

DATE

NOV 17 2004

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FILED
SAN MATEO COUNTY

NOV 17 2004

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SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF SAN MATEO

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

SCOTT LEE PETERSON,

Defendant.

) Case No. SC55500
) (Stan. Co. 1056770)

) MOTION TO DISCHARGE JURY AND
) DISMISS PENALTY PHASE OR, IN
) THE ALTERNATIVE, FOR A NEW
) PENALTY PHASE JURY AND
) CHANGE OF VENUE;
) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT THEREOF

) TRIAL DATE: November 22, 2004
) TIME: 9:00 a.m.
) PLACE: Dept. 2M

Scott Lee Peterson, by and through counsel, moves for discharge of the jury and dismissal of the penalty phase or, in the alternative, for a new penalty phase jury and for a change of venue within which to select that new jury and hold the penalty phase trial.

Dated: November 17, 2004

Respectfully submitted,

GERAGOS & GERAGOS
Mark J. Geragos
Gregory R. Ellis
George W. Buehler

By: MARK J. GERAGOS
Attorney for Defendant
SCOTT LEE PETERSON

MEMORANDUM OF POINTS AND AUTHORITIES

I. The court erred by failing to keep the jury sequestered between the guilt and penalty phases. The jury should be discharged and the penalty phase dismissed under principles of double jeopardy.

“Murder and mystery, society, sex and suspense were combined in this case in such a manner as to intrigue and captivate the public fancy to a degree perhaps unparalleled in recent annals. Throughout the preindictment investigation, the subsequent legal skirmishes and the . . . trial, circulation-conscious editors catered to the insatiable interest of the American public in the bizarre. . . . In this atmosphere of a ‘Roman holiday’ for the news media, . . . [the defendant] stood on trial for his life.”

(*Sheppard v. Maxwell* (1966) 384 U.S. 333, 356, quoting *State v. Sheppard* (1956) 165 Ohio St. 293, 294, 135 N.E.2d 340, 342.)

What has happened in this case makes the *Sheppard* case look tame by comparison. The jury here was sequestered during deliberations. After the guilty verdicts were read, however, the jurors were released into the highly-charged, pro-conviction, carnival atmosphere which had enveloped the courthouse and community. Because the penalty phase remained to be tried, this was clear error. The court was quite aware of the media circus and lynch mob mood that had hovered over this case since its start. The announcement of the verdicts triggered bedlam outside the courthouse where a crowd of some 1,000 people had assembled. When the verdicts were read the mob cheered wildly and exulted as car horns honked in celebration (audible in the courtroom while the jury was still in the box) registering approval of the jury’s verdicts. As jurors left the courthouse after the verdict was announced they were applauded and cheered as if they were members of a winning Super Bowl team. (See Exhibit A.) In stark contrast, the mob jeered Scott Peterson’s mother and members of Mr. Peterson’s family as they left. (See Exhibit B.)

The court had authority to keep the jury sequestered between verdict and penalty

1 trial. (See Pen. Code, §§ 1121 and 1128.) The fact that the court did sequester the jury
2 during guilt deliberations shows that it understood the likely prospect of the jury being
3 tainted by the massive media interest in and community fervor about this case. That the
4 jury was in fact influenced by such extrinsic factors was demonstrated by the comments
5 of Juror Number 5, before his dismissal from the jury over defense objections, to the
6 effect that “given what’s transpired” in the jury room, he feared that his ability to weigh
7 the evidence fairly and openly had been so compromised “that I would never know
8 personally whether or not I was giving the community’s verdict, the popular verdict, the
9 expected verdict...” (See Reporter’s Transcript November 10, 2004, at p. 20794,).

10 As counsel for Mr. Peterson told the court at the time:

11 “MR. GERAGOS...And he feels like there is a train that’s rolling, and the
12 train is rolling towards a conviction.

13 THE COURT: I’m not so sure.

14 MR. GERAGOS: Well, that’s what the community – I mean is there any
15 way other way to read that? I mean what makes the best book? What makes
16 the best sale, and what the community wants in the community certainly is,
17 as you know from spending twelve weeks here, the community certainly
18 doesn’t want a not guilty.”

19 And sure enough, the community got what it wanted. This case was originally
20 transferred to San Mateo County from Stanislaus County because of pervasive,
21 prejudicial pretrial publicity. The defense at that time objected to this venue because the
22 two venues are in essence in the same television market. When the defense arrived in San
23 Mateo County it was greeted by billboards on the freeway onramps bordering the
24 Courthouse square displaying Mr. Peterson in orange jumpsuit and chains with the
25 headline reading “MAN OR MONSTER?” As jury selection was set to begin, a roving
26 billboard, visible from the jury box as well as Judge’s chambers, not only showed Mr.
27 Peterson in chains with the MAN OR MONSTER? interrogatory but additionally invited
28 people to call in and vote for Guilt.

1 In this highly charged atmosphere the Court spent over twelve weeks trying to pick
2 a jury. Numerous jurors were exposed as "stealth jurors," who actually lied to try to get
3 on the jury so that they could "fry" Mr. Peterson. The prejudgment rate amongst the more
4 than 1,600 jurors summoned was astronomical. Even some of those who were adamantly
5 against the death penalty stated that they would make an exception for Scott Peterson.
6 One man was only literate enough to fill out his name, age, and the word "GUILTY" on
7 his 22-page juror questionnaire. Mr. Peterson's motion for separate juries was denied,
8 thus ensuring that the jury ultimately selected was likely prosecution-prone. Mr.
9 Peterson's motion to sequester jurors during the guilt or innocence phase was also denied.
10 The defense was gagged by a protective order while an army of not so thinly disguised
11 surrogates for the prosecution would every day hold court for the media on the front steps
12 of the courthouse and at night flood the television airwaves with vitriol and hate towards
13 Mr. Peterson.

14 The jurors have now been released into this community that embraces them as
15 conquering heroes and will treat them as such for the ten days until the penalty trial is
16 scheduled to begin. (See Exhibits C-G.) So poisoned, how can these jurors fairly
17 determine, without bias, whether Mr. Peterson should live or die?

18 They cannot. Permitting this jury to decide Mr. Peterson's fate would deprive him
19 of his state and federal constitutional rights to a fair and impartial jury. (See, e.g., U.S.
20 Const., 6th & 14th Amends.; Cal. Const., art. I, § 16.) This jury should therefore be
21 discharged. However, a capital defendant has the right to have the same jury that
22 determined his guilt or innocence also decide his penalty. (*People v. Nicolaus* (1991) 54
23 Cal.3d 551, 572 [preference for single jury benefits defendant by helping to "insure that
24 the ultimate decision-maker in capital cases acts with full recognition of the gravity of its
25 responsibility throughout both phases of the trial and will also guarantee that the penalty
26 phase jury is aware of lingering doubts that may have survived the guilt phase
27 deliberations"].) That being the case, the prohibition against Double Jeopardy contained
28 in both the United States and California Constitutions requires that this court dismiss the

1 penalty proceedings against Mr. Peterson altogether. (See U.S. Const., Fifth Amend.;
2 Cal. Const., art. I, § 15.) In other words, because Mr. Peterson is entitled to have a single
3 jury determine both his guilt and his penalty, and because his ability to obtain such jury
4 has been obstructed by extraneous factors outside his control, the penalty phase should be
5 dismissed.

6
7 **II. Alternatively, the court must empanel a new jury to hear the penalty**
8 **phase trial.**

9
10 Penal Code section 190.4, subdivision (c), authorizes the court, for good cause, to
11 discharge the guilt phase jury and empanel a new one to consider the penalty. If the court
12 rejects Mr. Peterson's double jeopardy claim set forth above, it should then exercise its
13 discretion to order a new jury in this case.^{1/} Although no case affirmatively defines what
14 constitutes "good cause" under this provision (see, e.g., *People v. Malone* (1988) 47
15 Cal.3d 1, 27 -28; *People v. Hart* (1999) 20 Cal.4th 546, 640-641), certainly where events
16 prejudicial to the jury's ability to fairly determine penalty occurred during and after the
17 guilt trial, there is good cause to empanel a new jury for the penalty phase. To rule
18 otherwise would deprive Mr. Peterson of a fair and impartial jury in violation of the State
19 and Federal Constitutions. (See, e.g., U.S. Const., 6th & 14th Amendments.; Cal. Const., art. I,
20

21 ^{1/}This is not a recapitulation of Mr. Peterson's pretrial motion filed in February 2004,
22 in which he argued he is constitutionally entitled to separate guilt and penalty phase juries.
23 The basis of that earlier motion was that given the sociological data which shows that a
24 death-qualified jury is more conviction-prone than a non-death-qualified jury, and given the
25 massive adverse publicity surrounding this case, the court should order separate juries so that
26 Mr. Peterson's guilt or innocence would not be determined by a death-qualified jury.

27 Mr. Peterson stands behind that earlier motion. Indeed, as is discussed further below,
28 events during deliberation in this case show that his concerns about the death-qualified jury
were not only warranted but prescient. (See also *United States v. Green* (2004 D. Mass.)
324 F.Supp.2d 311, 328-333.)

The present motion, however, argues instead that a new jury is required to ensure a
fair *penalty* phase trial, independent of whether the guilt phase trial was constitutionally valid
which, we submit, it was not.

1 § 16; *Taylor v. Louisiana* (1975) 419 U.S. 522, 530; *Turner v. Louisiana* (1965) 379 U.S.
2 466, 472; *People v. Wheeler* (1978) 22 Cal.3d 258, 265-266; *Rubio v. Superior Court*
3 (1990) 24 Cal.3d 93, 97.)

4 In *People v. Robertson* (1982) 33 Cal.3d 21, the Supreme Court reversed the
5 judgment as to penalty and remanded for a new penalty trial because the jury had not been
6 precluded from considering, in the penalty phase, evidence of prior uncharged crimes
7 which had not been established beyond a reasonable doubt. (*Id.*, at pp. 53-55.) Here, the
8 situation is worse. The issue is not whether the jurors have heard evidence inadmissible
9 in the penalty phase. The jurors here have been exposed to *non-evidentiary* information
10 and sentiments which by definition they may not consider in deciding Mr. Peterson's fate.
11 They have been released into a community which sees Mr. Peterson as a monstrous killer
12 and slaps them on the back – figuratively and literally – for their verdicts. So tainted,
13 they cannot possibly limit their determination of this defendant's penalty to the factors
14 properly before them.

15 It bears reemphasis that, given the broad discretion exercised by the jury at the
16 penalty phase of a capital case, "any substantial error occurring during the penalty phase
17 of the trial . . . must be deemed to have been prejudicial." (See, e.g., *People v.*
18 *Robertson, supra*, 33 Cal.3d at pp. 54-55, and cases cited therein.) As the *Robertson*
19 court explained in discussing the prior crimes evidence: "we cannot gamble a life on the
20 possibility that the evidence concerning the two previous murders did not sway a single
21 juror toward the death penalty." (*Id.*, at p. 55.)

22 The same must be said about the jury's unavoidable exposure, once they left
23 sequestration on November 12, to the community fervor and adulation as well as to the
24 numerous news articles, editorials and wall to wall television coverage continuing to
25 demonize Mr. Peterson as a rightly-convicted murderer.^{2/} This jury must be replaced.
26

27
28 ^{2/}To suggest that these jurors will not see headlines when they are in stores, or will not
be approached by friends and acquaintances full of congratulations, is to deny human nature.

III. Venue must, finally, be changed.

To protect Mr. Peterson's right to a fair penalty trial it is not enough that a new jury be empaneled. The jury must be selected from a different venue and the penalty phase must be conducted in that new venue.

