

New trial ordered in fatal 1991 shooting

A Pierce County man twice convicted in a fatal 1991 shooting should get another trial because a deputy prosecutor used improper arguments in winning the latest conviction against him, a state Court of Appeals panel has ruled.

ADAM LYNN; STAFF WRITER

Published: April 3, 2013 at 12:05 a.m. PDT— **Updated:** April 3, 2013 at 7:03 a.m. PDT

A Pierce County man twice convicted in a fatal 1991 shooting should get another trial because a deputy prosecutor used improper arguments in winning the latest conviction against him, a state Court of Appeals panel has ruled.

In an opinion released Tuesday, the three-judge panel for Division II said Larry Tarrer did not get a fair trial in 2010 when he was convicted of first-degree murder, attempted first-degree murder and first-degree manslaughter in the shooting that killed one woman, paralyzed another and left her unborn fetus dead.

Justices Jill Johanson, C.C. Bridgewater and Joel Penoyar said deputy prosecutor John Neeb committed “multiple episodes of prosecutorial misconduct” during closing arguments in Tarrer’s last trial.

The panel found Neeb’s misconduct included:

- Improperly shifting the burden of proof from the prosecution to Tarrer.
- Trivializing the reasonable doubt standard.
- Invoking the Sept. 11, 2001, terrorist attacks, which improperly infused “nationalism and religion into the case.”

The misconduct was “so flagrant and ill-intentioned that no instruction could have erased their combined prejudicial effect,” Johanson wrote for the panel.

The ruling vacated Tarrer’s convictions and sent his case back to Pierce County for further proceedings.

“Our office strives to seek justice and play by the rules and that is what we plan to do in Mr. Tarrer’s next trial,” Pierce County Prosecutor Mark Lindquist said Tuesday in response to the opinion.

The case stems from the Jan. 9, 1991, drug-related shooting at a Tillicum apartment that killed Lavern Simpkins, 27, wounded Claudia McCorvey, who was seven months pregnant, and killed her unborn son.

Prosecutors contend Tarrer opened fire on the women because he suspected someone in the apartment stole his drugs.

Tarrer has maintained someone else fired the shots.

Tarrer that same year pleaded guilty to second-degree murder and first-degree assault and was sentenced to 22 years, six months in prison. That conviction later was wiped away when the state Supreme Court invalidated part of the state’s second-degree murder law in the so-called Andress decision.

Prosecutors recharged him under new laws and offered him a similar sentence recommendation if he agreed to plead guilty. He refused and instead went to trial in 2010. A jury convicted him and Superior Court Judge Katherine Stolz sentenced him to 75 years.

Tarrer appealed that conviction, setting the stage for Tuesday’s ruling.

Adam Lynn: 253-597-8644