

Mistrial declared in trial of couple accused of UW assault, after jury can't reach a verdict

Mike Carter

Aug. 13, 2019

The jury in the trial of a Seattle couple accused of assaulting anti-fascist protesters at a 2017 University of Washington event, resulting in a near-fatal shooting, deadlocked as their deliberations broke down along ideological and political lines, according to the panel's foreman.

"The jury was biased," the foreman, who asked to be identified only by his first name, Luke, said after the judge declared a mistrial in the case Tuesday.

Luke, who was clearly frustrated, said a handful of jurors who sympathized and held similar political views as Marc and Elizabeth Hokoana favored acquittal and the idea that Elizabeth Hokoana acted reasonably when she shot avowed anarchist Joshua Phelan Dukes in the abdomen as Dukes grabbed her husband, Marc Hokoana. Evidence showed the couple supported the election of President Donald Trump and were on the UW campus the night of his inauguration — Jan. 20, 2017 — to goad protesters and attend a speech by right-wing provocateur Milo Yiannopoulos.

Luke said at one point last week he asked for the jury to view for a second time an anti-bias video shown to all jurors in King County in hopes of breaking the deadlock, but "it didn't do any good." In the end, he said, the panel deadlocked 9-3 in favor of convicting Elizabeth Hokoana of first-degree felony assault for shooting Dukes — a crime that would have sent her to prison for up to 15 years. They deadlocked 7-5 in favor of convicting Marc Hokoana of misdemeanor assault, for using pepper spray on antifa protesters in the incident that precipitated the shooting.

After interviewing the jurors in the judge's chambers, King County Senior Deputy Prosecuting Attorney Raam Wong said Tuesday he and his office would review the case in light of the jurors' statements to determine whether they would retry the Hokoanas. He played down the idea that politics played much of a role in the hung jury, but acknowledged the decision to rewatch the anti-bias video in the middle of deliberations was unusual.

The trial lasted five weeks and the panel had deliberated almost seven days before alerting Superior Court Judge Kristen Richardson on Monday that they believed they were deadlocked. They agreed to return to deliberations Tuesday, but by noon had given up hope of reaching a unanimous decision. The judge called the jury into the courtroom and asked Luke, the foreman, if there was "a reasonable probability of a unanimous verdict within a reasonable amount of time."

"No," he said. The other jurors agreed, and Richardson dismissed the panel and declared a mistrial.

The Hokoanas walked out of the courtroom without commenting, holding hands.

Steven Wells, Elizabeth Hokoana's attorney, said he was relieved "that nobody left the courtroom in handcuffs. In my business that's a win."

Kim Gordon, who represented Marc Hokoana, acknowledged the trial and deliberations were politically charged. "What isn't these days?" she said.

During closing arguments, the defense emphasized the absence of the man who was shot, Dukes, who refused to testify. The 35-year-old computer-security expert said

through his attorney, Abigail Cromwell, that he did not believe in or trust the punitive American criminal-justice system.

On Tuesday, Cromwell said it was significant that even in Washington, a “stand-your-ground” state where the self-defense laws do not obligate an individual to retreat in the face of danger, a majority of jurors did not believe Elizabeth Hokoana’s story.

“They did not find her credible, did not buy into her claim of self-defense, and did not even need to hear from Mr. Dukes to conclude this,” she said.

Dukes was “not displeased” with a mistrial, as he does not think convictions are necessarily helpful, Cromwell said. In a statement she released, Dukes said his efforts to expose white supremacists are more important.

“While they’ve been busy fighting this battle, we’ve been busy winning the war,” he said. “With every shooting in Trump’s name, we get louder. This is not over, nor even the most important thing right now.”

The night of the shooting, several hundred protesters, many of them already upset over Trump’s inauguration earlier that day, squared off against a large group that had purchased tickets to see Yiannopoulos. Tensions reached critical mass when a large group of black-clad anti-fascist demonstrators flooded Red Square.

Prosecutors said Marc Hokoana, a premed student, had gone to the Yiannopoulos event as much to goad the “snowflakes” protesting Trump’s inauguration as to attend the speech. He had told a friend on social media the night before that he would attend the event prepared to go “full melee” — a gaming reference to hand-to-hand combat — and armed himself with a curved-blade tactical knife and a pepper-spray blaster.

Elizabeth, he told his friend, would be armed with a gun. She carried a 9mm Glock semi-automatic pistol in a holster beneath her parka.

During testimony as the last witness in the trial, Elizabeth Hokoana admitted that she shot Dukes, but said he had a knife and was going to “gut” her husband. She claimed she fired at Dukes to defend Marc, who had just fired pepper spray at a group of protesters when Dukes charged and grabbed him. No other witness reported seeing a knife and police found none at the scene.

Both the defense and prosecution urged jurors to watch the cellphone videos of the tumultuous protests that were central to the case, each side claiming the videos proved their cases.

The defense — largely through the testimony of the Hokoanas — gave mostly benign explanations for what occurred in Red Square and the day before, when Marc Hokoana sent the social media messages about “cracking skulls” of “snowflakes” — a pejorative term used to describe people perceived as too sensitive, especially about political matters, and who opposed Trump’s election.

Wong insisted that the Hokoanas’ actions before and during that night were intended to incite the antifa protesters. He pointed out that Marc Hokoana was in a fight within eight minutes of arriving on campus, and was involved in a total of five altercations before the shooting.

“He went there to crack skulls and cause a melee,” Wong said. “It certainly appears that’s what he did.”

The Ted K Archive

Mike Carter

Mistrial declared in trial of couple accused of UW assault, after jury can't reach a
verdict

Aug. 13, 2019

<seattletimes.com>

Contact for the Seattle Times staff reporter: 206-464-3706 or
mcarter@seattletimes.com.

www.thetedkarchive.com