

Daily Sound - July 16, 2009

Hollywood gets life in prison

By COLBY FRAZIER — July 16, 2009

Death will wait for convicted killer Jesse James Hollywood, who was sentenced by a Santa Barbara jury yesterday to life in prison without the possibility of parole.

The jury of nine women and three men, fresh off finding the man guilty of first-degree murder and kidnapping, delivered the sentence after just three hours of deliberation. Because of the conviction, Hollywood, 29, was eligible for the death penalty; a punishment the jury ultimately deemed wasn't warranted.

The sentence put a cap on a complex nine-year murder case that often played out on newspaper front pages and even on movie screens with the film "Alpha Dog."

For the family of 15-year-old Nicholas Markowitz, who the jury found was kidnapped and murdered by Hollywood, the sentence marked the end of an emotional journey that, including Hollywood, was filled with five criminal trials.

"It has been a long road," said Jeff Markowitz, the victim's father, at a news conference after court. "I don't know if Nick is resting in peace ... We're going to continue talking about Nick as long as we live."

While the Markowitz family acknowledged the sentence was a milestone of sorts, they said it does little to dull the sting of losing a child.

Wearing a lapel pin with a picture of her son, Susan Markowitz, Nicholas' mother, said she wasn't disappointed that the jury didn't sentence her son's killer to death.

"As a mother, I would not be thrilled or relieved that he receive the death penalty," she said. "Another son dying is not going to make me feel good in any way."

The defendant's father, Jack Hollywood, reiterated his disbelief that his son was convicted of murder, but said he's grateful he wasn't sentenced to death.

Nevertheless, the elder Hollywood said he feels the appeals process will eventually exonerate his son.

"I think we got a lot of unfortunate rulings from the judge," he said. "I know he's not a murderer ... I'm very upset that they convicted my son of a murder he didn't commit."

Prosecutors alleged Hollywood kidnapped Nicholas from a San Fernando Valley neighborhood on Aug. 6, 2000 over a \$1,200 drug debt owed by the boy's older half brother Ben Markowitz.

Because of the debt, prosecutors charged Hollywood with committing a kidnap for ransom, a charge the jury acquitted him of. Instead, they found him guilty of simple kidnapping.

Hollywood's defense team, acknowledging their client kidnapped Nicholas, said he did so in a fit of rage brought on by the broken windows and other threats Ben Markowitz had levied against Hollywood and his family.

The details of the story illustrate a tragic crossing-of-paths of two young people, one of whom was walking down the wrong street at the wrong time.

On the morning of Aug. 6, 2000, hours after having argued with his parents about his suspected drug use, Nicholas left his home and was walking down a nearby street when the van pulled up.

Hollywood, who testified in his own defense for about three days during the nine-week trial, said he recognized the boy as Ben Markowitz's little brother. He and a friend got out of the van, pinned the boy up against a tree and demanded to know where his brother was.

Hollywood then took the boy to Santa Barbara where he remained for two days, smoking marijuana and partying with his abductors before being taken to a rugged hiking area known as Lizard's Mouth, where in the early morning hours of Aug. 9, he was shot to death and buried in a shallow grave.

Hollywood's childhood friend, Ryan Hoyt, was the triggerman. Another of Hollywood's associates, Jesse Ruge, was the only participant present when Nicholas was kidnapped and later when he was murdered.

After the initial kidnapping, Hollywood was scarcely seen, returning only once to Santa Barbara and spending the rest of his time in Los Angeles.

During the two-day period between the kidnapping and murder Hollywood did a number of things, including emptying out a \$25,000 bank account, buying a new car and consulting his family's attorney.

Prosecutors say Hollywood's meeting with the attorney, during which he was told kidnapping a person for ransom could warrant life in prison, is a key piece of the puzzle. They say Hollywood, after learning this, set his sights on having Nicholas murdered in order to cover up the kidnapping.

But from the witness stand, Hollywood said meeting with the attorney had the opposite effect. He just wanted the boy to be taken home to avoid further trouble, he contended.

But instead of driving to Santa Barbara and picking Nicholas up, Hollywood said he asked Hoyt, who multiple witnesses said was notoriously unreliable, to take the boy home.

This is where the story gets fuzzy. While Hollywood was on the stand he repeatedly insisted he had no intention of harming Nicholas and believed Hoyt wouldn't have any problems getting the boy home.

But Santa Barbara County Chief Trial Deputy Josh Lynn, the lead prosecutor, said his version of the story is more realistic: that Hollywood sent his friend, who like so many others owed Hollywood money, to execute the boy.

And while Hollywood told the jury his side of the story, the prosecution didn't, for reasons that remain a mystery, call Ruge to the witness stand (Hoyt couldn't testify because his death penalty conviction is under appeal). Lynn, only saying it was a "tactical" decision, declined to comment further on why he didn't call Ruge to testify.

