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Local Researcher gives Cochran plaudits for passionate speech

Barry Bortnick, News-Press Staff Writer

Simpson's lead defense attorney praised for his persuasive argument and for "connecting" with the jurors

Professor Kathy Kellermann wouldn't say whether Johnnie L. Cochran Jr. aced the final exam, but she gave O. J. Simpson's lawyer high marks Thursday for his impassioned closing argument.

A member of UCSB's communications department, Kellermann has studied the Simpson trial to further her research on tactics people use to win arguments. The best persuaders, she has found, build arguments not only on reason, but also for an audience they understand and know how to influence.

Thus far, Kellermann said Cochran knows the audience of 12 jurors best.

"All persuasion starts with your target, in this case the jury," she said. "It appears the defense has a leg up with the issues of race and police misconduct, and they can use those arguments more effectively."

She has viewed much of the yearlong trial and collected more than 45,000 pages of courtroom transcripts. Eventually, Kellermann plans to incorporate the living courtroom experiment into her academic work.

"I am interested in the strategies and tactics people use to get others to do things," she said. "In the courtroom, you have a real live setting where people use all kinds of tactics to convince the jury."

Although Cochran appears to have an edge in the closing arguments, Kellermann said, prosecutor Marcia Clark gained points for questioning where Simpson was around the time his former wife, Nicole Brown Simpson, and Ronald L. Goldman were murdered. This tactic placed some burden of proof on the defense.

"She took a rational approach in her closing remarks and her strongest points were on issues

dealing with where O.J. was," Kellermann said.

She gave Clark's fellow prosecutor, Christopher A. Darden, an "A" for effort by being passionate and reintroducing evidence about Simpson's history of abuse toward Nicole Simpson.

"He did a very good job connecting with the jury," she said. "He took an issue which people said was not important and he reinstated domestic violence into the trial."

Darden proved most effective when he asked jurors why Nicole Simpson would leave a will, apology letters from Simpson and pictures of her battered face inside a safe-deposit box.

Prosecutors contend Nicole Simpson knew her ex-husband would kill her one day, and left the evidence to point investigators toward her murderer.

"I thought he raised better questions than explanations," Kellermann said of Darden's performance.

But she said Cochran's ability to reach the target audience with accusations of police cover-ups and racism will stay with the jury when they begin to deliberate Simpson's fate.

Cochran's focus on former police Detective Mark Fuhrman's racism may prove effective since the 12-member jury includes nine blacks.

Many jurors came to the panel with "starting beliefs" on racism, based upon their life experiences, Kellermann said. The lawyer who understands those beliefs and is able to tap into them has a better chance of winning, she added.

Then again, this week's closing arguments may have been more effective on television viewers than jurors, said Santa Barbara attorney Barry Cappello, a former assistant district attorney with 30 years of trial experience.

"The case is not won or lost in closing argument," Cappello said.

"No screams or yells about slashed throats will matter to the jury. By this point, all the jurors have made up their minds."

Final arguments, Cappello said, let lawyers give those who already side with them some extra ammunition to fight with in the jury room.

Cappello, who prosecuted about 10 murder trials while with the Santa Barbara County District Attorney's Office from 1968 to 1971, said Clark and Darden have been capable, but not outstanding.

"The prosecutor must do what she has not done, and paint them (the defense) as they are — defense lawyers attempting to acquit a murderer," Cappello said. "They are not here for justice, they are attempting, with a cadre of lawyers, to make their day by getting a murderer acquitted."

Santa Barbara defense attorney Doug Hayes doubts prosecutors can win a conviction in light of Cochran's dramatic close.

"Trials are not about the scene of the crime, but what is delivered to the jury," Hayes said.

He predicted Cochran's power of persuasion would succeed, not necessarily because he has the facts in his corner, but because he has the skill to deliver a message.

"He has a smooth presentation and it has a melody about it," Hayes said. "People may not be sure what they are hearing, but they like it."