

CYA'S OLDEST INMATE

2nd mistrial declared in Schmidt case

Murder
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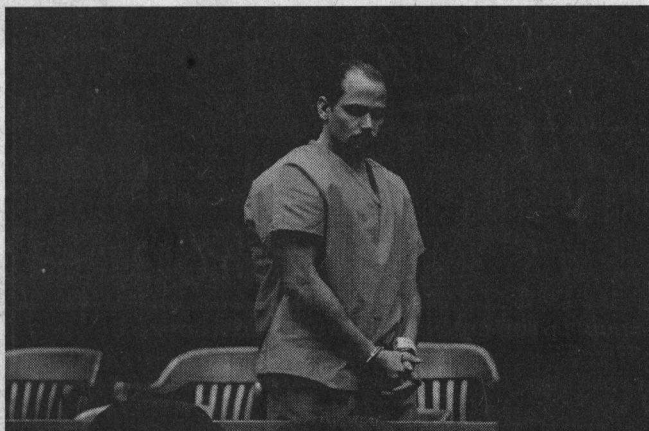
SANTA CRUZ — Jurors again deadlocked when trying to decide if the oldest ward in the state juvenile justice system is fit to be released.

Thursday's stalemate is the second time in a month a mistrial has been declared in Donald Schmidt's case.

Schmidt, 37, was convicted of sodomizing and drowning a 3-year-old girl in Lompico in 1988. He was 16 at the time and tried as a juvenile. Most juvenile inmates are released from the state system when they turn 25, but in Schmidt's case, the District Attorney's Office has employed a little-used provision of state law to extend Schmidt's incarceration because they believe he has a mental disorder that makes him a danger to the public.

But every two years the state can fight his release. In the past, he has lost the bids or given them up, but twice this spring jurors have been unable to reach a verdict — either to keep him behind bars or release him.

Thursday, the jury reached an impasse with



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CYA inmate Donald Schmidt appears in court for parole hearing.

seven people favoring release and five voting to keep him behind bars. The past jury, which was released by Judge Robert Attack without reaching a consensus in May, was locked with nine jurors who thought Schmidt should remain jailed and three supporting his release.

To reach a verdict, all 12 jurors must vote for either incarceration or release.

"I think we're sort of never going to get 12 jurors," defense attorney William Weigel said.

District Attorney Bob Lee, who did not try the case, said he was disappointed in the verdict.

"We still feel he's a danger to society and it's our job to protect our community from him," Lee said.

At issue is whether a jury believes Schmidt has a mental disorder that makes it impossible for him to control his behavior. Psychologists and psychiatrists from the state juvenile prison system, as well as outside experts, testified during the trial.

"Everyone that's been treating him for all these years and some who haven't said he doesn't meet the criteria for an extension," Weigel said. "He doesn't have any mental disorder of that kind."

But Lee said the treat-

ment team told the court Schmidt was not a danger because they no longer want him in their facility.

"He is still considered by experts to be a sexual sadist and a pedophile," Lee said. "In an interview just this year he said he considered himself to be a monster and also sometimes he doesn't think he should be released."

Weigel said that after the jury was excused, several jurors told him they don't understand why they had to make that decision because even the medical experts couldn't agree.

"They kind of resent it, being put in this position," Weigel said of the jurors.

Schmidt returns to court June 17. The District Attorney's Office will decide by that time if the case will be re-filed. If it is not, Schmidt is scheduled to be released June 20.

"He's just going to have to wait and see. ... Either he's sent back or he's just released without any kind of a parole plan," said Weigel, who added he hoped a compromise could be reached that would include supervised release for Schmidt, rather than take the case to trial again.