Asked if he felt Hollywood taking the stand hurt or helped him, Lynn said he didn't know, although the verdict seems to indicate it didn't help him.

"In Mr. Hollywood's case it's very clear they didn't believe him," he said. "If they did they'd have [acquitted] him."

Lynn, who was assigned the case after Senior Deputy District Attorney Ron Zonen was removed for acting as a key consultant on the film "Alpha Dog," said he was pleased with the jury's decision to convict Hollywood and had no issues with the sentence.

"They delivered a verdict that I believe was just and fair," he said. "Life in prison without the possibility of parole is a very, very severe punishment."

James Blatt and Alex Kessel, Hollywood's defense attorneys, vowed to appeal.

"We are very grateful that Mr. Hollywood's life is spared," Blatt said. "We're also confident Mr. Hollywood did not commit this crime. It is not over. It is not over."

Blatt said a hearing to consider a motion for a new trial was set for Oct. 21, the same day Superior Court Judge Brian Hill could formally sentence Hollywood.

Blatt cited a number of factors that he feels would eventually result in the demise of the verdict and the sentence, including juror misconduct.

On Tuesday, just before attorneys from both sides delivered their closing arguments in the penalty phase of the trial, it was revealed that a juror, during the testimony of Casey Sheehan, one of Hollywood's close friends, made a crass joke about the defendant being put to death by electrocution.

A closed hearing, in which the public and the family members of the victim and suspect were excluded, was held and, ultimately, Hill ruled that no juror misconduct occurred. He acknowledged the joke could have been inappropriate, but he didn't find the involved juror had prejudged the defendant.

However, Blatt maintained that the juror who brought the joke to the court's attention was deeply concerned about the joke and a number of other things that happened during the course of the trial.

He said the concerned juror, a female who was not identified, also claimed she was bullied.

Furthermore, Blatt said the juror, during the closed hearing, said she was unclear about a jury instruction having to do with felony murder, a charge the defendant faced.

The felony murder charge appears to be the route in which the jury was able to find Hollywood

guilty of first-degree murder. In order for this finding, Blatt said the jury had to either find that the murder occurred during the kidnapping, or that it was premeditated.

The jury found that the former occurred, which was tied to the felony murder charge, meaning the jury believes the kidnapping started when Hollywood and his friends forced Nicholas into the van and didn't end until he was shot nine times with the defendant's fully automatic TEC-9 machine pistol.

Since a key part of the defense's case hinged on a theory that the kidnapping ended shortly after Nicholas arrived in Santa Barbara, this was troubling, Blatt said.

Because of the way jury instructions were written, Blatt said he couldn't blame the jury for its finding. Rather, he said he's "mad" because Hill didn't find, as he said a different judge did in the Ruge case, that the kidnapping had ended. If this had occurred, Blatt said the only way the jury could have found Hollywood guilty of first-degree murder was if the killing was premeditated.

Blatt said he thought Hill should have given the same jury instruction as was given during the Ruge case, but didn't — a blunder he believes will create a solid footing for a successful appeal.

"This thing could have been avoided with the same instruction," he said, adding that the importance of clear instruction from the judge on complex laws is crucial in a case with complicated facts. "I think that if we'd had the appropriate instruction we might have had a very different outcome with this jury."

Further solidifying the defense's view that something fishy took place with the jury came after the sentence was handed down and the jury was turned loose.

After a verdict, jurors often meet with prosecutors and defense attorneys, and even the media, to discuss the case. However, when the reins were removed from the jury yesterday, Blatt said not one juror agreed to speak with either side, an occurrence he said he's never experienced.

"We've devoted our lives to this for four and a half years," he said. "Shouldn't a jury stick around and talk to us?"

While the defense feels strongly that the battle over Hollywood's future has just left the starting gate, Lynn said he's confident the drawn-out case, which made its way to the U.S. Supreme Court before being tried, is over.

"I hope it's over," he said, "I think it's over. It ought to be over."

Jeff Markowitz said he hopes his son's case will give parents who haven't had as much "success" with the legal system and whose killers might still be on the run, some hope.

Asked if they had anything to say to Hollywood, the Markowitz family said they did not.

Jeff Markowitz said he also hopes the case sends a message to would-be criminals that there are serious consequences for such behavior, even when the person on trial for murder didn't pull the

trigger.

“Let it be said that murder-for-hire is just as serious as pulling the trigger,” he said.

He also urged anyone embroiled in criminal activity, such as a kidnapping that is seemingly harmless, to do the right thing before the situation spirals out of control. He added that Hollywood chose not to do these things, and as a result, his son died.

If Hollywood had made a better choice, Jeff Markowitz said, “Nick would be alive and he wouldn’t