against Spedding at the retrial.

"I am really grateful for the jury's effort. They were very clear that Spedding was guilty but they were up against a stone wall," McGuire said. She said jurors adamantly wanted her to re-try Spedding.

"How one person (Allen) could see the facts so differently from the others is beyond me," McGuire said.

King's widow, his mother and other relatives were clearly disappointed by the verdict.

"I feel sorry for the (jurors) who sat through this (trial) and could see the real truth. Mostly, though, I feel sorry for my family, who sat here day after day waiting for justice to be done," she said.

"I don't know how we'll get through this again, but we will" said King's mother, Carol Youngmark. "It's important for our family to go on and we can't," she said.

Danner told family members that it will take several months for transcripts of the trial to be completed so that a re-trial can take place.

McGuire sought to have Spedding taken into custody pending the re-trial, but Kelsay refused. Spedding has been out on bail since last November.

Spedding left the courtroom with his mother, wife and newborn baby son.