

Witness to Ernie King death says near-blind victim jumped

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Ernie King leaped from a moving pickup to his death on Summit Road after Robert Spedding yelled at him, pointed to the side of the road and leaned toward him, a witness said yesterday in Santa Cruz Municipal Court.

The statement was made by David Reveles, who also said Spedding had asked King if he had any money and that King showed him his empty wallet. It was the first testimony in a case prosecutors are calling the murder of King, 38, on June 24. The district attorney is seeking a first-degree murder conviction for Spedding, 29, charging that King was killed in the course of an attempted robbery.

Reveles' statements came during a preliminary hearing for Gregory Kern, 24, charged with punching and kicking King for several minutes before the fatal ride. At the conclusion of the three-hour hearing, Kern was ordered to stand trial on a charge of assault likely to produce great bodily injury.

Although the hearing was for Kern, there was more testimony about Spedding's involvement in the case than Kern's. A date for Spedding's hearing will be set Monday.

Reveles, who went to sheriff's deputies the day after the incident, said he and four other men, including Spedding and Kern, were present during the series of events that led to King's death in the early evening of June 24. None of the men knew King before the incident.

Reveles said he, Spedding, and Albert Eslit, who all work for the same Los Gatos construction firm, drove in Eslit's Pinto to a parking lot at the summit to wait for Kern and Brett Erickson, also co-workers, who were a few minutes behind them in Erickson's pickup. They had all come from Los Gatos, where they had

been drinking beer in a pizza parlor.

Reveles said that before the pickup arrived, a woman who had given King a ride from San Jose dropped him off in the parking lot at Summit Road and Highway 17. King, who was partially deaf and suffered tunnel vision, did not drive. He was bound for his Live Oak home.

Spedding made some lewd remarks about the woman to King, then hit him twice, Reveles said. King did not know any of the men.

At this time, Reveles said, Kern and Erickson arrived in the pickup. Kern jumped out of the pickup and ran toward King, who was sitting on the ground, Reveles said, then kicked him twice and hit him twice in the left side of the upper body.

Reveles characterized the punches by Kern and Spedding

as those that might be thrown in a "drunken fun fight." He said that while there could some pain inflicted in "fun fights," the assailant "isn't hitting you with all he can."

Scott Collins, 16, who was waiting for friends in the parking lot, gave a similar description of the events there. Collins said Kern appeared to be high on drugs or alcohol.

Collins said Spedding's first punch knocked King down and stunned him, but King didn't fight back. He acknowledged telling investigators the incident was "the weirdest thing I ever saw," and thought at one point the men were "playing around."

Collins and Reveles said they heard Spedding ask King if he had any money.

King voluntarily accepted a ride in the pickup, Reveles said. With Erickson driving, Kern in the passenger seat, and Spedding, King and two motorcycles in the truck bed, the pickup went onto Summit Road. Eslit and Reveles followed in the Pinto.

Reveles said shortly after the ride started, he saw King hold his wallet up to show Spedding he had no money.

Spedding, Reveles said, picked up a small chair in the back of the pickup and threw it toward the cab. Spedding yelled at King and pointed at the side of the road five or six times, then leaned toward him, Reveles said. "That's when King jumped" from the pickup, which was going 35-40 miles an hour, Reveles said. King died of head injuries suffered in the fall, county pathologist Dr. Richard Mason testified.

Spedding then "threw his fist

in the air," Reveles said. Neither the pickup nor the Pinto stopped. "We just gassed it to get out of there. We were scared," Reveles said. The five then went to a home in Soquel and drank beer. Erickson has been charged with leaving the scene of an accident.

King's body was spotted a few minutes after the incident by two friends of Collins.

Kern's attorney, Peter Chang, made a standing objection to any testimony beyond the incident in the parking lot.

In his closing arguments, Chang argued that "what happened (in the parking lot) was a battery."

"It may be a serious battery," he said, but not an assault likely to produce great bodily injury, as charged.

Prosecutor Christine McGuire argued, "You can't separate the conduct of Spedding" from Kern's.

Judge Tom Kelly noted the "combined attack" on King and ruled for a trial. Kern will be arraigned July 28.

When Chang made a motion to lower Kern's bail after the hearing, more information about previous charges emerged.

McGuire said the victims of an assault at Lighthouse Point in March have identified Kern and Spedding as their assailants.

Chang argued that the police report does not mention Kern, only Spedding, and that Kern was serving time for drunk driving in Santa Clara County at the time.

McGuire said Kern has only recently been identified, by a victim who saw his picture in a newspaper.

Kelly reduced Kern's bail from \$250,000 to \$5,000.