The Sixth Amendment to the United States Constitution guarantees a criminal defendant the right to a fair trial by an impartial jury. (*Duncan v. Louisiana* (1968) 391 U.S. 145, 148-154.) This fundamental right includes the right to a trial by a jury free from outside influences, such as prejudicial pretrial publicity. (*Sheppard v. Maxwell* (1966) 384 U.S. 333, 362-363.) If an impartial jury cannot be impaneled, the defendant is entitled to a change of venue. (See *Groppi v. Wisconsin* (1971) 400 U.S. 505, 509-511 [the failure to afford an accused a fair hearing violates even the minimal standards of due process].)

The Due Process Clause of Article I, section 16 of the California Constitution also guarantees a criminal defendant the right to a trial by an impartial and unprejudiced jury. (*People v. Wheeler* (1978) 22 Cal.3d 258, 265.) If no such jury can be impaneled, a change of venue must be granted to ensure the accused due process and a fair trial. (*People v. Welch* (1972) 8 Cal.3d 106, 113.)

The California Supreme Court has adopted the standard set forth in *Sheppard v. Maxwell*, *supra*, 384 U.S. 333, to determine whether a change of venue should be granted in a criminal action. (*Maine v. Superior Court* (1968) 68 Cal.2d 375, 383.) The action must be transferred if there is a "reasonable likelihood" that, in the absence of a change of venue, the accused will not receive a fair trial. (*Ibid.*) Pertinent factors include the extent and kind of the publicity, the size of the community in which the crime occurred, the nature and gravity of the crime, and the standing of the victim and the accused in the community. (See, e.g., *Martinez v. Superior Court* (1981) 29 Cal.3d 574, 578.) Similarly, California Penal Code Section 1033 provides that the court must grant a motion for change of venue if "there is a reasonable likelihood that a fair and impartial trial

1 cannot be had in the county.”

2 The phrase “reasonable likelihood” describes a standard less than “more probable
3 than not,” but more than merely “possible.” (*Powell v. Superior Court* (1991) 232
4 Cal.App.3d 785, 794.) This determination may be based on qualified public opinion
5 surveys or opinion testimony offered by individuals, or on the court’s own evaluation of
6 the nature, frequency and timing of the material involved. (*Williams v. Superior Court*
7 (1983) 34 Cal.3d 584, 589.) When prejudice is based upon pre-trial publicity, a change of
8 venue should be granted whenever the dissemination of such potentially prejudicial news
9 has created a reasonable likelihood that a fair trial cannot be had. (*Smith v. Superior*
10 *Court* (1969) 276 CA.2d 145, 147; see also, e.g., *Clifton v. Superior Court* (1970) 7
11 Cal.App.3d 245, 250.) “[A]ny doubt as to the necessity of removal . . . should be
12 resolved in favor of a venue change.” (*Williams v. Superior Court, supra*, 34 Cal.3d at p.
13 588.) ““A showing of actual prejudice shall not be required.”” (*Fain v. Superior Court*
14 (1970) 2 Cal.3d 46, 51, quoting *Maine v. Superior Court, supra*, 68 Cal.2d at p. 383.)

15 This right applies to the penalty phase as well as the guilt phase of a capital trial.
16 (See *Fain v. Superior Court, supra*, 2 Cal.3d 46.) In fact, as a general matter, “when a
17 defendant’s life is at stake, the rule that all doubts be resolved in favor of venue change,
18 takes on particular significance.” (*Martinez v. Superior Court, supra*, 29 Cal.3d at p.
19 585.) Thus in *Fain, supra*, for example, the defendant’s death penalty had been reversed
20 and his case had been remanded for a new trial on penalty. He moved for a change of
21 venue for the penalty phase retrial, which by definition would be heard by a new jury, but
22 his motion was denied. The Supreme Court reversed, ordering a change of venue for the
23 remanded penalty proceedings. After citing the basic principles governing change of
24 venue as articulated in cases such as *Maine v. Superior Court, supra*, 68 Cal.2d 375, cited
25 above, the Court noted that in the case at bar, because the trial had been completed,

26 the community has already been exposed to massive publicity attendant
27 upon defendant’s trial, conviction, appeal, and reversal of penalty, and it
28 would be difficult to find many local residents who have not been
influenced by it in some degree. . . . [T]he issue of whether defendant lives
or dies is manifestly no less critical than the issue of his guilt; and precisely
because of the broader rules of admissibility and the absence of standards to

1 guide the jury in choosing the appropriate punishment, a fair and impartial
2 jury is no less essential at the penalty phase than at the guilt phase.

3 (*Fain v. Superior Court, supra*, 2 Cal.3d at p. 52.)^{3/}

4 The Court further stated that:

5 “jurors who may have read the press accounts of Fain's conduct and perhaps
6 formed opinions on the murder charge . . . are not reasonably likely to act
7 with total impartiality when called upon to make the essentially subjective
8 determination in weighing the penalties for first degree murder. The test
9 enunciated in *Maine*, it must be remembered, is not a showing of actual
10 prejudice, but whether there is a *reasonable likelihood* that a fair trial
11 cannot be had in the present forum.”

12 (*Fain v. Superior Court, supra*, 2 Cal.3d at p. 54.)

13 The Court thus concluded that “a change of venue is necessary to guarantee this
14 defendant an unbiased jury in his pending penalty trial.” (*Id.*, at pp. 54 -55.) In so ruling
15 the Court distinguished cases where “the lack of sustained publicity demonstrated that
16 ‘the story had long since ceased to be newsworthy.’” (*Id.*, at p. 54.)^{4/}

17 The degree and nature of the publicity in the present case has been unprecedented,
18 and has fostered a wide-spread atmosphere of prejudice against Mr. Peterson. As noted
19 above, in January, venue in this case was transferred from Stanislaus to San Mateo
20 County in an attempt to provide Mr. Peterson an impartial jury and a fair trial. That
21 attempt failed. Analysis of some 1,600 juror questionnaires combined with voir dire
22 revealed that Mr. Peterson could not receive a fair trial in San Mateo County either. This
23 wasn't surprising, given that San Mateo County is in the same media market as Stanislaus
24 County, the two counties being less than 70 miles apart, given that the bodies of the

25 _____
26 ³Moreover, the Supreme Court noted that the defendant's case had catapulted once
27 again to the front pages of local newspapers. (*Id.*, at p. 53.)

28 ⁴In *Fain* the Court “determined that Stanislaus County, with a population of 184,600,
was too small to dissipate the effects of extensive pretrial publicity.” (*Martinez v. Superior
Court, supra*, 29 Cal.3d at p. 581-582.)

In *Steffen v. Municipal Court* (1978) 80 Cal.App.3d 623, the Supreme Court ordered
a change of venue from San Mateo County, the 11th most populous county in the state with
almost 600,000 residents at the time.

1 victims were recovered less than 45 minutes from the Redwood City courthouse, and
2 given that San Mateo County's search, rescue, and dive team was intimately involved in
3 the (futile) multiple searches of San Francisco Bay for evidence.^{5/}

4 More specifically, in excess of 96 percent of potential jurors stated they had either
5 read, seen, or heard something about the case, and over 56 percent indicated they had
6 formed preliminary opinions about it. Approximately 45 percent of potential jurors said
7 they had already determined that Mr. Peterson was guilty. In addition, "stealth jurors"
8 were uncovered by the defense during voir dire – potential jurors who provided
9 misleading or outright false information on their questionnaires in order to sit on the jury
10 to convict and sentence Mr. Peterson to death. How many of such jurors remain
11 undiscovered or made it onto the panel is of course unknown.

12 Based upon all this, Mr. Peterson again moved to change venue, arguing that only
13 a county as large as Los Angeles even stood a chance of diluting the negative impact and
14 "carnival atmosphere" (see *Sheppard v. Maxwell*, *supra*, 384 U.S. at p. 358) of the media
15 coverage. He also established that application of the five-factor test articulated in cases
16 such as *People v. Williams* (1989) 48 Cal.3d 1112, 1125 further mandated the change he
17 sought. Those five factors, traditionally examined to determine whether to grant a motion
18 for change of venue due to dissemination of potentially prejudicial material, are [1] the
19 nature and gravity of the offense; [2] the size of the community; [3] the status of the
20 accused; [4] the status and prominence of the victims; and [5] the nature and extent of the
21 publicity. (*Ibid.*)

22 Here, those factors militated in favor of the change of venue Mr. Peterson sought,
23 and they now again argue in favor of his request to change venue for the penalty phase.

24
25 ^{5/}The media has covered every court proceeding in depth, and during the trial
26 approximately half of the available courtroom seats were occupied by media reporters. The
27 San Mateo County Times and the Redwood City News have covered the case on virtually a
28 daily basis, usually on the front page. While some of these outlets have been responsible,
many other media outlets have distinguished themselves by openly campaigning for Mr.
Peterson's conviction.

1 More specifically: (1) he was accused of murder and faced the death penalty; (2) San
2 Mateo County, with a population of some 700,000, was not large enough to absorb and
3 dilute the massive press which demonized him (see *Steffen v. Municipal Court*, *supra*, 80
4 Cal.App.3d 623; (3) the victim, Laci Peterson, had become a celebrity; while (4) Mr.
5 Peterson had been overwhelmingly vilified; and (5) the media coverage associated with
6 the case had been extensive and inflammatory (see, e.g., *People v. Williams*, *supra*, 48
7 Cal.3d at p. 1128.)

8 Mr. Peterson's motion was denied, and the case was tried in San Mateo County,
9 extensive prejudging and stealth jurors notwithstanding.^{6/}

10 Unfortunately, Mr. Peterson's worst fears concerning his inability to obtain a fair
11 jury in San Mateo County were shown to be true during jury deliberations. As the court is
12 aware, Juror Number 5 – the previous foreperson – asked to be removed from the jury
13 because of “an enormous amount of hostility” focused at him. (See RT at pp. 20783-
14 20784.) The Juror stated that comments had been made to him personally that made him
15 think his safety might be at issue. (RT at p. 20786.) He concluded that, because of that
16 hostility, he had been prejudiced to the extent he could not do his job as a juror. (*Ibid.*)
17 He further explained:

18 When I took the oath, I understood it to mean that I needed to be able to
19 weigh both sides fairly, openly. And given what's transpired, my individual
20 ability to do that I think has been compromised to a degree that I would
21 never know personally whether or not I was giving the community's
22 verdict, the popular verdict, the expected verdict, the verdict that might, I
23 don't know, produce the best book. I'm not going to speak to the media. I
24 don't ever want to personally profit from this case in any way, directly or
25 indirectly. (RT at p. 20794.)^{7/}

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6As noted above, Mr. Peterson also moved for separate guilt and penalty phase juries, hoping that some of the adverse impact of the negative prejudging could be alleviated by not having a death-qualified jury determine his guilt or innocence. That motion was denied as well.

7Juror Number 6, who had replaced the second Juror Number 5 as foreman of the jury, told the judge that he didn't know why Number 5 felt as he did, other than the fact that he (Number 5) “wants to talk a lot more than other people. . . . And he tends to take a very long time.” The Court made no other inquiries of any other jurors and failed to further pursue the

1 The essence of this juror colloquy, as the defense pointed out to the court at the
2 time, was that this juror was feeling threatened and inhibited from openly deliberating
3 because he had a point of view about the case that was different from certain other jurors
4 who did not want to evaluate the evidence. For purposes of this particular motion the
5 most revelatory and obviously disturbing statement was the juror's reference to the
6 **"community's verdict, the popular verdict, the expected verdict"**. That comment
7 signaled his concern that rather than each juror individually evaluating the evidence to
8 determine guilt or innocence, jurors felt pressure to obtain a verdict which reflected the
9 "community's" interest.^{8/}

10 In other words, as we now can discern from in camera proceedings, the timing of
11 the verdict, the reaction outside the courthouse and in the media, and the pressures from
12 the lynch mob had invaded the jury box even before the mob itself assembled outside the
13 courthouse.^{9/} This was precisely the sort of injustice the defense sought to avoid by its
14 change of venue motion. It shows without doubt that a fair penalty jury cannot be
15 empaneled in San Mateo County. Moreover, the reaction outside the courthouse to Mr.
16 Peterson's conviction further emphasizes the need to choose the new penalty jury from a
17 new venue. A media-fueled mob mentality overtook this community, resulting in the
18 celebratory spectacle on the courthouse steps. (See Exhibits C-G.) Jurors were cheered
19 and have now been released to the community to be further poisoned by this lynch mob
20 atmosphere. Any chance of arguing "lingering doubt" in a penalty phase trial in this

21 _____
22 matter with Juror Number 5. (RT at p. 20790.)

