

Unusually long Hernandez trial appears headed for fast wrap-up



ARAM BOGHOSIAN FOR THE BOSTON GLOBE

The murder trial of Aaron Hernandez (at left, with his attorney Charles Rankin) has lasted over nine weeks.

By **Travis Andersen** | GLOBE STAFF APRIL 06, 2015

When lawyers for Aaron Hernandez begin calling witnesses Monday, one thing is certain: Their case will be far shorter than the government's.

Prosecutors in the murder trial of the former New England Patriots star called 131 witnesses over nine weeks before resting on Thursday. Defense attorneys, by contrast, have indicated they will need just one day to present their case. Jurors could start deliberating Wednesday.

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It is unusual for murder trials in Massachusetts to stretch beyond a month. Gerard T. Leone Jr., a former Middlesex district attorney, said the longest murder case he ever tried was the monthlong trial in 1997 of Louise Woodward, a British nanny who was charged in the shaking death of an infant in her care.

Leone, now a partner at Nixon Peabody, said many factors can lengthen a trial, including “the approach of the prosecution and the defense in questioning.”

In the Hernandez case, inclement weather — snowstorms halted the trial multiple times in February — and relentless attorneys on both sides battling over circumstantial evidence have slowed the pace, said Martin G. Weinberg, a prominent Boston defense lawyer.

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“There is nothing typical about the intensity of the Hernandez prosecution and defense,” Weinberg said. “This is a circumstantial case, and the defense is challenging virtually every piece of evidence. So you have an unusually active and impassioned defense team, and an unusually intensive and wide-ranging prosecution.”

Both sides have questioned several witnesses at length, including an employee with the Glock firearms company who testified for roughly six hours over two days. Hernandez’s fiancée, Shayanna Jenkins, also spent two days on the stand, prompting criticism from her lawyer, who accused prosecutors of peppering her with irrelevant questions.



STEVEN SENNE/POOL

The testimony of Kyle Aspinwall, a manager at Glock, was fiercely challenged by Aaron Hernandez’s attorneys.

The trial’s grinding pace — with the prosecution’s presentation alone spanning nine weeks — is in contrast to other recent high-profile cases in Massachusetts.

Closing arguments in the federal trial of admitted Boston Marathon bomber Dzhokhar Tsarnaev are scheduled for Monday, after 16 days of testimony. The trial of James “Whitey” Bulger, who was convicted in the same courthouse of participating in 11 murders, took just eight weeks in the summer of 2013.

At the state level, the trial of two men charged in the so-called Mattapan massacre of September 2010 — a quadruple killing that claimed the life of a toddler — took five weeks in 2012. A retrial for one defendant lasted about six weeks.

Hernandez, 25, has pleaded not guilty to murder and weapons charges in the June 2013 slaying of Odin L. Lloyd, 27, of Dorchester, whose bullet-riddled body was found in an industrial park near the athlete’s \$1.3 million home in North Attleborough.

In the absence of a murder weapon or an eyewitness who will testify, prosecutors hope to convict Hernandez largely on the strength of video surveillance and phone records that they say tie him to the killing; DNA and forensic evidence; and a pattern of suspicious behavior before and after the slaying.

The strategy could ultimately win over the jury, according to Rosanna Cavallaro, a Suffolk University law professor.

“Jurors like being asked to solve a puzzle,” said Cavallaro, a former assistant state attorney general. “What [prosecutors] are hoping for is a jury that is willing to say, ‘Maybe there are other possible explanations, but I’m going to go with the most plausible.’”

Defense attorneys, however, have doggedly cross-examined witnesses in an effort to raise doubt in the minds of jurors.

The perception battle was thrown into stark relief on March 11, when Kyle Aspinwall, a manager with the Glock firearms company, testified that Hernandez’s home security system appeared to show the athlete carrying a Glock pistol inside his residence around 3:30 a.m. on June 17, 2013. A Glock .45-caliber firearm was used to kill Lloyd minutes earlier, prosecutors say.

Defense attorney James Sultan attacked Aspinwall’s testimony on several fronts, accusing him of changing his opinion about the grainy video footage to help prosecutors, even asking mockingly whether Aspinwall possessed “supernatural powers of vision.”

More recently, both sides clashed Friday over how to instruct jurors about certain portions of Aspinwall's testimony.

"It's a pivotal witness, and the prosecutor is trying to expand his opinion to put the murder weapon in Hernandez's hands," Weinberg said. "The defense, correspondingly, has a compelling need to shrink that opinion and to diminish its certitude. This is pivotal evidence."

At times, the government has gotten bogged down in less important details, including the question of friendship between Hernandez and Lloyd, which the defense stressed during opening statements, according to Robert Bloom, a Boston College Law School professor.

"People kill their good friends," said Bloom, a former prosecutor and civil rights attorney. "You want to present as clear of a case as you can, in the most expeditious way that you can. The whole friendship thing, quite frankly, I thought was the prosecution getting sucked into the defense's theory" that Hernandez would not harm his friend.

Prosecutors tried unsuccessfully to use that theory against the defense, arguing that they should be allowed to rebut it by introducing evidence that Hernandez allegedly shot a friend in February 2013 during a trip to Florida. Judge E. Susan Garsh barred any mention of the incident, and the state's highest court upheld her ruling.

However, Alexander Bradley, the now-former friend, took the stand last week and told jurors that Hernandez handled a gun that resembled a Glock in a Florida hotel room during the trip.

When the defense in the Hernandez trial presents its case Monday, one possible witness is Dr. David J. Greenblatt, an expert on the effects of PCP use on the brain.

Hernandez's lawyers have signaled they may argue that one of his codefendants, who will be tried separately, killed Lloyd in a drug-induced state.

Defense lawyers asked multiple prosecution witnesses whether the codefendants used PCP and appeared jittery around the time of the killing. Prosecutors countered with video footage of all three men calmly exiting a vehicle soon after the slaying.

Prosecutors have objected to Greenblatt's testimony, and he will be questioned out of the jury's presence Monday before Garsh rules on whether he can take the stand.