

# Walkout by family of victim

## Murder suspect's sentence on hold

By TOM LONG  
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SANTA CRUZ — The family of Ernie King walked out of a courtroom in anger Thursday morning when Judge William Kelsay didn't sentence King's accused murderer to jail for a crime of which he has been convicted.

"It's not fair, it just doesn't make sense," said King's widow, Nancy, after Kelsay said he was not going to sentence Robert Spedding to state prison for attempting to rob King.

"It's outrageous," said Joan Stanley, King's aunt.

But Kelsay said later that he could not sentence Spedding to prison without jeopardizing a retrial on a first-degree murder charge.

Spedding has been free on bail since November.

The 30-year-old Spedding was accused of ordering King to jump to his death from a fast-moving pickup truck after trying to rob him on June 24, 1988.

Under the felony murder rule, a death during the commission of a robbery — even an accidental death — can be first-degree murder.

Spedding was found guilty of at-  
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Bill Lovejoy/Sentinel

Robert Spedding faces a retrial in the death of a Soquel man.

## Delay/ Judge's ruling angers victim's family

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tempted robbery Sept. 27. But the same jury that convicted him of that charge deadlocked over whether Spedding should also be convicted of first-degree murder in the death; 11 jurors were in favor of conviction, while the jury's foreman held out for acquittal.

On Thursday, Stanley, Nancy King and Susan Hasty, a cousin of Ernie King's, all stood up suddenly and walked out of Superior Court while Assistant District Attorney Christine McGuire continued to implore Kelsay to sentence Spedding for the attempted robbery.

"We had one shred of hope we were holding onto after the fiasco of the mistrial, and then for (Kelsay) not to sentence him... it's just not fair," said Nancy King.

"Another year of Christmas and Thanksgiving that he gets to spend with his family, while Ernie's wife and kids won't have him there," Stanley said.

Kelsay said later that if he had

sentenced Spedding for the attempted robbery, Spedding "could not be sentenced again on a first-degree murder charge, and in all probability, the D.A. would be prohibited from retrying him."

He said that since the robbery is an element of the first-degree murder charge, punishing Spedding for it would mean "it would be pointless to even try him again,"

since he cannot be tried twice or punished twice for the same crime.

Ernie King was hitchhiking home to Santa Cruz from graduate classes at San Jose State University when he was dropped off at an intersection near Highway 17 by a classmate.

Legally blind and partially deaf, King could not drive. While waiting for a ride, he was approached by a group of young men, one of whom was Spedding. Witnesses at the trial said that King was beaten and then ordered to ride in the back of a pickup truck with Spedding.

They testified that Spedding later

appeared to order King to jump from the back of the moving truck after King held out an empty wallet.

King jumped from the truck to his death.

Spedding testified that he believed King jumped because he was afraid that the truck was swerving and picking up speed.

McGuire plans to prosecute Spedding again on a charge of first-degree murder.

"I think we're a bit premature in sentencing," Kelsay told McGuire. "I'm certainly sympathetic to the feelings. There are people ... who want to some justice done and want to see this man in custody."

But Kelsay said that since the attempted robbery would figure in the planned murder trial, Spedding could not be sentenced.

McGuire argued that even if Kelsay did not want to sentence Spedding, he could have revoked his bail.

"It was within the judge's discre-

tion to hold him," McGuire said. "He not only has been convicted of attempted robbery but it was 11-1 on the murder."

Along with trying to convince Kelsay to imprison Spedding, McGuire also asked Kelsay to set an early date for the second murder trial and to order Spedding to start paying public defender Mitchell Page's attorney's fees.

"The taxpayers are paying for Spedding's attorney (while) he continues to work and is earning a better salary than most county workers," McGuire said. "He should be held responsible for paying for his lawyer."

Kelsay declined to take any action on Spedding's attorney costs. He scheduled jury selection for the second trial in early December.

"He says he's very sympathetic but he is doing everything to make it easier on the criminal," said Hasty.

"It's all in favor of the criminal," agreed Nancy King.