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Hollywood Jury Queries Judge

Day Two and Still No Sign of Verdict

By Chris Meagher

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Day two of jury deliberation in the Jesse James Hollywood kidnap and murder trial has come and gone, but not without the jury posing a couple of questions to Judge Brian Hill on very complicated legal aspects of the decisions they must make.

Both the prosecution and defense theories of what happened in August 2000, when 15-year-old Nick Markowitz was kidnapped and murdered, rely on breaking down legal definitions and applying them to the case, specifically the charge of aggravated kidnapping. Hollywood is also charged with first degree murder, a charge that could land him the death penalty, though that was not the subject of the jury's questions.

Thursday, on the first day of deliberation, the jury of nine women and three men asked the judge for definitions of extortion and ransom. Monday, the jury asked whether or not a note must be sent or a phone call made in order for there to be ransom in a kidnapping.

Under the penal code, aggravated kidnapping occurs when a person kidnaps another with "intent to hold or detain" that person for "ransom, reward or to commit extortion or to exact from another person any money or valuable thing." There is nothing that says a demand must be made, the judge concluded, but the act must be done with a specific intent. In addition, he said, the fact that Hollywood made no demand must be weighed by the jury.

Extortion, the attorneys concluded, is done during a kidnapping when a person's property is obtained with that person's consent, through the use of force or fear.

In the prosecution's theory, Hollywood was upset with Markowitz's older brother Ben Markowitz, who owed Hollywood money from a drug debt. With this debt in mind, prosecutors said, Hollywood and his friends kidnapped the teenager after seeing him walking in a park, and demanded that he tell them where his brother was, because they wanted him to pay the debt. In the course of the kidnapping, prosecutor Josh Lynn alleges, Hollywood took the boy's pager and phone book from him.

The defense, however, is saying there was no specific intent at the time of the kidnapping, and that the boy's kidnapping was done spontaneously and out of anger because Ben Markowitz had just broken windows in Hollywood's home that same morning, on August 6, 2000. The taking, they say, had nothing to do with the drug debt, and no ransom—including any phone call—was made. Defense attorney James Blatt stressed that a request for information—Hollywood

demanding to know Ben Markowitz's whereabouts, for instance—is not considered, under the law, the taking of something of value.

Hill agreed, explaining that it must be money or property that is sought for there to be ransom. If it is information that is sought, he said, there has to be a reason why and a connection to a tangible item of value for the information to be considered ransom.

“These are very subtle, difficult issues,” Blatt said, summing up the very complex hearing. Friday, July 3, was a court holiday. The jury will begin deliberating again at 9 a.m. Tuesday, and, unless it reaches a decision sooner, continue until 3:30 p.m., with a break for lunch somewhere in between.