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High Court Will Examine Prosecutors' True Crime Entertainment Projects

By Laura Ernde, Daily Journal Staff Writer

The California Supreme Court today will examine whether two of Santa Barbara County's top prosecutors crossed the line when they pursued entertainment projects inspired by real-life crimes.

Ronald J. Zonen collaborated on the movie "Alpha Dog," based on the kidnap and murder of a 15-year-old boy, while suspect Jesse James Hollywood was still on the lam.

Joyce Dudley wrote a novel, "Intoxicating Agent," that bore a striking resemblance to one of her upcoming rape trials.

In October 2006, the 2nd District Court of Appeal booted both senior deputy district attorneys off the cases, saying their ties to the entertainment projects created unseemly conflicts of interest.

The appeal court was particularly harsh on Dudley for "using her official position to obtain personal financial gain."

Although Zonen did not profit from the 2006 movie starring Bruce Willis and Justin Timberlake, the appeal court said, it was still improper for him to consult on a movie about the crime, especially since he was seeking the death penalty against Hollywood.

A law professor and former prosecutor said the unusual cases demonstrate one of the pitfalls of prosecuting high-profile crimes.

"There's always an excitement of having a high profile case, but there's also a danger if the prosecutor appears too interested in the publicity," said Loyola Law School professor Laurie Levenson. "There's a fine line. You want prosecutors to really care about the cases, but not because of the prestige."

Prosecutors, who work for the public, are held to a higher standard. But the law is not entirely clear whether the actions in these cases warranted removal, she said.

Deputy Attorney General David F. Glassman will speak on behalf of Zonen and Dudley at today's hearing in Los Angeles before seven justices, three of whom are former district attorneys.

The most important thing to keep in mind, Glassman argued in legal briefs, is that the prosecutors did nothing that would prevent the defendants from getting a fair trial.

Glassman also argues that the appeal court should have deferred to the judgment of the two trial court judges, who in each case found that the prosecutors' actions did not warrant removal.

The California District Attorneys Association filed briefs in support of Zonen and Dudley.

Ordinarily, a defendant has to prove not only that there is a conflict of interest, but also that the conflict might impact a fair trial.

"One man's opinion of unseemly is one man's opinion. But it's not the law," said San Bernardino County Deputy District Attorney Grover D. Merritt, who wrote amicus briefs as well as a book on the topic of recusal for the association.

Santa Barbara County District Attorney Christie Stanley, who took office three months after the Court of Appeal bumped both prosecutors, defended their right to stay on the cases.

But she stopped short of condoning their behavior.

"There are things that, when you have hindsight, you think that shouldn't have been done or it shouldn't have been done in that way," she said. "But at the same time, it doesn't rise to the level of disqualification."

Attorneys said they scoured law books nationwide and could not find a single case like these that blurred the line between entertainment and reality.

Zonen gave "Alpha Dog" filmmakers unprecedented access to the evidence that helped convict four other people in connection with the 2000 murder of 15-year-old Nicholas Markowitz.

The prosecutor, who gained fame in the 2005 molestation trial of pop star Michael Jackson, gave filmmakers Nick Cassavetes and Michael Mehas all of his documents from the case. That included names and addresses of witnesses, police and probation reports and possibly even "rap sheets."

James E. Blatt, the Encino attorney who has been retained by Hollywood, said Zonen's actions demeaned the criminal justice system.

"It's very important that the members of the bar are not seduced by the Hollywood machine in order to create fame for themselves or their client," Blatt said. "If we start down that path, we're going to be prostituting ourselves on a regular basis to become famous."

Zonen claimed he was simply trying to generate publicity that might help locate Hollywood, the alleged mastermind of the crime, who was ultimately captured in Brazil.

Dudley claimed her fictional romance novel was not based on her upcoming prosecution of Massey Haraguchi on a charge of raping an intoxicated person.

The self-published book recounted the exploits of a fictional Santa Barbara County prosecutor named Jordan Danner, who was described in a local book review as being "a pumped-up version of herself."

In Danner's fictional rape case, the victim was too drunk to give legal consent. The defendant was portrayed with words such as "felony ugly," and "heartless bastard."

Dudley would not be the first prosecutor to write a book based on court experiences. But in those cases the books were released long after the trials took place, Levenson said.

Haraguchi's defense lawyer, Robert M. Sanger of Santa Barbara, claimed that Dudley refused to negotiate a plea bargain leading up to the April 2006 trial.

In court papers, Dudley denied that the novel affected her decision making.

But the appeal court noted that a plea would result in much less attention for Dudley and her book. Not to mention the effect the book might have on potential jurors.

"Perhaps without intending to do so, Dudley is potentially infecting the jury pool with her views on the righteousness of cases prosecuted by that office," Justice Kenneth Y. Yegan wrote.

The cases are *Hollywood (Jesse) v. Superior Court of Santa Barbara County*, S147954, and *Haraguchi (Massey) v. Superior Court of Santa Barbara County*, S148207.

The California Supreme Court is expected to decide the cases within 90 days.