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Jury deliberation starts in Hollywood case

By COLBY FRAZIER - July 2, 2009

Jesse James Hollywood's life was placed in a Santa Barbara jury's hands yesterday when his six-week long capital murder trial concluded with closing arguments from warring attorneys.

At stake for Hollywood are charges of first-degree murder and aggravated kidnapping, along with a number of special allegations that, taken together, could result in the death penalty.

Hollywood, 29, has pleaded not guilty to the charges, and in just under five hours yesterday, with a capacity crowd listening, his two defense attorneys told the jury why.

Saying the prosecution's case consisted of "pure speculation," and was "manufactured," Alex Kessel, one of the defendant's attorneys, focused much of his argument not on what was presented during the trial, but rather on what he felt was lacking.

Reminding the jury that the prosecution has the burden to prove his client did anything illegal, Kessel speculated that a number of foggy areas in the case could have been cleared up if the prosecution had called more witnesses involved in the crime.

As it stands, the jury heard from only one of the four people convicted for their roles in the killing. That witness was Graham Pressley, who Kessel called a "little weasel" and a "liar."

Absent from the witness lineup was Jesse Rugge, who is serving a life sentence for his role, the shooter, Ryan Hoyt, who is on death row, and William Skidmore.

Kessel was most interested in Rugge, the only person present when Nicholas was kidnapped from a street near his home in the San Fernando Valley on Aug. 6, 2000, and three days later at Lizard's Mouth, a rugged hiking area off West Camino Cielo Road, where the boy was shot nine times with Hollywood's specially modified TEC-9 machine pistol.

"Why are they scared of Rugge," Kessel said of the prosecution. "Rugge would be the logical witness to fill in the blanks and the blanks are huge."

Rugge appears to have been more intricately involved with the events surrounding Nicholas' kidnapping and murder than anyone.

And if one of the prosecution's key witnesses, Pressley, is to be believed, Hollywood offered Rugge \$2,000 on August 7 to kill Nicholas – a chunk of information Kessel said, if true, is a "damaging piece of evidence."

Of course, Kessel believes it's not true, and he told the jury the only person who could shed light on whether it was is Rugge. Hollywood testified for the better part of four days during the trial and denied offering money to anyone for the boy's murder.

But in his testimony, Pressley said Rugge told him Hollywood called on the evening of August 7

and offered him money to kill the boy.

Kessel, who has accused the prosecution of overlooking a number key phone conversations, and simply neglecting to obtain phone records for others, said the alleged solicitation took place in a phone call that, according to available records, didn't happen.

"Can you convict a man on that kind of testimony?" Kessel asked, adding that the law rarely encourages jury members to be wary of witness testimony unless it is offered by an accomplice, which Pressley is. "Pressley is the worst kind of witness. That should give you some doubt about the validity of our client [soliciting the murder]."

"Pressley should be distrusted and that's [the prosecution's] whole case here ..."

Prosecutors allege Hollywood ordered Hoyt, one of his childhood friends who was referred to in court as the "odd man out," to kill Nicholas. They say Hollywood's motive was two fold: to get revenge on the boy's older brother, Ben Markowitz, who had been feuding with Hollywood over a \$1,200 drug debt he owed, and to cover up the kidnapping.

From the stand, Hollywood admitted to kidnapping the boy. He was apparently so concerned about the initial taking of Nicholas that on August 8, just a few hours before the boy was murdered, he consulted his attorney. Among other things, the attorney told Hollywood that kidnapping a person for ransom is punishable with life in prison. After hearing this, Prosecutors say Hollywood decided to have Hoyt execute Nicholas.

The defense says this makes no sense, and they contend Hoyt acted on his own to gain the approval of his friends. The prosecution insists the defense's claim is equally nonsensical.

The key to this riddle might well rest with Rugge, who was with Hoyt when Nicholas was killed. If Hollywood did indeed order him to kill the boy, it's possible he told Rugge.

After taking multiple jabs for who he didn't call as a witness, Chief Trial Deputy Josh Lynn, the lead prosecutor, pointed out during his rebuttal that the defense has the same power to compel people to testify as the prosecution.

"It sounds to me like Rugge has a lot of good things to say about Mr. Hollywood and he's not here," he said.

While the prosecution urged the jury to convict Hollywood of kidnap for ransom – one of the more serious forms of kidnapping, and murder, Kessel said there's no evidence his client did either.

In order to convict Hollywood of kidnapping for ransom, the prosecution must prove Hollywood kidnapped the boy with the hope of receiving money or property. And of particular importance, is an allegation by the prosecution that the defendant had the boy murdered during the kidnapping. But in order to prove this, the prosecution must show the kidnapping was continuous between the time of the taking, and the killing.

While there's little doubt a kidnapping occurred, exactly when it ended is up for debate.

