IN THE CIRCUIT COURT OF THE 15TH JUDICIAL CIRCUIT OF FLORIDA, IN AND FOR PALM BEACH COUNTY

CASE NO.: 2010CF005829AMB

STATE OF FLORIDA,

Plaintiff,

v.

JOHN B. GOODMAN,

Defendant.
_____/

JUDGE JEFFREY COLBATH

DEFENDANT'S SUPPLEMENT TO RENEWED MOTION FOR NEW TRIAL AND TO VACATE HIS CONVICTION OR, IN THE ALTERNATIVE, RENEWED MOTION TO PERMIT ADDITIONAL JURY INTERVIEWS

The Defendant, JOHN B. GOODMAN, through undersigned counsel, respectfully supplements Defendant's Renewed Motion For New Trial and To Vacate His Conviction Or, In the Alternative, Renewed Motion To Permit Additional Jury Interviews.[1] The instant supplement is based on the most recent and most outrageous evidence of jury misconduct that has yet to emerge in this case. On May 3, 2012, *Sun Florida Sun-Sentinel.com* featured a story by reporter Peter Franceschina entitled, *Goodman juror conducted drinking experiment night before guilty verdict*. Copies of that article, and subsequent articles covering the same topic, are attached hereto as **Composite Exhibit 1**. As discussed in more detail below, after corroborating that former juror Dennis DeMartin has written a book about the case, Mr. Franceschina quotes directly from the book – ironically entitled "Believing in the Truth" – which is now available for sale on Amazon.com. *See*

[1]Counsel are separately and simultaneously filing a notice that they intend to conduct informal interviews of the jurors under the separate procedure set forth in Rule 4-3.5(d)(4) of the Rules Regulating the Florida Bar concerning the revelations in this supplement beginning on Wednesday, May 9, 2012, unless the State files a formal objection as contemplated by the Rule.

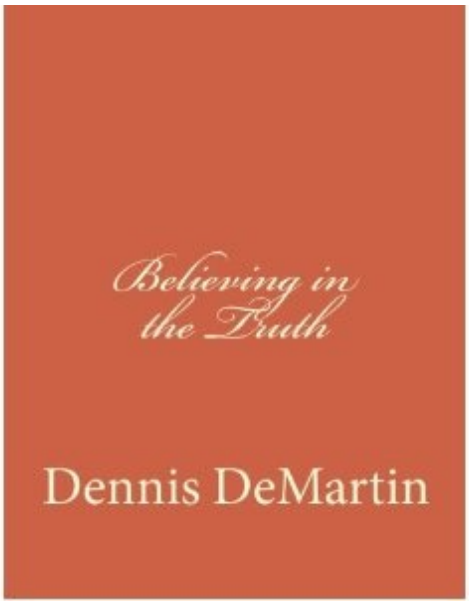

Exhibit 2. As discussed in prior pleadings concerning Mr. DeMartin, other jurors were aware that he had been offered $50,000 (either as an advance or in total) for this book. No doubt in an effort to inflate the interest in and profitability for the book, Mr. DeMartin gave a full copy to the *Sun Sentinel*. In chapters of the book that Mr. DeMartin had not previously disclosed to the Court, he revealed that he had engaged in blatantly improper and thoroughly disabling conduct. In complete disregard to the Court's preliminary instructions, discussed *infra*, he decided to make himself a character in his narrative by conducting an unregulated, extrajudicial experiment about how three drinks would affect ***his*** mental state, obviously under the scientifically invalid – and legally impermissible – assumption that the same amount of alcohol would have had the identical effect on Mr. Goodman. Despite the fact that the results of his test were contradicted by the State's own expert, Tate Yeatman, Mr. DeMartin determined that Mr. Goodman was guilty based upon the results of his own test. At this point, counsel do not know conclusively whether Mr. DeMartin tainted other jurors with a discussion of his experiment but, even if he did not, Mr. DeMartin's conduct, standing alone, requires a new trial.

A. Mr. DeMartin's Conduct Violated the Court's Specific Instructions

The Court explicitly instructed the jury at least twice ***not*** to conduct any extrajudicial "investigations." On March 8, 2012, the Court instructed as follows:

> THE COURT: ... All right. Let me give you some preliminary instructions. ... Ladies and gentlemen, in order to have a fair and lawful trial, there are rules that all jurors must follow. ***The basic rule is that jurors must decide the case only on the evidence presented in the courtroom.*** You must not communicate with anyone, including friends and family members, about this case, the people or places involved or your jury service until the case is over. You must not disclose your thoughts about this case or ask for advice on how to decide this case. I want to stress that this rule means that you must not use any electronic devices or computers to communicate about this case... ***You must not do any research*** or look up any words or maps or names or anything else that may have anything to do with this case. This includes reading the newspaper, watching the television, or using a computer or a cell phone or the Internet, or any other electronic device, or any means at all, ***to get information related to this case*** or the people or places involved in this case. ***This applies whether you are at the courthouse or at home*** or anywhere else. All of us are depending upon you to follow these rules so that there will be a fair and lawful resolution to this case. Unlike questions that you may be allowed to ask in -- excuse me. Unlike questions that you may be allowed to ask in court, which will be answered in court and in the presence of me and the parties, ***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. 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. Our system allows the parties the right to ask questions about, and rebut evidence, that is being considered against them and to present argument with respect to that evidence. Non-court inquiries and investigations unfairly and improperly prevent the parties from having that opportunity of our judicial -- that our judicial system promises.***

Draft Transcript, Vol. 16, March 8, 2012, pp. 19-22. The Court gave a similar instruction on March 13, 2012:

> After those instructions are given, you will then retire to consider your verdict. Until that time, you should not form any fixed or definite opinions on the merits of the case until you have heard all the evidence, the arguments of the attorneys, and the instruction on the law from me. Until that time, you should not discuss this case among yourselves. During the course of the trial, we will take recesses, during which time you will permitted to separate and go about your personal affairs. During these recesses, you will not discuss this case with anyone, nor permit anyone to say anything to you or in your presence about this case.... The case must be tried by you only on the evidence presented during the trial in your presence and in the presence of the defendant and the attorneys and me. ***Jurors must not conduct any investigation on their own.*** This includes reading newspaper articles, watching television, or using a computer, cell phone, the internet, or any electronic device... ***This applies whether you are in the courthouse or at home*** or anywhere else. You must not visit any of the places mentioned in the trial, or use the Internet to look up any maps or fixtures or to see any places discussed during the trial....

Draft Transcripts, Vol. 17, March 13, 2012, pp. 13-14 (emphasis added).

B. The Testimony of Tate Yeatman and the Court's Jury Instructions

The State's expert, Tate Yeatman, testified at trial about the likely scientific impact of Mr. Goodman consuming three drinks during a one hour time frame, 11:20 p.m. to 12:30 a.m. Mr. Yeatman testified that Mr. Goodman's alcohol level would have been .04:

> MR. SHAPIRO: ... So based on that evidence of people who actually witnessed him drinking, only those three drinks, if he had drank no more after 12:37 when he left the bar, his blood alcohol level content is .04. Is that your testimony?
>
> A. Yes.

Draft Transcript, Vol. 40, March 16, 2012, at pp. 6-7. Mr. Yeatman also testified about the additional variable – Mr. Goodman's steak dinner that evening:

> BY MR. SHAPIRO:.. All right. Mr. Yeatman, assuming that scenario that we just talked about, add the additional factor that Mr. Goodman had actually something to eat, a steak dinner for example, at 10:00 o'clock that night at the Whitehorse Tavern, would not his .04 -- .04 blood alcohol content at 12:45 in the morning be even lower?
>
> Yes. Based on the hypothetical scenario, yes.

Id. at pp. 9-10. Mr. Yeatman also did not know whether the alcohol was 100 or only 80 proof. *Id* at pp. 12–13.

Mr. Yeatman's testimony was critical because it supported Mr. Goodman's defense that the jury could presume that he was ***not*** intoxicated at the time of the accident under Florida law. As the Court instructed the jury prior to their deliberations:

> Alcoholic beverages are considered to be substances of any kind and description which contain alcohol.... Chapter 893 Florida Statutes:
>
> 1: If you find from the evidence that, while driving or in actual physical control of a motor vehicle, the defendant had a blood or breath alcohol level of ***.05 or less, you shall presume that the defendant was not under the influence of an alcoholic beverage*** to the extent that his normal faculties were impaired. But this presumption may be overcome by other evidence demonstrating that the defendant was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

Draft Transcripts, Vol. 61, March 22, 2012, at pp. 21-22 (emphasis added).

C. Mr. DeMartin Violates His Oath As a Juror

A copy of Mr. DeMartin's now published book is attached hereto as **Exhibit 3**. Mr. DeMartin indicates that after the alternates were dismissed and the jury went home for the evening at the end of Day 8 of the trial, March 22, 2012, he decided to conduct his own investigation in the facts:

> 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. I went out and started to walk to the clubhouse which was two streets over in our complex. I walked around there for a short time and then decided to go back home. I was so confused and when I realized where I was, I was on the east side of the clubhouse on a street leading to my ex girlfriends [sic] condo. I cut across the grass back to my street and finally returned to my condo and went 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.