23 ⁸Defense counsel objected to the dismissal of the second Juror Number 5 and moved
24 for a mistrial, which was denied. (See RT 20803.)

25 ⁹The original Juror Number 5, Justin Falconer, who was dismissed during trial, again
26 over defense objection, has been quoted as saying that he received threats against his life and
27 his car and home vandalized for expressing the view that the prosecution had not established
28 Mr. Peterson's guilt beyond a reasonable doubt. (Redwood City Daily News, July 14, 2004).
Just last week, Mr. Falconer stated that he had to move out of state after receiving death threats
and being terrorized for voicing his opinion that there was reasonable doubt of Peterson's guilt.
(New York Post, page 4, November 14, 2004).

1 jurisdiction was extinguished last Friday. If there were any reasonable doubt before trial
2 that San Mateo County could not provide a fair forum from which to select a jury, there
3 certainly can be no possible doubt now, after the verdict. The new penalty jury must be
4 selected from a much larger county, one much further removed from Stanislaus County,
5 with the penalty trial conducted in that new venue.

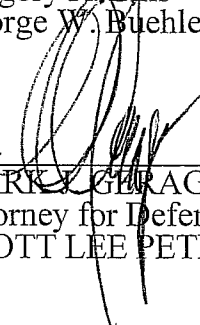
6
7 **CONCLUSION**

8 In light of all the above, Mr. Peterson respectfully requests that the court discharge
9 the jury and dismiss the penalty phase or, in the alternative, that the court empanel a new
10 jury for the penalty phase of his trial, to be selected in a new venue.

11 Dated: November 17, 2004

Respectfully submitted,
GERAGOS & GERAGOS
Mark J. Geragos
Gregory R. Ellis
George W. Buehler

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15 By:



MARK J. GERAGOS
Attorney for Defendant
SCOTT LEE PETERSON

PROOF OF SERVICE BY PERSONAL DELIVERY and MAIL

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 350 N. Grand Avenue, 39th Floor, Los Angeles, California 90071.

On execution date set forth below, I served the following

DOCUMENTS OR DOCUMENTS DESCRIBED AS:

MOTION TO DISCHARGE JURY AND DISMISS PENALTY PHASE OR, IN THE ALTERNATIVE, FOR A NEW PENALTY PHASE JURY AND CHANGE OF VENUE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

 X placing a true copy thereof enclosed in sealed envelopes with postage thereon fully prepaid, to the attorneys and their perspective addresses listed below, in the United States Mail at Los Angeles, California.

 transmitting by facsimile transmission the above document to the attorneys listed below at their receiving facsimile telephone numbers. The sending facsimile machine I used, with telephone number (213) 625-1600, complied with C.R.C. Rule 2003(3). The transmission was reported as complete and without error.

 X personally delivering the document(s) listed above to the party or parties listed below, or to their respective agents or employees.

PARTIES SERVED BY PERSONAL DELIVERY and MAIL:

By Personal Delivery

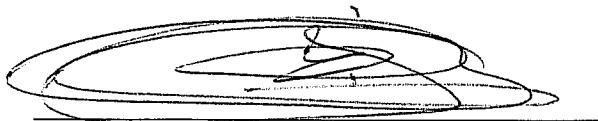
Rick Distaso, DDA
Dave Harris, DDA
Birgit Fladager, DDA
C/O: San Mateo County DA's Office
400 County Center Drive
Redwood City, CA 94063

By Mail:

Rick Distaso, DDA
Dave Harris, DDA
Birgit Fladager, DDA
Stanislaus County DA's Office
800 11th Street, Room #200
Modesto, California 95353

Executed on November 17, 2004, at Los Angeles, California.

I declare under penalty of perjury that the above is true and correct.



RAFFI G. NALJIAN

Grief, chaos at Arafat's funeral

RAMALLAH, West Bank — Yasser Arafat was buried here yesterday in an extraordinary scene of grief and chaos, with thousands of Palestinians climbing the walls of his compound, surging around his coffin and trying to bear it aloft.

Despite firing volleys of gunfire into the sky, Palestinian security guards were unable to hold back a frenzied flow of mourners who poured over the internal courtyard, trampling the red carpet, trying to touch the coffin and engulfing the two Egyptian helicopters

that brought Arafat and his entourage back home.

Wails and chants of "We will sacrifice our blood and souls to redeem you" and "Yasser, Yasser" competed with gunfire from scores of young militants in See ARAFAT, page 42

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November 13, 2004

COMBINED DAILY NEWS CIRCULATION: 59,117

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Volume 5, Number 97

Crowd lauds verdict

BY THE NUMBERS

10,000

Number of tips

300

Number of officers working case

90

Number of agencies assisting the Modesto Police Department

193

Laci Peterson sightings after she vanished

26

Number of states where Laci was reportedly seen

41

Reasons police believed bodies would be found in bay

580

Days Peterson has been jailed, as of today



GUILTY — Crowds react to the announcement of a first-degree murder verdict in the Scott Peterson case outside of the courthouse in Redwood City yesterday. Peterson was convicted of one count of first-degree murder for killing his pregnant wife, Laci Peterson, and one count of second-degree murder in the death of the son she was carrying. AP photo.

BY RANDY JENSEN
DAILY NEWS STAFF WRITER

Cheers burst yesterday from a crowd of hundreds of people gathered outside of the San Mateo County courthouse in Redwood City when the guilty verdict was read in the Scott Peterson trial.

People flocked to the court building as soon as the news broke that the verdict would be read around 1 p.m. The Sheriff's Department estimated more than 400 gathered outside the courthouse steps awaiting the verdict.

Debra Maine, 49, said she and her friend went right to the courthouse when they heard on the radio the verdict was going to be read.

"It is a day to celebrate for justice," See REACTION, page 13



L. PETERSON



S. PETERSON

Peterson was expressionless

BY RICHARD COLE
DAILY NEWS STAFF WRITER

Scott Peterson stared blankly and Laci Peterson's mother wept in relief yesterday as the jury brought back guilty verdicts in his double-murder case — verdicts that could cost the Modesto fertilizer salesman his life.

Twelve San Mateo County jurors convicted Peterson, 32, of first-degree murder of his

See GUILTY, page 13

Ex-foreman told judge he was threatened

BY RICHARD COLE
DAILY NEWS STAFF WRITER

The distraught Peterson jury foreman who quit the panel Wednesday told Judge Alfred Delucchi he had been threatened in the jury room for refusing to rush to a guilty verdict.

What kind of threat was not made clear, and the then-foreman refused to identify the alleged threatener.

Gregory Jackson of Burlingame also told the judge he did not want to be part of a ver-

MORE ON THE VERDICT INSIDE

> JUROR TALKS

A dismissed juror says verdict is exactly what she wanted.

> WHAT'S NEXT

Jurors will decide if Scott Peterson gets life or death.

> HOMETOWN

Over in Modesto, locals celebrated the guilty verdict.

> LACI PETERSON

The gregarious former cheerleader, teacher, friend,

> MEDIA COVERAGE

Local news organizations rushed to cover the verdict.

> CIRCUMSTANTIAL

The evidence that helped convict Scott Peterson.

rushing to judgement in part to get book deals when the case ended.

Jackson had tried earlier to quit the panel, but the judge persuaded — or demanded — that he stay. But after his latest plea Wednesday, the judge allowed Jackson to leave.

The impasse over what Jackson apparently felt was the jury's rush to judgement came to a head initially Monday.

The foreman was trying to get jurors to go See EX-FOREMAN, page 7

dict that was intended to please the community rather than fit the evidence. And Jackson, a

doctor and lawyer who works for the medical company Celera, said he feared jurors were

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GUILTY

FROM PAGE 1

wife, Laci Peterson, and second-degree murder in that of his unborn son, Conner.

The jury also found special circumstances of a multiple homicide, which will lead to a death penalty trial beginning Nov. 22.

Next is sentencing

That trial, which is expected to last four days, will decide whether Peterson is executed by lethal injection or receives life without parole. The same jury that convicted him will return for the penalty phase.

"This is justice," said Gloria Allred, attorney for Peterson's ex-girlfriend and star prosecution witness Amber Frey, as Allred emerged from the courthouse with her thumb raised in victory.

The jury foreman, a Half Moon Bay paramedic, received cheers as he left the courthouse and made his way past a crowd of 500 or more people who jammed the plaza in front of the courthouse.

The jury reached its verdict on the seventh

See VERDICT, page 42

FROM PAGE 1

VERDICT

FROM PAGE 13

day of deliberations, and only after two jurors, including the foreman, were replaced. The deliberations in turn had capped more than five months of trial and testimony from 188 witnesses.

Sobs heard as verdict is read

As Judge Alfred Delucchi's clerk read the verdicts — her voice breaking at one point — gasps and sobs came from Laci Peterson's family on the prosecution side of the courtroom.

Prosecutors Rick Distaso, Dave Harris and Birgit Fladager sat at the table only a few feet from Scott Peterson but showed no emotion when the verdicts were read.

Laci Peterson's mother, Sharon Rocha, wept in relief, and Laci's father, Dennis Rocha, and stepfather, Ron Grantski, embraced in tears. Other family members and friends cried in the gallery behind Laci Peterson's parents.

Stanislaus County District Attorney Jim Brazelton also sat behind the family — and gave lead Modesto police Detective Craig Grogan a pat on the back as the verdicts were read.

On the defense side, Scott Peterson, who had entered the courtroom in good spirits to

await the verdict, stared expressionlessly at the verdict was read.

His mother, Jackie Peterson, appeared bewildered and family members described her as in shock after the verdict. His sister-in-law Janey Peterson, who has informally acted as family spokeswoman, looked stunned and was later in tears.

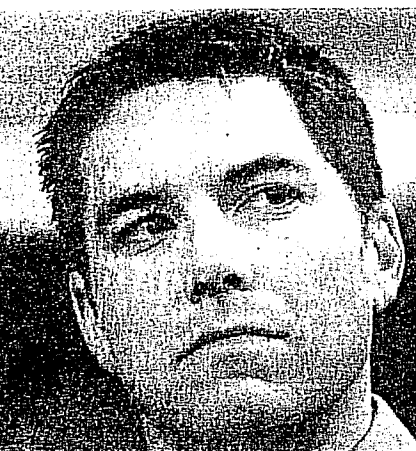
Peterson's father and Geragos gone

Lee Peterson, Scott's father, was in Southern California with other family members, and did not attend the verdict, which was broadcast live over radio and television.

Also missing was lead defense attorney Mark Geragos, who was in Los Angeles for another case. His co-counsel Pat Harris sat with Peterson as the verdicts were read.

An expert on death penalty defense was on his way to Geragos' office yesterday afternoon. It was unclear whether Geragos or Pat Harris will handle the procedure for Peterson.

"There's one bright light for Mark Geragos because they found that he did not plan to kill his baby, and that might be the difference between life and death," said attorney and trial analyst Daniel Horowitz.



Life or death?

Full Peterson verdict coverage below and inside

SATURDAY
November 13, 2004

San Mateo County Times

WEEKEND
EDITION

Peterson, family await fate

Conviction could end
the death penalty

By Jason Deareh
STAFF WRITER

REDWOOD CITY — Scott Peterson smiled and chuckled with his attorneys Friday before the jury entered the courtroom to deliver its verdict.

