

Traits of the 'Right' Juror; Many Factors Will be Weighed in Picking Panel in Bryant Case

BY JEFF KASS
Rocky Mountain News

A perfect juror for Kobe Bryant's courtroom defense may look decidedly unlike his basketball colleagues: a white woman in her 50s who has a son.

A perfect juror for the prosecution may be a feminist who has a daughter the same age as the alleged victim.

Both sides in the Bryant trial are preparing for a crucial moment: the seating of a jury of 12 Eagle County residents for Bryant's upcoming rape trial.

Many consider jury selection to be the single most important step in determining whether a defendant will walk home after trial or be marched into a prison cell.

Eagle County District Attorney Mark Hurlbert has contracted with jury consultant Jo-Ellan Dimitrius, who worked for the defense in the O.J. Simpson criminal case. She is not drawing a salary, but the prosecution expects to spend \$20,000 on jury-related expenses, such as polling residents about issues related to the case.

Bryant's attorney, Pamela Mackey, did not return calls seeking comment on whether the defense is using a jury consultant.

"That's exactly the kind of stuff that can win a trial," Denver defense attorney Robert Ransome said of finding the right jurors - whether or not a consultant is used.

Still, attorneys, and even consultants themselves generally agree that jury selection is as much art as science. It essentially mixes research and intuition in a high-stakes game of sizing someone up.

Tales abound about picking jurors, including one story about a consultant rejecting a potential juror because he was wearing a light-colored sport coat. The consultant concluded it signaled a wimpy - and therefore unfavorable - personality type. Body language, facial expressions and hobbies can influence whether someone is seated or sent home.

Jury selection in the Bryant case is set to begin Aug. 27.

Bryant, 25, is accused of raping a now 20-year-old woman last June who worked at the Lodge & Spa at

Cordillera. The Los Angeles Lakers star, who was staying at the hotel, says the sex was consensual and has pleaded not guilty.

A recent court hearing revealed that attorneys already have worked up a list of 115 questions for detailed screening of jurors. Based in part on those answers and others, attorneys may judge whether or not they want someone in the jury pool.

What lawyers look for Three Denver attorneys, and jury consultants from across the country, discussed age, race, gender, celebrity and other issues that are likely to come into play in the jury selection for Bryant's trial.

The defense may seek a woman in her 50s or older. Some consultants speculate that a woman of that generation could see the alleged victim's predicament as her own fault because she flirted with Bryant and voluntarily went to his hotel room.

Those more likely to be wrongly accused of sexual assault - single men - and parents with sons could be good choices for the defense as well, the experts say.

On the flip side, some say that Bryant's side will not want feminists and that his attorneys may reject prospective jurors who have a daughter the same age as the alleged victim.

Denver attorney Dan Recht said the defense might want to stay away from women ages 18 to 30, who are closer in age to the alleged victim.

Not necessarily, said Chris St. Hilaire, a partner with the Los Angeles firm Jury Insight. He says younger women may be good for the defense if they have been in the same situation as Bryant's alleged victim but acted differently.

"Young Anglo women might say, 'What was she doing in his room? Why was she flirting with him?'" St. Hilaire said.

St. Hilaire also disagreed that older women could be defense candidates. He said he believes women in their 40s and 50s may be good for the prosecution. They grew up in a time when "the system was weighted against women" and therefore may be less critical of the

alleged victim finding herself in a difficult situation, he said.

Denver attorney Ransome echoed others in noting that men can be good for the prosecution: "Some men may perceive themselves to be the protectors of women."

While picking jurors can be difficult under normal circumstances, Bryant's celebrity status can turn conventional wisdom upside down.

"You might as well throw the cards in the air," said Howard Varinsky, an Oakland, Calif.-based jury consultant.

Varinsky says a pro-prosecution juror in a typical sex assault case is a church-goer. Such a person tends to be more conservative and has a strong sense of right and wrong.

But in the Bryant case, the same juror may be skeptical of the alleged victim in light of Bryant's celebrity status and multimillion-dollar bank account.

"They look at the complainant and say, 'loose woman,' or 'gold-digger; there's going to be a (civil) lawsuit,'" Varinsky said.

Former Denver prosecutor Craig Silverman, who has attended Bryant's pretrial hearings, also talked of role reversal.

The typical criminal defendant is poor and unemployed, he said. The prosecution, therefore, seeks jurors who are judgmental of those circumstances.

But Bryant is a "successful and accomplished person, who other successful, accomplished people may relate to and even admire," Silverman said.

Given that Bryant is black and the alleged victim is white, race is another factor.

Only about 142 of Eagle County's 41,000-plus residents are black, according to the 2000 U.S. Census.

"Kobe Bryant would love to have African-Americans on this jury, but that's unlikely," Silverman said. "It becomes a tough question whether or not he wants Hispanics on his jury. People of color sometimes sympathize with each other, but I've found no hesitancy

of Hispanics to convict African-Americans, and vice versa."

Recht said minority jurors may be more sympathetic to Bryant: "They have a broader experience, generally, of people being wrongly accused than does the average, suburban white person."

Another question is whether Bryant's star basketball status trumps any consideration of his race.

"Maybe," Ransome said. "Probably. I don't know."

A potential snag for both sides in high-profile cases is jurors with hidden agendas - so called stealth jurors.

Jury consultant Philip K. Anthony, CEO of Los Angeles-based DecisionQuest, defines three types: those who want to make a social statement, maybe about women's rights; those seeking fame or fortune; or those on a personal mission, such as getting tough on crime.

Ransome, for his part, said, "I want one, powerful person who will lean my way. In the jury room after two days of deliberation, it's a powerful person that will drive a jury."

In the end, the most important lesson may be to avoid profiles. The seemingly perfect defense juror may have a sister who was a victim of sexual assault. Or, it may be something harder to define.

"Even if a person seems good on paper, if there's no good chemistry between you and that person, forget about it," Silverman said.