

Goodman defense: Juror's drinking experiment ahead of guilty vote warrants new trial for polo mogul

By Peter Franceschina
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A revelation by a juror in John Goodman's DUI-manslaughter case that he drank three vodkas to help him decide the Wellington polo mogul's guilt is the strongest evidence yet of flagrant juror misconduct, defense attorneys argued in a new motion Friday.

The juror's actions legally require that Goodman's conviction be thrown out, his defense team said. The defense attorneys also filed notice that they plan on questioning jurors on their own beginning Wednesday.

The latest developments in the high-profile case come after juror Dennis DeMartin, 68, of Delray Beach, provided a copy of his self-published "book" to the Sun Sentinel on Thursday. He wrote that the drinking experiment helped convince him that Goodman wasn't fit to drive the night of the fatal crash.

Jurors are prohibited from conducting their own research or investigations in a case, and must base their verdict solely on evidence presented in the courtroom.

Legal experts say DeMartin's revelation now jeopardizes Goodman's conviction, following his two-week trial in March, and raises even more uncertainty surrounding the complex case.

Defense attorney Roy Black called DeMartin's experiment "egregious" and a "classic case of jury misconduct." The defense had already alleged DeMartin had made up his mind as to Goodman's guilt before actual deliberations began, and DeMartin appears to confirm that in the 33-page book, titled "Believing in the Truth."

"There were a lot problems with this jury. We have raised those issues," Black said Friday. "Now having their own investigation or experiment goes beyond that. This is clear-cut in the law that juries cannot do this. The judge specifically instructed them they could not do that."

DeMartin wrote that the night before the jury's deliberations, "It was bothering me that if there was proof that if Mr. Goodman only had 3 or 4 drinks, how drunk would he be? How drunk would I be? I decided to see."

"At 9pm I had a vodka and tonic, followed by another at 9:30pm and a third at 10pm," DeMartin wrote, adding he then walked around his condo complex and realized he was "confused." He then went home to sleep.

"When the alarm went off the next morning, I got up and felt relieved. The question in my mind the night before was answered to me. Even if a person is not drunk, 3 or 4 drinks would make it impossible to operate a vehicle. I got dressed and was in a fine frame of mind to go to deliberate the evidence we had," DeMartin wrote.

During deliberations, jurors decided that Goodman was “not fit to drive.” DeMartin does not say whether he told the other jurors about his experiment.

He put the next sentence in parentheses and underlined it: “(I surely decided that the night before.)” The book sells for \$9.99 on Amazon.com. DeMartin told the Sun Sentinel he hopes to sell 1,000 copies; the defense argues DeMartin had a profit motive in Goodman’s conviction.

At the trial’s outset, Palm Beach Circuit Judge Jeffrey Colbath instructed jurors not to conduct any research or outside investigations.

“If you investigate or research or make any inquiries on your own outside of the courtroom, I will have no way to insure that they are proper or relevant or accurate responses to your inquiries,” Colbath told jurors, according to a transcript. “The parties likewise have no opportunity to dispute the accuracy of what you may find or to provide rebuttal evidence to it. That is contrary to our judicial system.”

DeMartin confirmed his drinking experiment in a WPTV-Ch. 5 interview that aired Friday.

“The judge never told me don’t do any experiments. I wasn’t drunk the next morning when I made my decision, I’ll tell you that. I was fine. I had three drinks the night before to see how I would react if I was him,” DeMartin said in the interview.

The new information surfaced after Colbath had already requested legal briefs on whether Goodman should be granted a new trial. Those were filed Thursday, and Colbath indicated he would try to have a ruling Friday or early next week.

That ruling may now be postponed, and there may be further court hearings. Colbath already recalled jurors for a Monday hearing to ask them limited questions about potential misconduct, and the judge could decide to recall DeMartin again, as requested by the defense.

Veteran traffic-homicide prosecutor Ellen Roberts said Friday she was “concerned” that DeMartin’s actions could jeopardize Goodman’s conviction.

“I’m assuming the court will probably set something for Monday. I’m concerned, and I’m concerned about the cumulative affect of this,” she said. “I’ve never had this happen in 26 years.”

Black said he would like to get before the judge as quickly as possible.

“I think he calls DeMartin in and have him admit on the record he did this and then grant the new trial,” Black said. “It is pretty clear that it happened, and I think under the case law the court has no discretion here.”

West Palm Beach defense attorney Michelle Suskauer, who serves as a legal analyst on the Goodman case for local and national media, said DeMartin’s drinking experiment will likely result in a new trial, whether granted by Colbath or an appellate court.

“I think DeMartin’s statements bought Goodman a new trial,” Suskauer said. “Whether he shared the information [with other jurors] or just used it for his own information, his ‘experiment’ guided him in his deliberations. He was in complete contradiction to what the court instructed. You cannot cure this.”

Goodman is set for sentencing May 11, and faces up to 30 years in prison. If the sentencing goes forward, Suskauer said Goodman will likely be released from the Palm Beach County Jail on bond. If Goodman’s conviction is overturned, that also would likely result in his freedom. He was out on bond before his conviction.

Goodman, 48, was driving his Bentley convertible south on 120th Avenue in Wellington, at 63 mph, when he ran a stop sign at Lake Worth Road, smashing into Wilson's Hyundai. The crash happened about 1 a.m. on Feb. 12, 2010, after Goodman – founder of Polo Club International Palm Beach – had been drinking at two Wellington watering holes that cater to the polo community.

After the crash, Goodman left the scene. Three hours later, his blood-alcohol level was measured at .177 percent, more than twice the legal limit.

Goodman recently reached a \$40 million settlement in a wrongful-death suit filed by Wilson's parents, who also will receive an additional \$6 million from one of the bars where Goodman was drinking the night of the crash.