Moments later, as the six men and six women of the panel filed by without glancing at him, Peterson's face turned cold and he stared ahead vacantly. Eleven armed and uniformed bailiffs lined the walls of the courtroom.

The murmuring of the

press and public died down and the room fell quiet.

Peterson's vaunted defense lawyer, Mark Geragos, was not at his side, having been called away to attend to another case.

"My understanding is that the jury has arrived at a verdict," said Judge Alfred Delucchi.

Juror No. 6, the foreman, stood. "Yes, your honor."

After six and one-half days of tumultuous deliberations, the jury said unanimously that Peterson murdered his wife Laci Peterson and her fetus. Peterson was dealt a first-degree murder conviction in the death of Laci and a second-degree conviction in

the death of the unborn son the couple intended to name Connor.

Please see TRIAL, News 6

INSIDE: What happens next is the big question

News 6

Timeline of events News 6

Reaction to the guilty verdict in Peterson's hometown, Modesto News 9

Top ten highlights of the trial News 9

Editorial says verdict fits cold-hearted crime News 16

For more information on the Peterson trial, visit www.sanmateocountytimes.com



DAVID PAUL MORRIS — Associated Press (pool)

JACKIE PETERSON, mother of Scott Peterson (center), her daughter-in-law Janey Peterson and son Joe Peterson leave the courthouse Friday in Redwood City.



THE CROWD OUTSIDE the Redwood City courthouse reacts after the verdict is read Friday in the Scott Peterson trial in Redwood City. Scott Peterson was found guilty of one count of first degree and one count of second degree murder of his wife, Laci Peterson, 27, and the couple's unborn child.

Verdict 'better than having my first son!'

Crowd shares reactions

By Malaika Fraley,
S. Mills-Farado,
Christine Morente
and Nicole Heroulas
STAFF WRITERS

REDWOOD CITY — "Son, this is a media circus," Redwood City resident Dwight McMillan said to his 10-year-old son Charlie amid the thick crowd outside the San Mateo County Hall of Justice on Friday. "I've never taken you to a circus before."

Perhaps Charlie looked so confused because there were no clowns or elephants or acrobats at this

circus — just hundreds of people who changed their day plans at a moment's notice to stand shoulder-to-shoulder in a courthouse plaza and await the verdict in a Modesto fertilizer salesman's double-murder trial.

People began arriving in droves shortly after Judge Alfred Delucchi announced at 11:30 a.m. Friday that the jury in the Scott Peterson trial had reached a verdict after just six days of deliberations and two juror dismissals this week.

Within an hour, sheriff's deputies cordoned off the mob with police tape. At 1:15 p.m., as the verdict was

Please see REACTION, News 6

Once-jeered prosecutors now cheered as heroes

By Tim Hay
STAFF WRITER

REDWOOD CITY — Stanislaus County prosecutor Rick Distaso took his share of hits for his courtroom style during the Peterson trial, but he was cheered as a hero by dozens of spectators as he left the courthouse a winner Friday.

"Thank you!" cried several people as Distaso and co-counsel Birgit Fladager exited the building.

"Stone-cold gully!" yelled one man. "Who's laughing now?"

"You the man," said Mike Moloney of San Mateo, one of about a dozen spectators who followed the pros-

Please see DISTASO, News 6



DISTASO
Prosecutor leaves the courthouse Friday after hearing the verdict

Fighting intensifies in Fallujah

U.S. forces encounter 'hornets' nest' on one of fiercest days yet

By Jackie Spinner and Karl Vick
WASHINGTON POST

NEAR FALLUJAH, Iraq — Insurgents in trenches met advancing U.S. and Iraqi forces in southern Fallujah with a burst of bullets and rockets Friday in what commanders described as one of the fiercest days of fighting since the battle to retake the city began five days ago.

Marines and soldiers said they encountered guerrillas dug into traditional defensive positions from which they could pop up, shoot and quickly take cover. The Americans said they and their Iraqi allies fought back with rifles, automatic weapons, belt-fed machine guns, mortars and hand grenades.

"It was a hornets' nest," said Capt. Erik Krivda, of Gaithersburg, Md., the officer in charge of the Army's 1st Infantry Division Task Force 2-2 tactical operations command center.

Military officials also reported that fighting had resumed Thursday night in Fallujah's Jolan neighborhood, an insurgent stronghold in the city's northwest. Elsewhere in Iraq, intense fighting continued for a third day in the northern city of Mosul and other flash points in Iraq's Sunni Muslim heartland.

Lt. Gen. John Sattler, the Marine commander in Iraq, said 22 U.S. troops have

Please see IRAQ, News 9

Toll lanes may loop Bay Area

By Sean Holstege
STAFF WRITER

Bay Area transportation planners have seen the future and it is toll lanes.

Everywhere. On U.S. 101 on the Peninsula. On the Nimitz. On Interstates 80, 580 and 680 in the East Bay and beyond.

The Metropolitan Transportation Commission released its triennial 25-year strategic plan Friday, a plan that envisions a network of toll lanes within 10 years. The first of such lanes is slated to open in 2008 on southbound Interstate 680 over the Sunol grade as an experiment.

But the regional agency that will direct \$130 billion to transportation projects by 2030 thinks the experiment will be a rave, and commuters would rather pay about 20 cents a mile to drive solo in the carpool lanes

Please see TOLL, News 9



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Wanderword.....Class 7

Forecast

Showers
Highs: low 60s
Lows: high 40s

Details on
Living 10



Crowd cheers upon hearing much-anticipated verdict

► REACTION,
from News 1

heard live from the courtroom audio feeds of news teams surrounding the building, the crowd's whispered prayers and clasped hands turned to raucous high-pitched cheers and tearful embraces: Scott Peterson was found guilty for murdering his pregnant wife Laci.

"Murder in the first! God Almighty, there is a God!" Redwood City resident Timmie Schlavin emotionally cheered. "This is better than having my first son."

"I was hoping for first-degree murder, so I think it was the right decision," said Tim Delaney, 44, of New-castle, in the Sacramento area. He and his family were driving to San Francisco for the day when they heard on the radio that the verdict was coming out. They diverted to Redwood City instead. "I feel really good, and it's a relief. It's nice to see justice being done for once."

"We happened to be on the freeway and we heard that the verdict was going to be released on the radio. So we said, 'Let's go,' because we'll be so upset if he's not guilty," said San Jose resident Carolyn Biggs, 53.

"I was really excited with the results, I thought possibly there was a chance it was a hung jury because of the juror changes and the power that (defense attorney

Peterson Guilty

Mark) Geragos has," said Danville resident Andy McCay.

After the verdict was read, McCay took a Bush/Cheney sign from the trunk of his car and wrote, "Finally, peace and justice for Laci and Conner" in black marker on the back.

People continued to cheer as people connected to the case walked out the front entrance. However, many admitted they didn't even know who they were cheering for. One they did recognize received a different kind of response.

When Jackie Peterson, Scott's mother, hurried outside with her other son and his wife, a hush fell over the spectators, and then several people booed.

Although it was hard to find anyone in the crowd who was not pleased with the verdict, people looked genuinely shocked that the trial didn't end in a hung jury.

"I sat at home and cried because I thought there was going to be a mistrial," said a Redwood City woman who is a domestic-violence survivor. She said she had debated whether to hear attend the verdict because she feared Peterson would be found not guilty.

Laurel Watson, another do-

mestic-violence survivor, waited pensively outside the courthouse with her 4-year-old daughter, Alexandra. As the verdict was read, she joined in the roars of approval, while Alexandra looked mystified by the excitement and tugged at her purple hood.

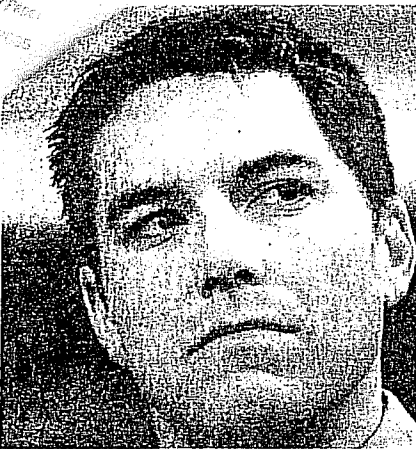
"Yes! Yeah!" she screamed, her eyes brimming with tears. "I'm so happy. I'm so happy."

A handful of men in the emotional crowd dared to shrug and express surprise at the verdict, at risk of being swatted by their ecstatic female counterparts.

"I think he did it, but as far as the system's concerned, I don't think he should have been found guilty," said Michael Chalhoub, a Redwood City man. "There was nothing really concrete."

By 1:30 p.m., the crowd had dissipated, leaving behind those armed with digital cameras and camera-phones eager for a shot of the trial celebrities who attracted fans to the courthouse before news broke that the verdict was out.

A Las Vegas woman and her family were vacationing in Redwood City just to get a glimpse of Court TV anchor Nancy Grace. Others stuck around simply for a background spot on the broadcast news.



Life or death?

Full Peterson verdict coverage below and inside

SATURDAY
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San Mateo County Times

WEEKEND
EDITION

Peterson, family await fate

Conviction could end
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Top ten highlights of the trial News 9

Editorial says verdict fits cold-hearted crime News 16

For more information on the Peterson trial, visit www.sanmateocountytimes.com



DAVID PAUL MORRIS — Associated Press (post)

JACKIE PETERSON, mother of Scott Peterson (center), her daughter-in-law Janey Peterson and son Joe Peterson leave the courthouse Friday in Redwood City.



THE CROWD OUTSIDE the Redwood City courthouse reacts after the verdict is read Friday in the Scott Peterson trial in Redwood City. Scott Peterson was found guilty of one count of first degree and one count of second degree murder of his wife, Laci Peterson, 27, and the couple's unborn child.

Verdict 'better than having my first son!'

Crowd shares reactions

By Malaika Fraley,
T.S. Mills-Farado,
Christine Morente
and Nicole Heroulas
STAFF WRITERS

REDWOOD CITY — "Son, this is a media circus," Redwood City resident Dwight McMillan said to his 10-year-old son Charlie amid the thick crowd outside the San Mateo County Hall of Justice on Friday. "I've never taken you to a circus before."

Perhaps Charlie looked so confused because there were no clowns or elephants or acrobats at this

circus — just hundreds of people who changed their day plans at a moment's notice to stand shoulder-to-shoulder in a courthouse plaza and await the verdict in a Modesto fertilizer salesman's double-murder trial.

People began arriving in droves shortly after Judge Alfred Delucchi announced at 11:30 a.m. Friday that the jury in the Scott Peterson trial had reached a verdict after just six days of deliberations and two juror dismissals this week.

Within an hour, sheriff's deputies cordoned off the mob with police tape. At 1:15 p.m., as the verdict was

Please see REACTION, News 6

Once-jeered prosecutors now cheered as heroes

By Tim Hay
STAFF WRITER

REDWOOD CITY — Stanislaus County prosecutor Rick Distaso took his share of hits for his courtroom style during the Peterson trial, but he was cheered as a hero by dozens of spectators as he left the courthouse a winner Friday.

"Thank you!" cried several people as Distaso and co-counsel Birgit Fladager exited the building.

"Stone-cold guilty!" yelled one man. "Who's laughing now?"

"You the man," said Mike Moloney of San Mateo, one of about a dozen spectators who followed the pros-

Please see DISTASO, News 6



DISTASO
Prosecutor leaves the courthouse Friday after hearing the verdict

Fighting intensifies in Fallujah

U.S. forces encounter 'hornets' nest' on one of fiercest days yet

By Jackie Spinner and Karl Vick
WASHINGTON POST

NEAR FALLUJAH, Iraq — Insurgents in trenches met advancing U.S. and Iraqi forces in southern Fallujah with a burst of bullets and rockets Friday in what commanders described as one of the fiercest days of fighting since the battle to retake the city began five days ago.

