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Locals Rush Out To See 'Alpha Dog'

By Dawn Hobbs, News-Press Staff Writer

In stark contrast to national box office results -- which show "Stomp the Yard" outsold "Alpha Dog" by more than 3-to-1 -- locally, the movie based on the high-profile Jesse James Hollywood murder case stomped the dance flick by 2-to-1, according to information released Tuesday following the opening holiday weekend of both films.

Even management at Metro 4 Theatres hadn't prepared for the near-capacity audiences that filled the State Street auditorium to see the fictionalized account of the brutal slaying of a 15-year-old boy in the Santa Barbara hills in August 2000.

"It was the most attended film in Santa Barbara and Goleta this weekend," said David Corwin, president of Metropolitan Theatres. "It sold out opening night and was then at a solid near-capacity all weekend long."

In fact, "Alpha Dog" had to be moved into the theater's largest auditorium following Friday's large matinee crowd. "We were a bit short-sighted on this and didn't really anticipate what an impact it would have here," Mr. Corwin said.

However, it's still unclear exactly what impact "Alpha Dog" will have on Mr. Hollywood's pending death penalty trial, expected to get under way later this year.

In fact, legal experts who saw the movie over the holiday weekend differed greatly Tuesday on how this will all shake out.

At issue is whether Mr. Hollywood, accused of orchestrating the kidnapping and murder of Nicholas Markowitz, can get a fair trial.

Not only was "Alpha Dog" created from files the Santa Barbara County District Attorney's Office provided to the filmmaker -- resulting in a one-sided fictional account of the high-stakes case -- but it's also the first movie in the U.S. based on a criminal case to be released before the trial in that case even begins.

"I don't think this film will hurt Hollywood," said Laurie Levenson, professor at Loyola School of Law and former federal prosecutor.

"It's so ambivalent, what he actually did compared to some of the other guys, who really look horrible," said Ms. Levenson, who watched the movie in Los Angeles on Sunday evening. "It may, ironically, end up helping him.

"There are so many open questions left by the film," Ms. Levenson said, adding there is no direct evidence presented in the film of Mr. Hollywood ordering the murder of the teen, as the prosecution alleges.

However, noted defense lawyer Thomas Mesereau adamantly disagreed.

"Laurie is a friend of mine -- but I don't buy her explanations for one second," said Mr. Mesereau, who won Michael Jackson an acquittal in Santa Maria in June 2005.

"The movie makes Hollywood look terrible," said Mr. Mesereau, who saw the film at a Century City theater Monday night, but pointed out that he is not familiar with the details of the case.

"It's a very haunting, disturbing film about young drug dealers who kill a very innocent 15-year-old boy," he said. "It makes these young drug dealers look immoral, unethical, vicious and deadly. It's extremely prejudicial to the defense in this case.

"Not only is the movie horrifying, but it ends with a very disturbing emotional look at the devastated mother of the victim, who is in a mental hospital as she describes her suicide attempts. Additionally, the movie credits end with giving special thanks to Santa Barbara County prosecutor Ron Zonen."

Appellate justices removed the veteran prosecutor from the case in October, citing the overstepping of ethical and legal boundaries in a pending case. Defense lawyer James Blatt fought to delay the release of the film until his client's case is resolved. To release it beforehand, he argued, would compromise his client's Sixth Amendment right to a fair trial.

However, federal justices ruled instead to uphold the film industry's First Amendment right to publish without prior restraint, stating the lawyers should be able to find 12 impartial jurors in Santa Barbara County.

In the meantime, each side has challenged the appellate court's recusal decisions. The prosecution wants Mr. Zonen, who successfully convicted Mr. Hollywood's four co-defendants between 2001 and 2003, back on the case. Mr. Blatt wants the whole office booted. Legal briefs on the matter are due later this week. The defense lawyer also plans to submit the DVD of "Alpha Dog" as a supplement to his argument.

The last defendant to be sentenced to death here was Ryan Hoyt, who in 2003 was convicted of being the triggerman in this case. It was the first time a death penalty sentence had been handed

down in Santa Barbara County since 1988, and only the seventh time in almost three decades. The high-stakes nature of this case means jury selection will have to be carefully conducted. "Changing the names and locations in the movie didn't soften it -- people are not stupid," Mr. Mesereau said. "I know a lot of people who have not seen this movie and don't plan to. But anyone who has any thoughts on this film is going to have to be looked at very carefully."

Another problem, he pointed out, is that even if jurists who have seen the movie say they can still be fair, there's a risk that jurors may subconsciously fill in gaps in the evidence with what was shown in the movie.

"Additionally, because of the high-profile nature of the case, some people will try to get on the jury and not tell the truth about whether they've seen the movie or discussed it with people. So I hope the trial judge is very sensitive to these issues -- or you won't have a fair trial."

Nonetheless, Ms. Levenson thought it was more of a teen flick, especially since it stars Justin Timberlake and Emile Hirsch. She insisted that it can't automatically be assumed that the audience naturally empathizes with the victim.

"A lot of people have an odd affection with the villain," she said. "And the movie portrays the co-defendant (Mr. Hoyt) in a much worse light than Hollywood. There's also many questions the prosecution will have to answer: Exactly how do we know Hollywood called for the hit and that it was his decision? How do we know it wasn't these other guys who apparently always want to please him?"

"In fact, the defense will likely be, 'These morons -- how could they kill the kid? I meant to take care of the kid, to take him home and take him to a safe place. And the reason I took off is because I knew they would blame me.' The movie leaves it open for that interpretation."