

This
JUST IN

A Fair Trial for Eggleston?

NOT POSSIBLE, SAYS MOM, WHO WANTS THE FEDS TO INVESTIGATE
By Frank Driscoll

You'd think the Eggleston case couldn't get any more convoluted, but it took another twisty turn on Monday. Watch closely now.

This morning, Superior Court Judge Stephanie Arend will begin grilling the jurors who were lucky enough to be chosen to decide the fate of Brian Eggleston. >>

» Meanwhile, Eggleston's mother said she has asked the United States Attorney's office to look into whether his civil rights have been violated.

Arend—noting that juror Ferruccio Crocetti has sworn he was told by another juror that Eggleston had been convicted in a previous trial—issued subpoenas for all 16 members of the panel that found Eggleston guilty of second-degree murder and assault December 16 after an eight-week trial and just eight hours of deliberation. Three of those jurors were ultimately dismissed from the case and the fourth alternate did not participate in the verdict, but Arend wants to know who heard what, and when.

Eggleston, now 32, was convicted last month in the slaying of Pierce County Sheriff's Deputy John Bananola seven years, two months and twenty-four days ago. His sentencing has been postponed, however, while Judge Arend considers his motion for a new trial.

It was Eggleston's third murder trial. He's faced the death penalty twice before. Eggleston has always insisted he didn't know Bananola was a police officer when he shot him in the early morning hours of October 16, 1995. The shooting took place during a marijuana raid conducted by the Pierce County Sheriff's Department—which was actually investigating Eggleston's brother, who was and is a deputy sheriff.

Eggleston's first trial, in 1997, resulted in a hung jury on the aggravated murder charge, although he was convicted of assault and several drug-related charges; his second trial, in 1998, resulted in a second-degree murder conviction. His drug convictions were never contested, but his murder and assault convictions were overturned by

Haiku NEWS

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No James Bond seen there. ☹**

the state Court of Appeals in September 2001—and that set the stage for his third trial.

The defense wants a fourth trial because of alleged juror misconduct and judicial impropriety, but—not surprisingly—Arend wasn't having any of the judicial impropriety argument. Last Friday, she decided not to recuse herself, despite the defense's allegation that they weren't told of threats against juror Thomas Burrows, who said he told Arend's judicial assistant, Pamela Frank, about a man who shook his finger in his face, telling him he'd better "do the right thing." Burrows swore in a declaration that the man approached him outside the courthouse some two weeks into the trial. The man said he could "get" him and his family.

"I can blackmail you, I can. I can," the man said, according to Burrows' declaration.

Burrows said he'd informed a security officer about the threat. The security officer summoned a sheriff's deputy, and Burrows pointed the man out to the officers. Somehow, though, he got away.

Friday, Arend ruled that Burrows was properly dismissed from the jury prior to deliberations because the defense agreed to his removal. Thus, Arend reasoned, "the threat doesn't matter because he was excused."

Noting that defense attorneys Monte Hester and Zenon Olbertz are seasoned advocates, Arend said it is not the court's function to second-guess experienced defense counsel.

"The defense made a tactical decision to excuse (Burrows)," she said, "and the motion on this allegation is denied."

Now it's on to the allegation of juror misconduct. ☹

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