Marines and soldiers said they encountered guerrillas dug into traditional defensive positions from which they could pop up, shoot and quickly take cover. The Americans said they and their Iraqi allies fought back with rifles, automatic weapons, belt-fed machine guns, mortars and hand grenades.

"It was a hornets' nest," said Capt. Erik Krivda, of Hathersburg, Md., the officer in charge of the Army's 1st Infantry Division Task Force 2-2 tactical operations command center.

Military officials also reported that fighting had resumed Thursday night in Fallujah's Johan neighborhood, an insurgent stronghold in the city's northwest. Elsewhere in Iraq, intense fighting continued for a third day in the northern city of Mosul and other flash points in Iraq's Sunni Muslim heartland.

Lt. Gen. John Sattler, the Marine commander in Iraq, said 22 U.S. troops have

Please see IRAQ, News 9

Toll lanes may loop Bay Area

By Sean Holstege
STAFF WRITER

Bay Area transportation planners have seen the future and it is toll lanes.

Everywhere. On U.S. 101 on the Peninsula. On the Nimitz. On Interstates 80, 580 and 680 in the East Bay and beyond.

The Metropolitan Transportation Commission released its triennial 25-year strategic plan Friday, a plan that envisions a network of toll lanes within 10 years. The first of such lanes is slated to open in 2008 on southbound Interstate 680 over the Sunol grade as an experiment.

But the regional agency that will direct \$130 billion to transportation projects by 2030 thinks the experiment will be a rave, and commuters would rather pay about 20 cents a mile to drive solo in the carpool lanes

Please see TOLL, News 9



INSIDE

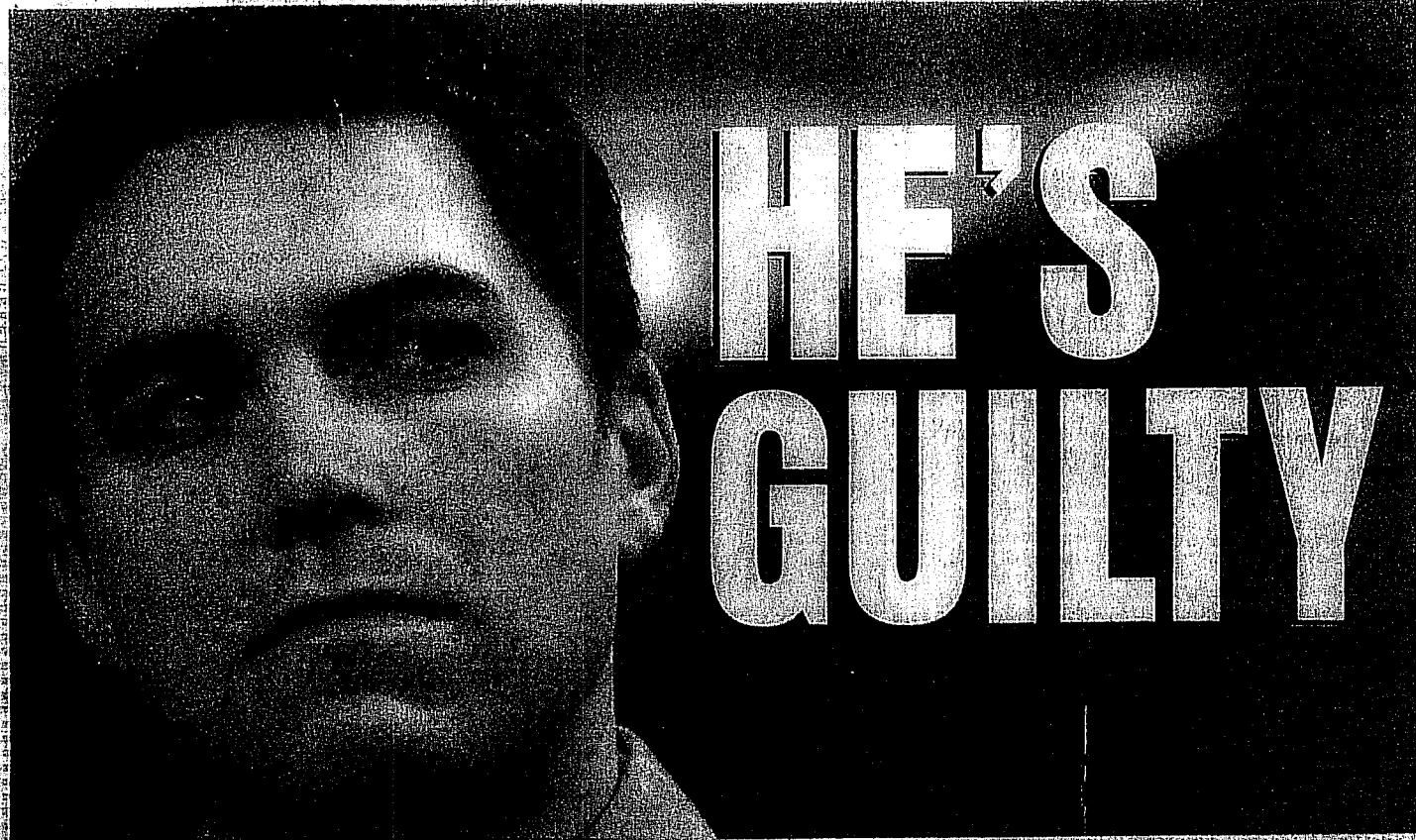
Business.....Inside Nation/World
Comics.....Living 8
Legals.....Class 6
Gallery.....News 2
Obituaries.....News 4
Opinion.....News 15, 16, 17
Scoreboard.....Sports 9
Wonderword.....Class 7

Forecast

Showers
Highs: low 60s
Lows: high 40s

Details on
Living 10





HE'S GUILTY

FRIDAY
November 12, 2004

San Mateo County Times

PM
EDITION

sanmateocountytimes.com

The Peninsula's Hometown Newspaper

50 cents

Verdict: Scott killed Laci

☐ First-degree murder ☐ Could be executed ☐ 5-month trial ends

THE PLAYERS



LACI PETERSON
Murder victim



AMBER FREY
Scott's mistress



MARK GERAGOS
Defense attorney



SCOTT PETERSON
Defendant



RICK DISTASO
Prosecutor



ALFRED DELUCCHI
Judge



AL GOLD — Associated Press (pool)
SCOTT PETERSON, the defendant, and Mark Geragos, the lead defense attorney, with attorney Pat Harris (right) listen to jury instructions from Judge Alfred Delucchi last week.

By Jason Dearen
STAFF WRITER

REDWOOD CITY

SCOTT PETERSON, a fertilizer salesman, pulled to international notoriety when his wife, Laci, disappeared two years ago on Christmas Eve, today was convicted of murdering her and their unborn son.

After 6½ days of tumultuous deliberations, the six men and six women of the jury unanimously announced a first-degree conviction in the death of Laci and a second-degree murder conviction in the death of the unborn child the couple intended to name Connor.

As the clerk read the verdicts, Laci's family let out a collective and audible gasp and began to hug tightly. Tears immediately flowed.

Please see **VERDICT**, News 8

INSIDE: What's next for Peterson, and the trial's top 10 highlights. News 8

Cheers erupt outside court

By J.S. Mills-Faraldo, Christine Morente and Malika Fraley

STAFF WRITER

REDWOOD CITY — Cheers erupted outside the Redwood City Hall of Justice today as hundreds of spectators reacted to news that the jury convicted Scott Peterson of murdering his wife and unborn son.

People began arriving in droves when the news broke at 11:30 a.m. that a verdict had been reached in the case. The crowd heard the verdict live from the audio feeds in the media tents that lined the courthouse after speculating for over an hour on what would

Please see **CHEERS**, News 8

Bush, Blair look beyond Arafat's reign



BLAIR

U.S., British leaders pledge to put new energy into Mideast peace

By Deb Riechmann
ASSOCIATED PRESS

WASHINGTON — President Bush said today that the death of Yasser Arafat provides "a great chance to establish a Palestinian state" and a

broader Middle East peace.

At a joint White House news conference, Bush and British Prime Minister Tony Blair pledged their support for a fresh stab at Israeli-Palestinian peace negotiations.

"We'll hold their feet to the fire to make sure that democracy prevails," Bush said.

"We're going to work flat out to deliver this," Blair said.

The president said it was up to Palestinians to elect a democratic government and Arafat's successors to allow freedoms to take root.

Bush, whose policy in Iraq frayed

Please see **BUSH**, News 8

INSIDE: Thousands of Palestinians give Arafat an emotional burial in Ramallah. News 8



BUSH



INSIDE

Comics Business 6
Horses Sports 8
Legals Class 16
Nation/World Inside News
Opinion News 9
Scoreboard Sports 9
Wander-word Class 7

Forecast

Mostly cloudy
Highs: low 60s
Lows: low 50s

Details on
Business 8



Review criticizes East Bay hospital

Alta Bates Summit is at risk of losing its accreditation

By Sabin Russell
CHRONICLE MEDICAL WRITER

Alta Bates Summit Medical Center, one of the premier hospitals of the East Bay, is in jeopardy of losing its accreditation after performing poorly in a hospital industry audit.

Inspectors from the private agency that monitors national hospital standards visited the Berkeley and Oakland campuses of Alta Bates Summit last week for a survey requested by most hospitals every three years. Their report uncovered numerous problems that, if not resolved or explained by hospital authorities, could lead to a loss of accreditation. That could result in the loss of income from Medicare and Medicaid programs.

It is highly unusual for a hospital of Alta Bates Summit's stature to find itself in such a defensive posture with the Joint Commission on Accreditation of Healthcare Organizations, or JCAHO, an agency often criticized by consumers as ineffectual.

"The preliminary findings were not in our favor," said hospital spokeswoman Carolyn Kemp. Although Alta Bates Summit officials are disappointed with the results of the audit, they also take issue with many of the findings.

Dr. John Gentile, the hospital's vice president of medical affairs, said he was "extremely confident" that the issues raised by the JCAHO survey would be resolved without any loss of accreditation.

Although he declined to provide details of the problems uncovered by the survey, he said that of them involved paperwork issues such as incomplete documentation of care provided. None of the problems, he said, involves patient safety.

► HOSPITAL: Page A7

Bush says we'll work for peace in Mideast

and Blair endorse Palestinian state

By Anna Badkhen
CHRONICLE STAFF WRITER

WASHINGTON — President Bush, spurred by the death of Palestinian leader Yasser Arafat, pledged Friday to dedicate his second term in office to reviving the stalled peace process in the Middle East and working to create an independent Palestinian state. "We've got a great chance to establish a Palestinian state, and I intend to use the next four years to build the capital of the United States on such a state," Bush said in a joint White House press conference with British Prime Minister Tony Blair at which the two leaders underscored their commitment to finding a path to Middle East peace.

"What we are saying is, we are going to work flat-out to deliver it," Blair said. Bush added: "I'd like to see it done in four years. I think it is possible."

But the president stopped short of describing a specific plan for U.S. involvement as a peace broker in a region central to the war terror, leaving analysts guessing about the extent of the administration's new commitment to the Mideast. ► MIDEAST: Page A17

GUILTY

JURY FINDS PETERSON MURDERED WIFE, UNBORN SON



MICHAEL MALONEY / The Chronicle

Onlookers exult outside the San Mateo County Courthouse in Redwood City as they listen on a radio to the reading of the guilty verdicts against Scott Peterson.



JEFF CHIU / Pool

Laci Peterson's stepfather, Ron Grantski, and her mother, Sharon Rocha, are driven away from the courthouse after the verdicts.



MICHAEL MACOR / The Chronicle

Scott Peterson's mother, Jackie Peterson, gets a police escort from the courthouse to a waiting car after the guilty verdicts were announced.

