

THE ORANGE COUNTY BETA REGISTER

Jury stalemate in Home Depot murder penalty

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2010-05-20 11:45:14



SANTA ANA – All 12 jurors in the trial of murderer Jason Russell Richardson decided he should die for killing a Tustin Home Depot manager during a robbery, but a lunch break to do some soul searching for now has spared him from the death penalty.

With jurors "hopelessly deadlocked" 9-3 in favor of the death penalty, Orange County Superior Court Judge William Froeberg declared a mistrial Thursday.

Prosecutors will retry the penalty phase of his trial in the hopes of persuading a new jury to sentence the twice-convicted rapist to death for shooting and killing manager Tom Egan Feb. 9, 2007, during a robbery at the Tustin Home Depot.

The plan, it seemed, had been a good one, as robberies go. Hidden by painters coveralls, a hard hat, a dust mask and gloves, it would be virtually impossible to identify him.

What the robbery plan didn't include was night manager Tom Egan, a veteran Marine sergeant who refused to let any of his people or his customers get hurt. Surveillance cameras installed to catch shoplifters caught a different picture that day. They caught the last few moments of Egan's life as it slowly rolled to an end on the videotape, with him begging his eventual killer to leave without hurting anyone. And they captured his murder.

Richardson tried to rob the store's safe, but when things didn't go according to plan, he shot Egan, stepped over his body and settled for a few hundred dollars from cash registers.

Egan, a 40-year-old married father of 3-year-old twin girls, should have already been home – he worked the night shift – but had lingered for hours, finishing up work. His wife A.J. was at home giving the twins a bath, unaware that in that her life was changed forever.

For six straight weeks, A.J. Egan was a permanent fixture in the courtroom. Surrounded by her mother and an ever-rotating knot of friends and family, she watched her husband's killer cry when he was convicted. She watched him as he stared blankly at home videos of her husband playing with their daughters in the snow and on Christmas morning, never shedding a tear as Egan's family and friends described life without Tom.

The jury's announcement of a deadlock Thursday morning came with so little warning that A.J. Egan was not there to hear the news in person. Deputy District Attorney Cameron Talley called her to break the news that their fight was not over.

It was a dirty sock full of ammunition left in the Home Depot and two convictions for raping ex-girlfriends that led to Richardson's capture. The DNA found on the sock, forensic scientists testified, hit a sample in California's DNA database – a sample belonging to Richardson.

It took the jury six hours to convict him of first-degree murder with special circumstances. Convicting Richardson of murder was relatively simple, Juror No.1 said, but playing God with his life was a different story.

Jurors described the emotions they encountered while trying to decide whether Richardson, a married father of three young children, should live or die.

Juror No. 11 said he woke up in the middle of the night to an epiphany: Richardson should die. Other jurors said they drove home from court in tears.

It was an exhausting four-day process, jurors told the prosecutor and defense attorneys. What seemed important at first faded by the wayside as they waded through stacks of evidence, jurors said.

Everyone agreed Richardson had a terrible childhood, but for the jurors who voted for the death penalty, that didn't outweigh his decision to take a life and continue on with the robbery. Jurors called him a "cold-blooded killer" with "total disregard for human life."

"He just had enough of Tom," said Juror No. 11. "He came there to get the money, and he just exploded."

The ramifications of the decision to pull the trigger weighed heavily on the discussion, they said. "How it just derailed a family sailing along just perfectly," Juror No. 11 said.

"This was the most emotional thing we've ever dealt with," said Juror No. 4, who had been a juror on another death penalty murder case.

A pre-lunch vote Tuesday ended 12-0 for death, jurors said, but after lunch, a juror who is a psychologist in her mid-20s came back to report she had changed her mind. A court furlough day Wednesday left jurors with their own thoughts. After an hour of deliberation Thursday, jurors announced they were at a stalemate, 9-3.

"In almost every murder case, there's a family that is left behind," said one juror who voted for life without the possibility of parole. Killing someone else wasn't the answer.

When their girls are asleep, A.J. Egan still cries herself to sleep at night. It's hard, she told jurors during the penalty phase, to play both parts. She has to be Katie and Jenna's mother and father. She is the disciplinarian and the comforter. And she watches as other children play with their fathers, knowing her girls will never again be hugged by theirs. And every birthday and Christmas comes with a wish for their father back.

"It's so hard," a sobbing A.J. Egan said.

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