

16 Years After Shooting Death, State Supreme Court Upholds Lewis County Murder Conviction

Justices Voice Dissent After Split Vote: Decision Seems Likely to Prevent Fourth Trial for Kenneth Slert



The Chronicle, file photo

[Kenneth Slert](#)

Kenneth Slert smiles as he enters the courtroom during his 2010 murder trial at the Lewis County Law and Justice Center in Chehalis.



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Could one of the longest and most convoluted murder cases in Lewis County finally come to an end this year, 16 years after it began?

“I’m 98 percent sure this is the end of it,” said Lewis County Chief Criminal Deputy Prosecutor Brad Meagher. “(There are) never any guarantees in our business.”

Kenneth Slert’s third murder conviction for the same shooting death near Ashford in 2000 will stand, ruled the state Supreme Court Oct. 27 after six years of cycling through Washington appeals courts.

Slert was first convicted of second-degree murder in the 2000 shooting death of 53-year-old John Benson in 2005. The case has since been overturned on appeal twice, and Slert was retried and convicted two more times.

Slert was most recently convicted in 2010. In 2012, the State Court of Appeals overturned the conviction, ruling that Slert’s right to an open trial was violated. The Supreme Court overturned the ruling, the Court of Appeals ordered another new trial, and the Supreme Court again, last month, overruled the lower court.

“It means we don’t have to retry him,” Meagher said. “He’s done.”

In his most recent appeal, Slert argued that he was not present during a conference between attorneys for the defense and prosecution, violating his rights. The attorneys met to discuss removing four prospective jurors during jury selection because of their familiarity with the case.

The judge in the case removed the potential jurors in open court, according to the Supreme Court’s decision.

In 2012, the state Court of Appeals reversed the conviction for the third time.

The State Supreme court reversed the lower court’s decision to call for a new trial and asked them to consider a separate issue: whether Slert’s absence during a conference was harmless to the case.

The Court of Appeals ruled last year that it was not harmless. The Supreme Court again reviewed and rejected the lower court’s conclusion, and ruled that Slert’s final conviction will stand.

The Supreme Court ruled in a majority decision that Slert lost his right to object to the error in his case because he did not raise an objection about it during the trial.

“Further, the lack of a timely objection itself is strong evidence that Slert and his counsel ‘did not perceive any prejudicial error until after receiving an unfavorable verdict,’” the Supreme Court’s decision reads.

Five Supreme Court justices supported the decision to uphold Slert’s 2010 conviction and reverse the lower court’s ruling.

However, four justices wrote and signed a dissenting opinion, stating that the higher court should uphold the Court of Appeals’ decision.

“In this case, a portion of jury selection was conducted in chambers, without the defendant’s presence, violating his constitutional rights, and as the Court of Appeals concluded, a new trial is required,” the dissenting opinion reads.

The opinion also notes that it is impossible to know if the excused jurors had disqualifying feelings or knowledge about the case because no record actually exists to support that assertion.

Slert and Benson were reportedly drinking whiskey together in Benson’s truck Oct. 24, 2000 at Mount Rainier National Park in the Gifford Pinchot National Forest. The men did not previously know each other. At some point, Slert shot Benson, according to previous Chronicle reports.

Slert was questioned but not immediately charged after reportedly giving inconsistent accounts of the incident. Later, Slert admitted to killing Benson in self-defense. He was convicted in 2005 and sentenced to 23 years in prison.

However, the conviction was overturned after an appeals court ruled that the trial court should not have rejected one of Slert’s proposed self-defense instructions to the jury.

Slert was again convicted of second-degree murder in 2009. However, the conviction was overturned after Superior Court Judge Nelson Hunt reportedly acknowledged that he should have recused himself, being personally familiar with officers and attorneys in the case, and therefore violated the appearance of fairness doctrine.

Slert was again convicted in 2010, and sentenced to 22 1/2 years in prison.