TURNING POINT: Things looked bad for the prosecution until Amber Frey took the stand

By Diana Walsh, Stacy Finz and Kelly St. John
CHRONICLE STAFF WRITERS

It was a modern-day David vs. Goliath. The hayseed prosecutors vs. the high-powered Hollywood lawyer.

Out of the box, the prosecution fell on its face, and Scott Peterson's lawyer was winning over the crowd. But then Peterson's former girlfriend took the stand. So did Peterson, in a sense, his clumsy lies to his mistress captured secretly on tape. And when the experts testified, the defense's elaborate alternative explanations of how Laci Peterson died fell apart.

In the end, the prosecution "overcame some pretty significant barriers to tell a coherent, powerful and satisfying story," said Rich

► The defense: Scott Peterson's attorneys have a new task — to save their client's life. A14

► The scene: Outside the courthouse, hundreds of people whoop and cheer at the news of the verdicts. A16

Matthews, a jury consultant based in San Francisco.

Perhaps no moment captured the government's sputtering start better than when Stanislaus County prosecutor Rick Distaso accused Scott Peterson in his opening statement of lying about watching the Martha Stewart show with his wife the morning she was reported missing from their Modesto home.

According to Peterson, the domestic diva had been talking about ► TURNING POINT: Page A14



THE VERDICTS

The jury found Scott Peterson:

► Guilty of the first-degree murder of his wife, Laci.

► Guilty of the second-degree murder of his unborn son.

► Committed multiple murders, a "special circumstance" that makes him eligible for the death penalty.

WHAT'S NEXT

The same six-man, six-woman jury that convicted Peterson will return to court Nov. 22 to begin deciding whether he should be sent to San Quentin's Death Row or serve life in prison without the possibility of parole.

VERDICTS IN 7½ HOURS: 1st-degree conviction for Laci's death, 2nd-degree for their baby's

By Stacy Finz and Diana Walsh
CHRONICLE STAFF WRITERS

Now Scott Peterson begins the fight for his life.

His murder trial engrossed the nation for the past five months, and the 32-year-old former Modesto fertilizer salesman was found guilty Friday of murdering his wife, Laci, and the couple's unborn son. Jurors soon will begin deciding whether Peterson should live or die.

It took about 7½ hours of deliberations on Wednesday and Friday for the six-woman, six-man panel to reach their guilty verdicts — first-degree murder for Laci Peterson's slaying and second-degree for the murder of the couple's unborn child. The jurors also found that Peterson committed

the special circumstance of multiple murders, which makes him eligible for the death penalty.

Even before the verdict was read, hundreds gathered in front of the Redwood City courthouse in eager anticipation. They came from all over the region to hug strangers, to shed tears and to be part of the spectacle.

Inside the courthouse, more than a dozen bailiffs guarded the perimeter of the second-floor courtroom as jurors filed in one by one. Most of the panel members looked away from the defendant's face as they passed him on their way to the jury box. But not Juror No. 1, a school coach. He gave Peterson a long, hard stare.

Juror No. 11, a Daly City accountant, smiled at Laci Peterson. ► PETERSON: Page A15

Grief, chaos at Arafat's funeral

RAMALLAH, West Bank — Yasser Arafat was buried here yesterday in an extraordinary scene of grief and chaos, with thousands of Palestinians climbing the walls of his compound, surging around his coffin and trying to bear it aloft.

Despite firing volleys of gunfire into the sky, Palestinian security guards were unable to hold back a frenzied flow of mourners who poured over the internal courtyard, trampling the red carpet, trying to touch the coffin and engulfing the two Egyptian helicopters

that brought Arafat and his entourage back home.

Wails and chants of "We will sacrifice our blood and souls to redeem you" and "Yasser, Yasser" competed with gunfire from scores of young militants in

See ARAFAT, page 42

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November 13, 2004

COMBINED DAILY NEWS CIRCULATION: 59,117

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Volume 5, Number 97

Crowd lauds verdict

BY THE NUMBERS

10,000

Number of tips

300

Number of officers working case

90

Number of agencies assisting the Modesto Police Department

193

Laci Peterson sightings after she vanished

26

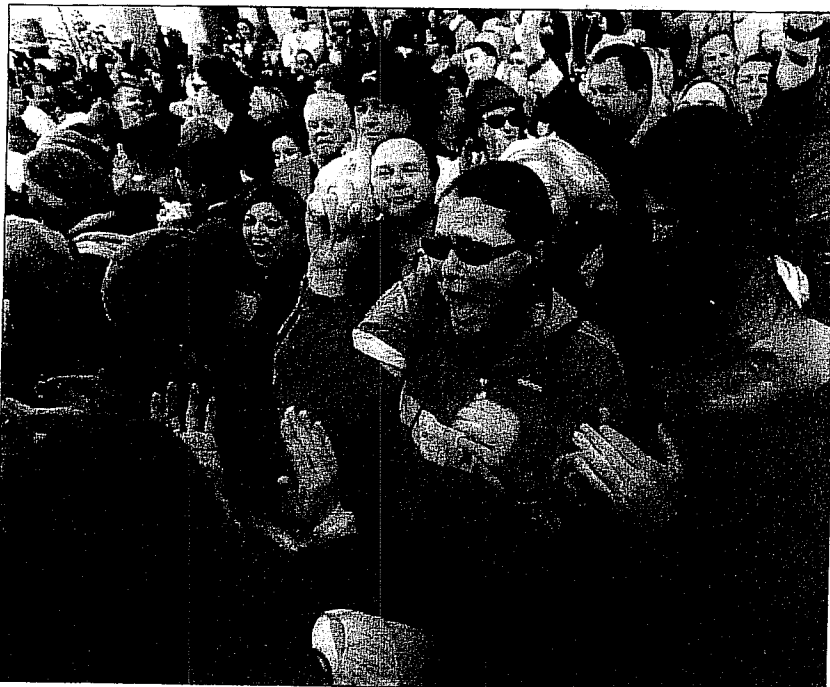
Number of states where Laci was reportedly seen

41

Reasons police believed bodies would be found in bay

580

Days Peterson has been jailed, as of today



GUilty — Crowds react to the announcement of a first-degree murder verdict in the Scott Peterson case outside of the courthouse in Redwood City yesterday. Peterson was convicted of one count of first-degree murder for killing his pregnant wife, Laci Peterson, and one count of second-degree murder in the death of the son she was carrying. AP photo.

BY RANDY JENSEN
DAILY NEWS STAFF WRITER

Cheers burst yesterday from a crowd of hundreds of people gathered outside of the San Mateo County courthouse in Redwood City when the guilty verdict was read in the Scott Peterson trial.

People flocked to the court building as soon as the news broke that the verdict would be read around 1 p.m. The Sheriff's Department estimated more than 400 gathered outside the courthouse steps awaiting the verdict.

Debra Maine, 49, said she and her friend went right to the courthouse when they heard on the radio the verdict was going to be read.

"It is a day to celebrate for justice,"

See REACTION, page 13



L. PETERSON



S. PETERSON

Peterson was expressionless

BY RICHARD COLE
DAILY NEWS STAFF WRITER

Scott Peterson stared blankly and Laci Peterson's mother wept in relief yesterday as the jury brought back guilty verdicts in his double-murder case — verdicts that could cost the Modesto fertilizer salesman his life.

Twelve San Mateo County jurors convicted Peterson, 32, of first-degree murder of his

See GUILTY, page 13

Ex-foreman told judge he was threatened

BY RICHARD COLE
DAILY NEWS STAFF WRITER

The distraught Peterson jury foreman who quit the panel Wednesday told Judge Alfred Delucchi he had been threatened in the jury room for refusing to rush to a guilty verdict.

What kind of threat was not made clear, and the then-foreman refused to identify the alleged threatener.

Gregory Jackson of Burlingame also told the judge he did not want to be part of a ver-

MORE ON THE VERDICT INSIDE

> JUROR TALKS —

A dismissed juror says verdict is exactly what she wanted.

> WHAT'S NEXT —

Jurors will decide if Scott Peterson gets life or death.

> HOMETOWN — Over in Modesto, locals celebrated the guilty verdict.

> LACI PETERSON —

The gregarious former cheerleader, teacher, friend.

> MEDIA COVERAGE —

Local news organizations rushed to cover the verdict.

> CIRCUMSTANTIAL —

The evidence that helped convict Scott Peterson.

dict that was intended to please the community rather than fit the evidence. And Jackson, a

doctor and lawyer who works for the medical company Celera, said he feared jurors were

rushing to judgement in part to get book deals when the case ended.

Jackson had tried earlier to quit the panel, but the judge persuaded — or demanded — that he stay. But after his latest plea Wednesday, the judge allowed Jackson to leave.

The impasse over what Jackson apparently felt was the jury's rush to judgement came to a head initially Monday.

The foreman was trying to get jurors to go

See EX-FOREMAN, page 7

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GUILTY



LACI'S MURDER
JURY'S VERDICT: First-degree — intentional, premeditated; punishable by lethal injection, life in prison without parole or 25 years to life in prison.

CONNER'S MURDER
JURY'S VERDICT: Second-degree — intentional killing punishable by 15 years to life in prison; also made verdict in Laci's death a capital offense.

NEXT FOR KILLER: LIFE OR DEATH?



Part of the crowd that had gathered at the Redwood City Hall of Justice to hear the outcome over loudspeakers reacts after the jury's guilty verdicts were read Friday afternoon.

WHAT'S NEXT
With Scott Peterson guilty of capital murder, the penalty phase starts; his lawyers begin laying appeals groundwork.

NOVEMBER 22

Prosecutors begin presenting evidence and witnesses to convince the jury Peterson should die; defense lawyers will present a case that his life should be spared.

NOVEMBER 30

Judge expects to hand penalty decision to jurors, who recommend if Peterson lives, dies.

Prosecutors face uphill fight to get death sentence

By Jessie Seyfer and Howard Mintz - Mercury News

The prosecution will tell jurors Scott Peterson is a manipulative, selfish, callous man who murdered his wife and their unborn child and destroyed the lives of so many others. But even that may not convince the jury he should be put to death.

Legal experts say most California juries facing this choice are increasingly deciding to let the killer live.

The decision for the Peterson jury is made that much more difficult by the factors before them: Peter-

INSIDE
SEQUENCE OF EVENTS IN CASE
PAGES 16-18A

NEARLY 1,000 FLOCK TO COURTHOUSE
PAGE 18A

DISMISSED JUROR TALKS
PAGE 19A

As Peterson is convicted, tears, cheers greet verdicts

By Julia Prodis Sulek - Mercury News

Before the verdict Friday, Scott Peterson walked into the courtroom as he always does: confident, grinning. He leaned over to a member of his defense team and shared a few laughs.

Then the jury came in. And confidence turned to calm. His face turned pale. He gulped, deeply.

The man who had told his mistress he had "lost" his wife before she disappeared, whose alibi put him within a mile of where the bodies of his pregnant wife and

unborn son washed up, was found guilty of first- and second-degree murder Friday. Within a few weeks, the same six-man, six-woman jury will decide whether the former fertilizer salesman from Modesto should be put to death or spend the rest of his natural life in prison.

The case of the 27-year-old dimpled substitute teacher with the bright smile, who threw dinner parties and painted her nursery nautical blue, became a media

APPEALS
The state Supreme Court automatically reviews all death sentences. His lawyers also can appeal through the state and federal court systems.

mercurynews.com
Weigh in online. Do you agree with the verdict?

