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Hollywood Case Nearly to the Jury

Attorneys Offer Two Theories on 2000 Murder

By Chris Meagher

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After several weeks of listening to dozens of witnesses testify and lawyers argue, the jury of nine women and three men will disappear into the deliberation room sometime Wednesday afternoon or Thursday morning, the fate of Jesse James Hollywood in their hands. The jury must determine what, if any, involvement Hollywood had in the kidnapping and murder of 15-year-old Nicholas Markowitz in August 2000.

Hollywood has essentially admitted to kidnapping the boy along with cohorts William Skidmore and Jesse Ruge on August 6, 2000. The windows in Hollywood's home had just been broken by Markowitz's older brother, Ben, and Hollywood was angry and looking to confront Ben. Instead, the trio came across the younger Nicholas, who was walking along the road, and took him in a van to Santa Barbara.

A simple kidnapping conviction would land Hollywood behind bars for anywhere between three and eight years. But the prosecution is seeking an aggravated kidnapping conviction, in which the kidnapping was for ransom and eventually led to Markowitz's murder. That aggravating factor, which Ruge was convicted of, could bring Hollywood life behind bars, with the possibility of parole after seven years.

More critical for Hollywood, however, is the first-degree murder charge. If he is found guilty, the jury could tag on a special circumstance that the killing was committed while engaged in a kidnapping. The penalty for such a crime, in which the death and kidnapping must be one continuous plot, is either the death penalty or life in prison without the possibility of parole.

To find Hollywood guilty of first-degree murder, each member of the jury will have to adopt one of two prosecution theories: that Markowitz's death was willful, deliberate, and premeditated by Hollywood, or that the murder occurred during the commission of the kidnapping. If he is found guilty of first-degree murder without the special circumstance, he could still face 25 years to life.

But those are a lot of ifs, and, as Hollywood's co-counsel Alex Kessel drilled into the jury's heads Tuesday, all the elements of the crime need to be proven beyond a reasonable doubt. "When there are more questions than answers, that's where reasonable doubt comes from," Kessel said. "They just want you to glom on with their theory."

That theory is that Hollywood and crew snatched Nick Markowitz because of a \$1,200 drug debt his brother Ben owed Hollywood. They took him up to Santa Barbara, where two days later, after

finding out from his attorney he could be in big trouble for the kidnapping, Hollywood ordered his lackey Ryan Hoyt kill the boy. He provided the gun, prosecutor Joshua Lynn said, the car, and the directions to Santa Barbara. Kessel disputed this, and pointed out there was no testimony to support this theory.

The defense is essentially arguing there were two kidnappings, conceding Hollywood's involvement in one. The first was initially done by Hollywood, Skidmore, and Rugge in West Hills on August 6. But not long after that kidnapping occurred, they argue, the boy was free to go and was partying with people in Santa Barbara. Indeed, many witnesses testified to Markowitz's freedom, that the boy generally seemed able to go when he wanted. Hollywood, who took the stand himself—a rarity for defendants in capital murder trials—testified that he at one point asked Markowitz if he wanted to go home, but the boy declined.

As the defense puts it, the second kidnapping—committed by Rugge, Ryan Hoyt, and Graham Pressley—took Markowitz from the Lemon Tree Inn up to Lizard's Mouth, where he was bound, shot, and killed. Hollywood had nothing to do with this second kidnapping.

In the other defendants' trials related to the case, the prosecution accepted the idea there might have been two kidnappings, and let the jury make the determination. And it will be up to the jury to decide this time around, whether there were separate kidnappings or one continuous kidnapping, and Hollywood's involvement in them.

Lynn attacked Hollywood's testimony during closing arguments Tuesday. Calling him the "king of thugs" who is "guilty as sin," Lynn said that Hollywood had control over Markowitz's fate the entire time. He called Hollywood's testimony a lie, saying the now-29-year-old had no problem answering questions from his own attorneys. But on cross-examination, "He didn't answer any [questions]," Lynn said. "Jesse Hollywood remembers all but that which gets him in trouble."

To close, in an emotional appeal—which Kessel was quick to note can't be the basis of any conviction—Lynn put up three photos of Markowitz's body lying in what was his grave, a shallow dug out area near Lizard's Mouth in the mountains above Santa Barbara.