

✓ District attorney to retry Turturici

Murder
By ROBERT GAMMON
Sentinel staff writer

SANTA CRUZ — One of the most talked about cases in recent county history — the People vs. David Turturici — will be retried, the District Attorney's Office announced Tuesday.

"We believe he should have been found guilty the first time," Chief Deputy District Attorney Jon Hopkins said



Turturici

about Turturici, whose trial was the first involving a freeway killing in county history.

Hopkins will retry Turturici, 42, of Aptos, on charges of involuntary manslaughter in the February 1996 fatal shooting of Summit resident Rick Foster, 38.

Turturici cannot be retried for murder or voluntary manslaughter, because a jury last month acquitted him on those charges. But after five days of deliberations the seven-man, five-woman panel deadlocked on involuntary manslaughter — 10-2 in favor of acquittal — opening the door for a new trial with a new jury.

Turturici's attorney, Ben Rice of

Santa Cruz, expressed outrage at the decision to retry his client. Municipal Court Judge Thomas Kelly scheduled the trial to begin June 16.

"I'm very angry. He's been a victim for over a year now and the jury says he's innocent," said Rice, calling the retrial political. "It's a waste of county resources, and I think it's stupid."

But Foster's ex-wife, Theresa Foster, also of the Summit area, praised the prosecution's decision.

"Mr. Turturici needs to be held responsible for his actions," she said.

Hopkins said he learned a lot in the first trial and "we have a pret-

ty good understanding of what it will take to get a conviction."

Without revealing his strategy, Hopkins said one of the most important aspects would be to offset Turturici's effect on the jurors, which appeared to turn the case in the defendant's favor.

"I think they (the jurors) became fans of his early on in this case," Hopkins said.

In fact, one of the jurors, Erik Larsen of Santa Cruz, said Tuesday that Turturici was a "very credible witness," and it would be tough to convict him.

Shedding tears on the stand, Turturici said it was self-defense that led him to shoot Foster, an

unarmed software engineer, in the early morning hours of Feb. 8 in Capitola near the 41st Avenue exit. Turturici's testimony also drew tears from at least one of the jurors.

Turturici, a San Jose restaurateur, testified that Foster chased him in his car on Highway 17 through the Santa Cruz Mountains following a traffic dispute in Los Gatos.

When Turturici stopped his car, Foster got out and walked toward him. Turturici testified that he was "petrified" of "this crazy driver." Foster was depicted as a heavy drinker who was prone to angry outbursts and had finally gone

over the edge.

Turturici pulled out his unloaded handgun, the men got into a scuffle and Turturici shot Foster once. There were no witnesses to the shooting. Turturici fled, leaving Foster dead on the side of the highway, but Foster had written down Turturici's license plate number on a piece of paper, which led police to Turturici.

After the trial, some of the jurors hugged Turturici, and others said they believed the defendant was within his rights to kill Foster.

Since the verdict, it was revealed that Turturici had filed a personal injury lawsuit against Foster's es-

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tate while the jury was still deliberating. And then, the day of the verdict, Feb. 7, Foster's family registered a wrongful death lawsuit against Turturici.

Hopkins said the personal injury suit filed by Turturici did not affect his decision to retry him. But

he noted that the suit "showed other people the kind of guy we felt that he was."

Hopkins also said that his office has received "overwhelming public support encouraging a retrial," and "a number of individuals have come forward," who may have information about the case.

If convicted of involuntary manslaughter with an enhancement of brandishing a gun without a license and firing a weapon from a vehicle, Turturici could face up to 24 years in prison.

Staff writer May Wong contributed to this report.