YASSER ARAFAT | 1929-2004

Arafat buried in emotional ceremony in Ramallah

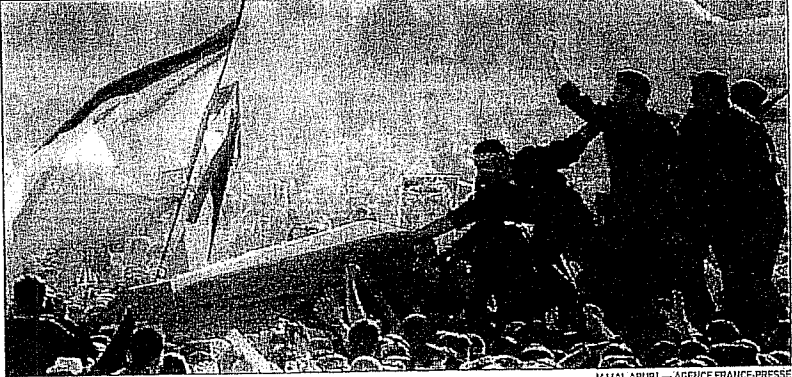
THOUSANDS MOB COMPOUND WHERE LEADER IS LAID TO REST

By Michael Matza and Soraya Sarihaddi Nelson - Knight Ridder

RAMALLAH, West Bank — Palestinian leader Yasser Arafat was buried near his headquarters in Ramallah on Friday amid chaotic, emotional outbursts by thousands of grieving Palestinians, after a staid state-style funeral earlier in the day in Cairo, Egypt.

Arafat's coffin was transported by helicopter from Egypt to Ramallah, where Arafat lived his last years under virtual house arrest and the watch of nearby Israeli troops.

Bursting through rings of security, Palestinians overran the compound where Arafat was to be buried and, from the moment it touched down, swarmed the helicopter carrying his body. Organizers were forced to abandon plans for Arafat to lie in



JAMAL ARURI — AGENCE FRANCE-PRESSE

Palestinian security forces carry the coffin of leader Yasser Arafat through the crowd of mourners Friday for his burial at a site inside the compound in Ramallah where he spent his last years. Arafat died Thursday in Paris.

San Jose finds possible misuse of cell phones

By Truong Phouc Kien - Mercury News

An audit of San Jose employees' cell phone use revealed glaring examples of potential abuse by workers — some of whom ran up thousands of minutes on their city-issued cell phones and never reimbursed the city.

In the first-ever such audit, made public Friday, City Auditor Gerald Silva faulted the city for weak oversight and monitoring of its cell phone program which "increases the risk of abuse."

The audit found thousands of cell phone minutes were used for out-of-state and even international calls. Conversely, several hundred cell phones were seldom or never used that nonetheless cost the city to maintain.

"There's entirely too many employees that have city-issued phones," Silva

See AUDIT, Page 8A

Sentencing Scott Peterson
Friday, November 19, 2004

GRETA VAN SUSTEREN, HOST: We're just days away from the jury in Redwood City, California, deciding whether Scott Peterson (search) will live or die.

Joining us in New York, former Westchester County judge and current Westchester County district attorney Jeanine Pirro. And Jim Hammer, former San Francisco assistant D.A. — he's also in New York. And here in Washington, defense attorneys Ted Williams and Bernie Grimm.

Jeanine, before we talk about the issue about whether it's likely he's going to live or die and what we think the jury's going to do, let's talk about possible appellate (search) issues. He's going to go to the court of appeals at some point.

JEANINE PIRRO, WESTCHESTER COUNTY, N.Y., D.A.: Right.

VAN SUSTEREN: What do you think is the strongest, not necessarily winning appeal, but what are we going to see him raise later?

PIRRO: I think the biggest issue right now for Geragos (search) is the removal of the foreman from the jury. I think that what will happen on Monday is the people are going to go in, they're going to get a couple of days to respond to Geragos' motion. I think the judge will put this thing over until after Thanksgiving, give Geragos, I'm sure, the opportunity to seek a writ, once he rules on the people's behalf. And at that point, we'll start hearing testimony with the same jury on the death penalty issue the week after Thanksgiving.

VAN SUSTEREN: Jim, in terms of removing the juror that Jeanine just spoke about, what's wrong with removing a juror, if the judge's goal is to get this to a verdict?

JIM HAMMER, FORMER ASST. SAN FRANCISCO D.A.: Well, that's the whole question. I mean, what happens in a jury, especially after they deliberate a few days, Greta, is often, someone disagrees. And the whole issue is, did they kick him off because he essentially disagreed? Did the 11 intimidate him, pressure him in some way? Or did he ask to be off because of the pressure? And again, somebody who is such loner like this, who I think didn't fit well with the group, there's a good chance he asked to get off. I think [Judge Alfred] Delucchi (search) held a very careful hearing, I suspect. But this is one of the most dangerous things a judge ever does: removing a juror during deliberations.

VAN SUSTEREN: Bernie, the key question is, what did the jurors say and what did the judge ask at that hearing that led to his removal? A judge cannot properly pull a juror off if the juror simply doesn't agree with everybody else, right?

BERNIE GRIMM, CRIMINAL DEFENSE ATTORNEY: No, absolutely not. A juror can come

out and say, Judge, I've deliberated, and I believe I have a reasonable doubt that is a reasonable doubt, and there's no one, not even the judge, can interfere with the sanctity of that decision by a juror. Now, if a juror is saying, I refuse to deliberate, I'm voting not guilty.

VAN SUSTEREN: What if the person says, I've made up my mind? That's my vote. That's a hung jury?

GRIMM: Greta, excellent questions. I mean, these are all hair-splitting issues. And if someone says, I've made up my mind, there's nobody that can change it, has that person engaged in the deliberative process? It is very dangerous, as Jim says, for a judge to invade sort of the sanctity of the jury process.

VAN SUSTEREN: Ted?

TED WILLIAMS, CRIMINAL DEFENSE ATTORNEY: Bernie and Jim are accurate, as well as...

VAN SUSTEREN: How about Jeanine?

(CROSSTALK)

PIRRO: Well, thanks!

HAMMER: She was pouting for a second!

PIRRO: Yes, I was!

(LAUGHTER)

PIRRO: Hey, by the way, we've got Jim here in New York, which is very nice, Greta. Now I feel like I'm on a 50/50 balance, a level playing field.

WILLIAMS: Well, I'm glad y'all are having a partnership out there.

(LAUGHTER)

WILLIAMS: Listen, the fact about it is, if the juror has made up his mind — he has a right to make up his mind, as long as he's a part of the deliberative process. And I think in this instance, if this juror was kicked off because he had decided, I'm going to hang this jury, but he had made his mind up, he had listened to the evidence — and by the way, juror No. 5 took many notes, I mean, copious notes in this case. So I think he was the most analytical, and I thought if anybody was going to hang the jury, it would have been him.

VAN SUSTEREN: Jeanine, what about the boat demonstration — I don't know what to call it — where the two jurors got into the boat in front of the judge during the deliberations and rocked

back and forth?

PIRRO: You know what, Greta? I don't get excited about that. Look, the judge did everything in his power. He said there are not to be any experimentations. The fact is, two people got on that boat and shifted it back and forth. Now, when you handle exhibits that are in evidence, you have the right to pick it up, to feel it, to touch it. And in a sense, they had the right to do that with the boat.

I don't know who decides what an experiment is or at what point you decide that it's an experiment. I don't think that's the basis.

WILLIAMS: But Jeanine...

PIRRO: Yes, Ted?

WILLIAMS: But Jeanine, I'm sorry, I have to wholeheartedly disagree with you.

PIRRO: It's OK.

(LAUGHTER)

VAN SUSTEREN: I think she'll live through this, Ted.

(LAUGHTER)

WILLIAMS: No. 1, the judge was actually there, from what we understand. And if two people got in that boat and they rocked it — why were they rocking that boat? They wanted to try to emphasize as to whether a body or Laci Peterson could have been tipped overboard...

(CROSSTALK)

PIRRO: Whether it would tip. No question.

WILLIAMS: So that had to be considered an experiment, and I think it's going to be an appellate issue.

PIRRO: Wait a minute! Ted, you know what an experiment is? An experiment is when one the jurors gets on there and another one stands on the side and tries to throw the one off. Just standing on it, balancing the boat, they want to get a sense for how solid it is.

WILLIAMS: I disagree.

VAN SUSTEREN: Jim?

HAMMER: Unfortunately — I wish I was as confident as Judge Pirro sitting next to me...

(LAUGHTER)

HAMMER: But these are really dangerous things on appeal, and convictions have been overturned, Greta, for looking up a word in the dictionary. Now, if a conviction can be overturned for that, then how about jumping around in a boat? I don't know what's going to happen, but it's a problem on appeal.

VAN SUSTEREN: And I actually thought when the judge described it, he said he didn't know the jurors were going to get in the boat and jump up and down. I thought he looked a little piqued...

(LAUGHTER)

VAN SUSTEREN: But that was me reading faces, which, of course, I have no expertise in.

(COMMERCIAL BREAK)

VAN SUSTEREN: We're back with more on the Scott Peterson guilty verdict and a surprising story involving juror No. 5. Justin Falconer joins us tonight from Kansas City.

Justin, we're hearing tonight that you claim that you have been intimidated, or at least, you were while you were serving as a juror and left the panel. What happened?

JUSTIN FALCONER, DISMISSED PETERSON JUROR: Well, when I first got out, I started getting a lot of negative attention, which, you know, obviously was reported on television. It died down a little bit. But then towards the end of case, as the defense started to get ready to put their case on, it started to get a lot more. I started getting more and more, and then people started actually showing up to my house.

VAN SUSTEREN: OK, let's talk about that. What happened when people showed up at your house?

FALCONER: Well, somebody jumped up on my balcony and took my picture through my window at, like, 3:00 in the morning. And you know, then there was other people. There were sightings around my house, people showing up, asking where I lived. And so my security at the complex was told, you know, to try to keep an eye out, but it just got to the point where they broke into my car and they vandalized my car. They didn't steel anything, just tore it up, dumped oil all over it and put Scott Peterson pictures on it from the newspaper.

So I mean, I just got to the point where I just said, You know what? I can't be doing this. If this verdict comes back, you know, they're going to come after me. Plus, a letter said that, you know, Hey, if he's not guilty, it's your fault, blah, blah, blah. So it got to the point that I said, you know, OK, wait. There's a problem here, and I need to get out for my own safety.

VAN SUSTEREN: Did you report this to the police?

FALCONER: You know what? I did, the beginning of it. I told them about the letters and everything, but the police didn't seem very interested. So I kind of took it as I needed to protect myself and told the security around my complex, bought a pit bull. You know, so, I mean, that's what I did. And then finally, it just got to the point where I didn't want to deal with it anymore, and I took off.

VAN SUSTEREN: Justin, the press pursued you like crazy. I'm sure that they were asking questions around the complex. Can you discriminate that this was not the press — I don't think the press vandalized your car, but is there a way to discriminate between the press dogging you and what you might consider to be, you know, some vandalism or threatening gesture from people or harassment?

FALCONER: Yes, well, the press has been really good because I've been talking to everybody, and I have a pretty open relationship with everybody, you know? So if they want to ask me something, they can call me. And I've never had a problem with them before. I mean, all the way down to The Enquirer, nobody's harassed me at home. So I have no reason to believe that it's press, just because they can get a hold of me any time they want.

VAN SUSTEREN: Have you heard that any of the other jurors have gotten this while they're serving on the panel?

FALCONER: Yes. Yes. When I was there, you know, when it first came out about me speaking to Brent, there were people on the panel that were approached outside the jury house. You know, there's one person who's still on the jury who, you know, was approached and said, Hey, is that "MF" off the jury yet? You need to get him booted off, blah, blah, blah. And she actually defended me to this person, and then, you know, was telling us about it in the jury room. So I know for a fact that, you know, the other jurors are approached and people have been talking to them.

And that's why when I heard the reports that, you know, Gregory Jackson felt like people were more interested in the public opinion, it really struck home with me because I know for a fact that they were worried about public opinion because they were out in the public every day. When they would go to work, when they would come home, do things like that, you know, that was their dosage of it, and either somebody would walk up to them and say something...

