

The Jury Returns: The Bandler Decision

Sean McDonald

If Richard Bandler killed Corine Christensen, there was not enough evidence to convict him for it and no amount of time spent rehashing the trial would have changed that fact, according to jurors who decided the case.

"The rules of evidence are that if you have a plausible—a *plausible*—story that supports the defendant and a plausible story that supports a conviction, that you have to disregard or reject the one that would give a conviction. As frustrating as that might have been for some of the people, it was that simple," says the first of two jurors—we'll call him Dave—who agreed to talk about the case.

Simple, but not easy. Of the seven men and five women who were picked to decide the case, at least two were "adamantly convinced" that Bandler was guilty.

"Not everyone vocalized how strongly they felt about him, but there were at least two who, in their own words, were 'adamantly convinced' that he was guilty, that he pulled the trigger."

For them, the deliberation process was an especially strenuous attempt to weigh the evidence against the counterweight of their own consciences. But in the end they were able to agree with the majority that

Bandler should walk out of the courtroom a free man.

"Better to let six guilty men go free before one innocent man goes to jail," is how one juror reportedly put it.

The second juror contacted for this article—we'll call her Sue—was one of those who was "adamantly convinced" that Bandler was guilty. She says that in light of Judge Cottle's instructions to the jury about choosing between two equally plausible stories, she had no choice but to join the consensus, and that in fact she had known even before the jury began deliberation that she would have to return a verdict of not guilty.

"I had no choice," she says. "The letter of the law says that you had to go beyond a reasonable doubt. And I was not able to do that." But the potential legacy of that decision still bothers her. "Bandler doesn't have to pay. Marino doesn't have to pay. Look what kind of example this sets. It's pretty easy to set up the same situation. You can get two people in the same room, create two stories, and confuse everybody to a point where they can't make a decision as to who committed the crime."

Dave agrees. He says that the predominant emotion expressed by most jurors after

the verdict was profound frustration. Several of them were bitter at "being moved to a consensus through the rules." Others were simply disgusted at not being able to adequately make the determination of guilt or innocence that they had been called upon as citizens to make.

"A number of the jurors felt so frustrated by it [the decision] and so unhappy—I don't know if I could say all the things that they felt—but they felt so strongly that they didn't want to talk to anybody. They didn't want to ever talk about the case again."

Unable to speak authoritatively for the other jurors, he attempts to explain what might have led up to their emotions. "Try to look at it from the jury's side. We were picked to sort through this thing. There was a witness that saw this [the murder]—that actually saw it. You would think it would have been clear-cut."

"We're sitting there every day. We know that Corine had been murdered—and it's a terrible thing. The parents are there every day. We see them in the audience every day and we sympathize with them. All of us were frustrated."

"We went through it both ways. We went through it eliminating Marino's testimony, which would have just left Bandler's story. And then we tried to work it using Marino's story.

We tried it a bunch of different ways, including different theories as to why they went over to the house. Because there's also the theory that they both went together, that they were working together."

"We wanted to have resolution of *what happened that morning*. Not just for the parents, but because we felt it was an obligation. In the end, there was no real answer for us."

They deliberated for six hours, but a realization of the inevitable—that Bandler would walk away a free man, that no one would go to jail for the murder of Corine Christensen—dawned in the jury room several hours earlier.

"I would say that the jury knew where they stood—knew strongly where they stood—at our break, which was around 3 o'clock. We were heading in the direction after lunch, but we were firmly there by the time we reached break," Dave says. "And by that time we were dealing more with frustrations [than evidence]."

Since then, the jury has come under fire from several people associated with the case—including Christensen's father, who has called the jury "inept"—for rushing the verdict. "They seemed like they were in a great hurry to go somewhere," he said in an interview with *The Sun*

last week.

But both jurors in this interview insist that all evidence was given careful consideration and that no relevant testimony was ignored. They were able to move so quickly, they say, because they had been immersed in the trial for over two months and had become familiar with all aspects of the case. In the end, their verdict had been mandated by a lack of evidence clearly implicating either Bandler or Marino, and by the rule which forced them to accept Bandler's version of events if it was equally as plausible as Marino's version.

"I don't appreciate that kind of 'Well, they didn't do their job,' that kind of innuendo," says Sue, who remains convinced in her heart that Bandler was guilty. "We did the best we could with what we had. We had to come up with that verdict."

Dave concurs. "No one ever said, 'Well, let's get this over in four hours.' I was willing to sit there a week."

Both jurors feel strongly that the case would have stood a much better chance of being settled satisfactorily if both men—Bandler and Marino, who at various times during the trial seemed like equally likely suspects—had stood

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trial together.

"That was one of the points that the jury felt was important, that he [Marino] should have been included under the umbrella of suspicion from the beginning," Dave says. "The prosecution in some cases took Marino's story and built evidence to support it. The opposite of that would be to just pick up as much evidence as possible and see where it falls, and then that's going to be who pulled the trigger or who didn't pull the trigger."

"I'm so baffled why they believed his story from day one just because he was the first one to call in," Sue says. According to her, both of their stories were "equally bad. They were both obviously trying to cover up something." Testimony from the two men was so frustrating and so confusing, she says, "It makes you wonder if these two guys had planned it this way."

Since the verdict, Dave and Sue have had to deal with the aftermath of the case, the nagging questions, the compulsive replaying of the trial, the searching for any small bit of missed evidence that might have turned the case around. But so far they have not turned up anything that would have influenced Richard Bandler's fate, and they say they don't expect to. For all intents and purposes, their lives have returned to normal.

"Life goes on," Sue says. But not for Corine Christensen. •