Kessel insists it ended on August 6, shortly after Hollywood arrived with Nicholas in Santa Barbara. While there, at a home owned by a fellow drug dealer, Nicholas was apparently taped up, but according to Hollywood, he demanded the boy be untaped. This is the moment Kessel said the kidnapping was over.

In the two days leading up to the killing, multiple witnesses said they saw Nicholas smoking marijuana, playing video games and drinking. He only saw Hollywood one more time, on August 7, and according to the defendant, the boy, when asked, told him he did not want to go home.

A number of witnesses, while acknowledging they knew Nicholas had been kidnapped, said the situation didn't seem like a kidnapping because it appeared the boy could leave. At times, Nicholas wasn't anywhere near anyone who even knew Hollywood.

"There was no continued kidnapping," Kessel said. "He could run out of that door and leave."

Kessel called the prosecution's assertion that Nicholas remained in Santa Barbara out of some shadow fear of Hollywood, "malarkey."

Hollywood's lead attorney, James Blatt, in an apparent attempt to polish his client's character, highlighted the defendant's "above-average intelligence" and "compulsive" attitude when it came to cleanliness.

He noted Hollywood's sterling credit score and pointed out that by the age of 20, he already owned a home – albeit in large part through his marijuana dealing operation that was lining his wallet with about \$10,000 a month.

Illegal or not, Blatt told the jury Hollywood's organizational skills and attention to detail should be viewed alongside the habits of Hoyt, who at the time of the killing, was working off a drug debt to Hollywood by doing household chores.

Blatt said Hoyt, who was characterized by Hollywood as being incapable of completing even the simplest of tasks, was desperately seeking acceptance. In order to get it, he said Hoyt, as Hollywood testified to, said once that he was going to become a male model – an aspiration that was never realized. At another time, Hoyt also apparently said he had joined the U.S. Navy and was going to become a Navy Seal. But the day after throwing him a going away party, Hollywood spoke with Hoyt, who said the Navy idea had also fallen through.

With these character flaws, Blatt wondered why an organized person like Hollywood would commission a flaky individual like Hoyt to kill a person on his behalf.

The short answer, according to the attorney, is he wouldn't. "It's unreasonable," he said.

Instead, he said Hollywood sent Hoyt to Santa Barbara to pick up Rugge and Nicholas and bring them back to Los Angeles, and Nicholas would eventually be taken home.

But somewhere along the road between Santa Barbara and Los Angeles, Hoyt decided, "independently," to kill the boy, Blatt said.

Why? Not because Hollywood ordered it, he said, but because he wanted to help out his friends,

clear his debt, and finally be the Navy Seal he'd talked so much about.

"He had that opportunity to be that Navy Seal," Blatt said. "Had had that opportunity to finally be somebody ... It's sick, it's distorted, it's terrible, it's Hoyt."

Blatt ended by pointing out that Hollywood had a "reasonably good life," and to kill someone would only derail that.

"Ask yourself who had the most to lose, who had the most to gain," he said, adding that he recommended the jury simply look at the evidence. "Talk is cheap."

PROSECUTION REBUTTAL

After being lambasted for not calling Rugge and other witnesses to the stand, Lynn told the jury that when they enter the deliberation room, the only evidence they can consider is what they heard in court, from witnesses on the stand.

"I just encourage you to focus on the facts," he said, adding that during his closing argument on Tuesday, he used a PowerPoint presentation that was heavy with citations from the trial record, not speculation about what witnesses who didn't testify might have said.

The prosecution and defense do seem to agree on one thing: that Hoyt was an unreliable character. They disagree, however, on what that unreliability spawned.

While the defense said Hoyt killed to gain acceptance, Lynn said he did exactly what he was told by Hollywood, the man who regularly ordered him around, and in a brief home video played in court, could be heard hounding Hoyt for money.

In order for Hoyt to have done what the defense claims, Lynn said he would have had to do the complete opposite of what Hollywood had told him: an unlikely bout with independent thinking for a man the defense claims couldn't complete the most menial of tasks.

"Is this the guy who went off and did the exact opposite thing that the Hollywood family would have wanted him to do?" Lynn asked.

Lynn said Hollywood fled to Brazil, by way of Colorado, the Mojave Desert, Seattle, Wash. and Canada, to throw everyone else "under the bus" because he knew he was "guilty as sin and he knew he was going to jail for life."

Hollywood was captured in a Brazil beach town in 2005. His girlfriend, who he said from the stand was his wife, was six months pregnant with their son.

Lynn said all of the evidence indicates Hollywood ordered Hoyt to do the killing, and after nine long years of waiting for justice, its time has come.

"Just go to the facts," he said. "It truly is time to hold Mr. Hollywood responsible. Convict him.

"The evidence demands that and justice demands that."

The jury will deliberate throughout today and resume Monday.