VAN SUSTEREN: A quick question, Justin. Was that incident you just spoke about reported to Judge Delucchi?

FALCONER: I believe it was. Yes, I'm pretty sure it was. I know the bailiffs knew about it because everybody was talking about it in a joking manner. There was a lot of pet names I was going by, at that point, because people were referring to me as, you know, some of the derogatory names, so everybody was joking around about it. And you know, we did talk about it before I was dismissed.

VAN SUSTEREN: All right, Justin, thank you very much.

Does this new information prove that the jury needs to be yanked from deciding whether Scott Peterson lives or dies? Our legal panel is back. Bernie?

GRIMM: You know, interesting, because when I was reading tonight about the fact that Mark Geragos was going to move for a change of venue and for a brand-new jury because of juror misconduct, I was figuring he's out on both counts. But now that I get this sort of fascinating revelation from Justin that jurors were intimidated — certainly, he was intimidated — and then it got...

VAN SUSTEREN: But it sounds like he was intimidated almost after the fact, though, which is a big difference if you're off the jury. I mean it's not nice, but I mean on the jury deliberating versus off the jury — big difference.

GRIMM: Right. He's no longer deciding the fate of Scott. But Justin seemed to say it was discussed amongst the jurors that he was getting intimidated, and he thinks that it carried over into the jury that ended up deciding Scott's fate. So if they were intimidated or scared or coerced into that verdict, that's certainly an issue on appeal, if Geragos can prove it.

VAN SUSTEREN: Jim, my antenna went up when he said that they had a discussion in the jury room.

HAMMER: Exactly.

VAN SUSTEREN: But then it only becomes a problem if someone didn't tell Judge Delucchi and he didn't investigate to make sure that the jury wasn't poisoned.

HAMMER: Greta, it could still be a problem. We've talked about the appeal coming down the road, but what's going to happen before that is a motion for new trial. Before Scott Peterson is sentenced but after this next penalty phase, Geragos will lay out every reason that the first verdict was invalid, in his opinion. And if he can put it in an affidavit with these kind of statements from Falconer, it doesn't just endanger the penalty phase, I say could because we don't know if it's true — undo the conviction that just happened. That's why this is a very dangerous time for the DA.

I got to tell you, Geragos has to probably double his antidepressants every day he sees Justin Falconer because this was a built-in hung jury if Falconer had stayed on that trial.

VAN SUSTEREN: But Jeanine — and correct me if I'm wrong — the minute he said that there was a discussion in the jury room, I thought, Uh-oh. You know, There's a real serious situation. But then he said Judge Delucchi knew about it. I assume, and don't know, that he would have brought the lawyers in, discussed it, and then had a conversation with the jury to see if there's a problem. That's routine. Then there's no problem if Geragos has acquiesced to the situation, right?

PIRRO: Right. Look, this is a very competent judge. I think everyone on the panel agrees this is a judge who's going to have a solid record. He wouldn't let this case go forward without that.

But I have to tell you, Greta, you know, as I sit here listening to Justin Falconer, I say to myself, You know what? He kind of went with the flow, as we discussed this case. He was very opinionated in the beginning, saying, Well, I can understand how I guy wouldn't know if he went fishing or golfing on the day his wife disappeared, and all pregnant women are crazy.

(LAUGHTER)

PIRRO: Jim, stop laughing. At some point, when you put your head above the crowd and you form an opinion, then people are going to start criticizing you. And it almost seems like he wants to undercut this verdict. And I'm just curious as to how much of what he is saying is either absolutely accurate or hasn't already been discussed with the judge.

VAN SUSTEREN: But let's assume for the sake of argument that he's telling us the absolute truth and he was harassed. But if it occurred after he was no longer on the panel, while it may be obnoxious or wrong or even people agree with it...

HAMMER: Not a problem.

(CROSSTALK)

PIRRO: It doesn't affect the verdict.

VAN SUSTEREN: It's only if it's while he's serving on panel.

PIRRO: And it does not affect the verdict.

VAN SUSTEREN: Right.

WILLIAMS: Yes, but as I look at it, if there's any kind of semblance of jury intimidation at any aspect of this case, it could have floated, Bernie just said, even into that jury room, into the deliberations. If jurors felt that Justin was being mistreated and now they're deliberating, they themselves could very well have some feelings about that.

VAN SUSTEREN: But that brings me back to my original point, is that if the judge investigated that and if there's a strong record to suggest that there was no problem, that's not going to haunt the prosecution in the court of appeals.

WILLIAMS: You're probably right, Greta. But I guarantee you, Mark Geragos listens to our show. And by the way, I'm going to go here again. I'm going to give you a compliment. And don't go there.

(LAUGHTER)

WILLIAMS: But you got something the other night, as it pertains to how the child was born or when the child was born, and you did a good job with Justin tonight. We found some information

out tonight for the first time about jury intimidation, as far as I'm concerned, about Justin, and we didn't know that before this.

VAN SUSTEREN: Ted, before we go to break, can you come back tomorrow night?

(LAUGHTER)

HAMMER: Do you want to guest host, Ted?

VAN SUSTEREN: Can you co-host with me, Ted?

(LAUGHTER)

GRIMM: Greta, can I get a raise, too, like Ted? Oh, my God, it's disgusting in here!

PIRRO: You know what? I'll settle for another person in the room!

(LAUGHTER)

VAN SUSTEREN: All right, panel, as always, thank you.

AMBER: P

Evil spirit of O.J. swayed guilty verdict

Andrea Peyser

Columnist
Of The Year



SCOTT PETERSON never had a chance.

It started as a joke. From Day 1, jurors in Peterson's double-murder trial were fond of saying to one another: "We don't want to be, an O.J. Simpson jury!" an ex-panel member told me.

Simpson, of course, is tied neck and neck with Peterson for the title of Most-Hated Human in California. Unlike Scott, O.J. skipped away a free man from charges he butchered his ex-wife and her friend in Los Angeles a decade ago. And he left evidence.

Apparently the O.J. fiasco was seldom far from the minds of Peterson's jurors. This comes from Justin Falconer, who was the first of three jurors kicked off the panel.

"One juror said he heard from a co-worker — 'We are worse than an O.J. jury,'" Falconer, 29, told me yesterday from his home in Kansas City, where he moved after receiving death threats for voicing his opinion that there was reasonable doubt of Peterson's guilt.

"It became an ongoing joke throughout the trial," he said — "People are going to hate us" if Peterson walks.

"It's scary," he said about Friday's guilty verdicts, capable of putting Scott to death.

"This trial was not tried in the courtroom. It was tried on Nancy Grace [the TV commentator and professional Scott-hater]."

Falconer retains his reasonable doubts.

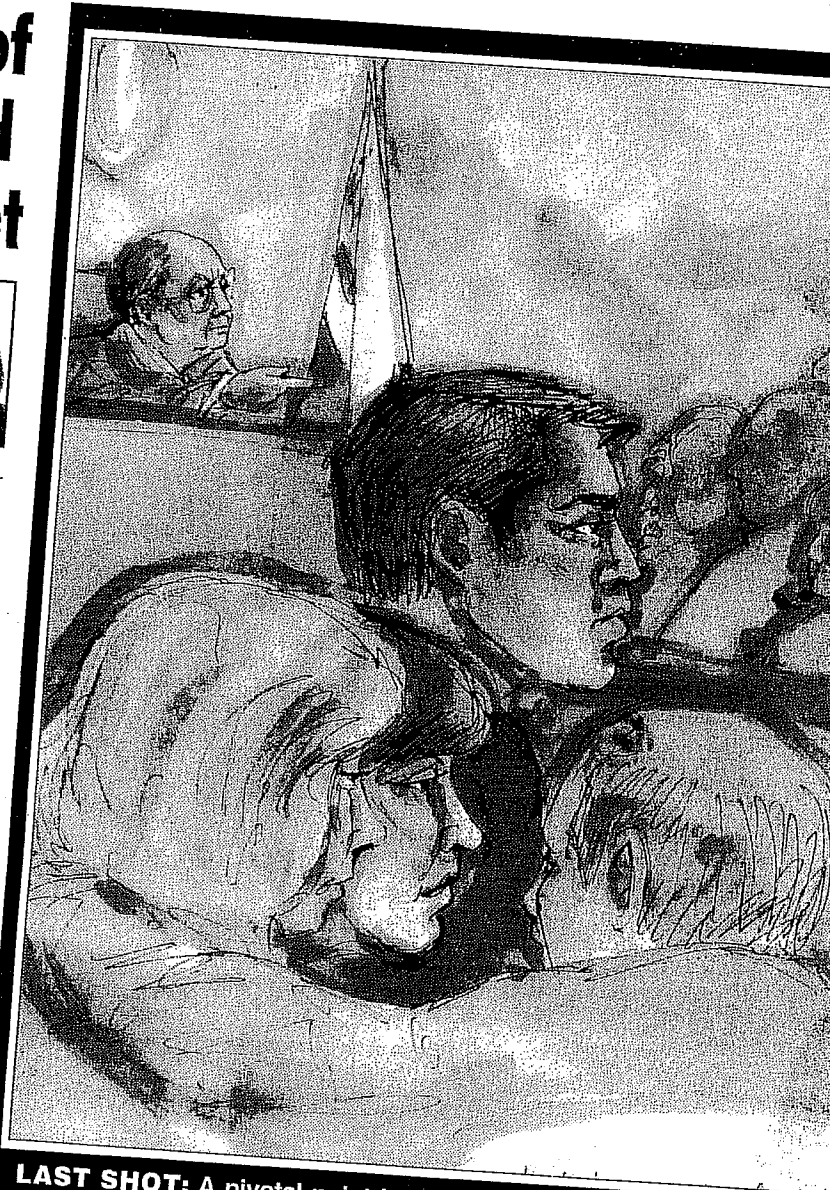
Scott "was a liar. He had an affair. What is that? There's no motive," he said.

"He's got a beautiful wife who's pregnant with his child. He's got a mistress he's banging on the side when he's in Fresno on business. He and Laci are about to inherit a ton of money from Laci's grandmother. Why screw that up?"

"Whether he did it or not, I don't know. I don't think the prosecutor proved it.

"This is not justice. It's wrong for Scott, and it's wrong for the Rochas."

It also doesn't make up for that O.J. thing.



LAST SHOT: A pivotal point in deliberations was the dismissal of the jury foreman, whom experts suspect was a holdout. Getty Images

Juror boot dashed defe

By HOWARD BREUER
in Los Angeles and

STEFAN C. FRIEDMAN in N.Y.

Double murderer Scott Peterson's last best chance to walk out of San Mateo County Court a free man disappeared with the dismissal of jury foreman Gregory Jackson, jury experts told The Post yesterday.

The seemingly deadlocked 12-person panel breezed to a guilty verdict soon after the meticulous Jackson — who took 19 notebooks' worth of notes during the five-month trial — reportedly went to Judge Alfred Delucchi and said he wanted off the jury.

"He was clearly the obstacle," said Edward Benson, a jury expert and professor

emeritus at California State University at Chico.

"Whether he was a dissenter or he was slowing up the process, it's pretty clear that he was the roadblock."

The specific circumstances under which Jackson got the boot were unclear.

But some close to the case say he angered fellow jurors when he demanded the panel methodically sift through all witness testimony and introduced exhibits before holding even a preliminary vote to see where the jury stood.

Shortly after his refusal to hold a vote, Jackson reportedly went to Delucchi claiming he was being threatened by other jurors.

Jackson was seen as perhaps

mildly pro- because could have mistrial. B thought Pe break whe firefighter was select foreman.

"Everybody as pro-defe Richard Ma cisco-based with Decisi Consultants.

When new the newly co reached a ve short time, spoke with thought it wa acquittal," Ma Yet it appe