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Judge won't recuse himself in Pietz sentencing

A King County Superior Court judge denied a defense motion last week that he recuse himself from sentencing Martin "David" Pietz, who was convicted last month of killing his wife in 2006, because the judge met privately with jurors after they handed down their guilty verdict.

By Sara Jean Green

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A King County Superior Court judge has denied a defense motion that he recuse himself from sentencing Martin "David" Pietz, who was convicted last month of second-degree murder for killing his wife in January 2006.

The defense motion, filed by attorney David Allen on Oct. 24, argued that Judge Michael Hayden violated a rule of judicial conduct by meeting privately with jurors Oct. 14 soon after they found him guilty of strangling his wife, Nicole Pietz, and leaving her nude body in a wooded area in Burien.

The state objected to the defense motion, calling it baseless. Hayden denied the motion last week.

Pietz, 36, is to be sentenced by Hayden on Thursday morning and faces a standard-range sentence of roughly 10 to 18 years. The state is recommending Pietz be sentenced to a top-of-the-range sentence, arguing that Pietz violated his wife's trust by attacking her in their home and also caused Nicole Pietz's family undue anguish by misleading them about her whereabouts for 16 months.

Pietz was arrested and charged in connection with his wife's death in March 2012, more than six years after he killed her, all the while telling her friends and family she had relapsed into drug addiction and had simply disappeared.

The defense's sentencing memo was not publicly available Wednesday, so it is unknown what sentence Pietz's defense team will recommend during Thursday's sentencing hearing.

The defense motion seeking Hayden's recusal expressed concerns about the appearance of fairness and the possible impact on the length of Pietz's prison term: "The real concern is that

the conversation between judge and jurors may have an effect, albeit subconscious, on the judge's sentencing decision. Even if the judge claims nothing substantive was discussed and that he was not affected in any way by this meeting, it is impossible to measure the subconscious effect of this meeting," the motion reads.

According to the motion, Allen had asked Hayden, the trial judge, to inquire whether jurors would agree to an after-verdict meeting with defense attorneys and prosecutors involved in the case. The judge didn't make the query in open court, as Allen had expected, and then spent 15 minutes alone with jurors before his bailiff notified the attorneys that jury members did not wish to meet with them, at which point Allen left the courthouse, the motion says.

King County Senior Deputy Prosecutors Kristin Richardson and Carla Carlstrom objected to the defense motion, saying the state "is hesitant to even suggest there is value in the defendant's baseless motion by responding to it."

They wrote that judges speaking to jurors — after a verdict has been delivered and the jury is discharged from service — is not only commonplace but encouraged by the Washington State Jury Commission.

Citing a 2000 commission report, they noted that jurors "should be given every assistance possible to help them cope with the stress that can be caused by jury service." This is especially true when, as in the Pietz case, the trial is very long, the evidence is unusually unpleasant and graphic, and there is a great deal of publicity surrounding a trial.

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