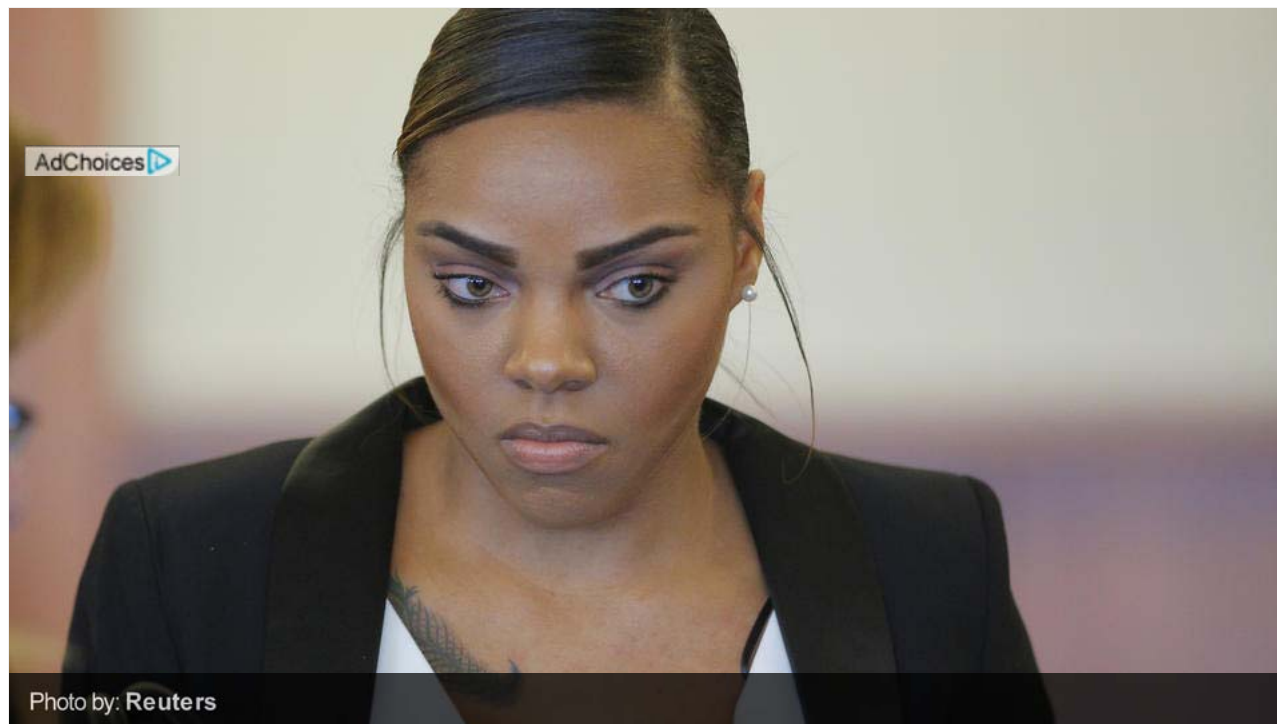


McGovern: Aaron Hernandez's winning streak snapped

Judge denies two defense motions on jury selection



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HEARING: Shayanna Jenkins, above, fiancée of former Patriots tight end Aaron Hernandez, stands during a pretrial hearing yesterday.

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By: Bob McGovern

After a series of big wins, Aaron Hernandez's defense team was handed two last-minute losses yesterday, and that could hurt the former tight end's chances to shape the jury.

Judge E. Susan Garsh ruled that Hernandez will have only 18 peremptory challenges when the cavalcade of potential jurors marches through Bristol County Superior Court next month. That means his attorneys can kick out 18 jurors for no reason, but that's only a drop in a very large bucket.

"That's nowhere near enough," said Peter Elikann, a criminal defense attorney not involved in the case. "They have to deal with a lot of issues, including the number of people who have heard the accusations of the alleged other murders."

Garsh also told Hernandez's defense team that they could not directly question potential jurors during the jury-selection process. Under a new Massachusetts law, attorneys will be able to conduct voir dire themselves, directly questioning jurors in an attempt to weed out any biases.

But that law doesn't take effect until February, and Garsh ruled that she won't observe it in advance. She'll ask the questions during jury selection in January and let Hernandez's defense team suggest "follow-up questions" for her to ask.

“It is a huge, giant blow against the defense that they were not allowed to do individual *voire dire*,” Elikann said. “If ever there was a case for individually questioning jurors beforehand, this is it.”

A major challenge for Garsh will be asking the right questions without telling potential jurors about the Boston murders that Hernandez has also been charged with.

“How does a judge, exploring bias, extract that from a juror without being too explicit?” asked Martin Weinberg, a criminal defense attorney not involved in the case. “The judge can’t ask about the other charges because that plants the seed. The questions need to be artfully designed to get the maximum amount of information.”

There’s also the issue of “stealth jurors” — those who will do anything they can to get on the jury due to the high-profile nature of the case. Elikann said these potential jurors will intentionally hide their biases to have a front-row seat to one of the biggest trials in the nation.

“They want to get on that jury because it’s a celebrity case,” he said. “They want to get on these juries for the excitement, but also they see the money that could be made by trying to sell an interview or book.”

Hernandez has certainly had his list of pretrial victories. Crucial evidence has been thrown out — including Odin L. Lloyd’s final texts and references to the shooting of Hernandez’s former pal Alexander Bradley, as well as the double-murder case in Boston — but yesterday’s ruling took the former New England Patriot down a peg.