Id.

Mr. DeMartin then described the deliberations on March 23, 2012. After discussing how he and another juror wanted to hear the 911 tapes, Mr. DeMartin described how the jury started discussing Mr. Goodman's drinking and believed he was not fit to drive. At that point, Mr. DeMartin writes (underlining by Mr. DeMartin himself): (I surely decided that the night before.)" *Id.*[2]

[2] Mr. DeMartin had included the chapter of his book with his "I surely decided that the night before" comment along (continued...)

D. Mr. DeMartin's Misleading Testimony On April 30, 2012

During the truncated hearing on April 30, 2012, Mr. DeMartin swore that his book writing had no impact on his decision to vote guilty. *See* Draft Transcript, April 30, 2012, at pp. 38-39. Mr. DeMartin then, while still under oath, volunteered:

> JUROR DEMARTIN: No, sir. May I speak -- say something else?
>
> THE COURT: Sure.
>
> JUROR DEMARTIN: If this book ever comes out, it says that myself and one other juror did not vote guilty on the first round. We – I asked to have the tapes played again because I was undecided until after the tapes. I'm sorry if I'm talking too much.

Id. In fact, as he confesses in his book, Mr. DeMartin had "decided the night before" that Mr. Goodman was unfit to drive based on his investigation, not the evidence at trial.

E. Mr. DeMartin's Latest Lie

At approximately noon today, May 4, 2012, Mr. DeMartin gave a live interview to WPTV news. In that broadcast, when confronted by the reporter with the uproar about his invesgiation, Mr. DeMartin had the chutzpah to assert: "The judge never told me don't do any experiments." *See* **Exhibit 4**.

---

[2](...continued)
with his letter to the Court on April 18, 2012. However, he had not previously disclosed what had happened "the night before" – i.e., his illicit experiment.

F. Mr. DeMartin's Misconduct Requires a New Trial

As this Court instructed the jurors, it is vital to "our judicial system" that jurors maintain their roles in the system and not "investigate or research" on their own "outside of the courtroom." The Court could not have been more clear: "The basic rule is that jurors must decide the case only on the evidence presented in the courtroom.... Jurors must not conduct any investigation on their own... This applies whether you are in the courthouse or at home or anywhere .... Non-court inquiries and investigations unfairly and improperly prevent the parties from having that opportunity of our judicial -- that our judicial system promises." Mr. DeMartin flagrantly ignored the Court's instructions for personal gain and undermined the integrity of the proceedings on one of the core issues in the case and in Mr. Goodman's defense – the impact of three drinks on Mr. Goodman's faculties on the night of the accident. Based on the testimony of Mr. Yeatman, the jury should have presumed that Mr. Goodman was not intoxicated at the time of the accident. However, Mr. DeMartin used his experiment to supplant the trial evidence in order to reach the opposite conclusion. Indeed, Mr. DeMartin left no doubt that he "decided" Mr. Goodman was unfit to drive "the night before" in light of his drinking experiment.

Mr. DeMartin: "The judge never told me don't do any experiments."

wptv.com, May 5, 2012.

Through Mr. DeMartin's misconduct, Mr. Goodman was denied his fundamental right to confront the evidence of experiments conducted in conjunction with the case. If the State had conducted such an experiment, the defense would have tried to to rebut it and could have addressed it in closing argument. Indeed, based on Mr. Yeatman's testimony, the defense made the strategic decision to accept Mr. Yeatman's testimony and not call their own retained expert, who had been

prepared to give an expert opinion on the same subject. Mr. DeMartin's secret experiment rendered the trial fundamentally unfair – and his conduct did so, even if he did not share the fruits of his experiment with the other jurors – a conclusion that cannot be reached without additional evidentiary hearings.

"It is improper for jurors to receive any information or evidence concerning the case before then, except in open court in a manner prescribed by law." *Russ v. State*, 95 So.2d 594, 600 (Fla. 1957). While trial courts may sometimes permit jurors to test evidence that has been admitted into evidence, it is blatantly improper for jurors to strike out on their own to conduct their own "experiments" on the allegations. *See Castillo v. Visual Health & Surgical Center, Inc.*, 972 So.2d 254, 256 (Fla. 4th DCA 2008) (not improper for jurors to "merely duplicat[e] tests performed in the courtroom on exhibits sent with them to the jury room") (citation omitted). However, jurors cannot conduct their own tests outside the courtroom in an effort to recreate the alleged crime. *Id.*, citing *Bickel v. State Farm Mut. Auto. Ins. Co.,* 557 So. 2d 674, 675 (Fla. 2d DCA 1990); *Jennings v. Oku,* 677 F. Supp. 1061, 1063 (D. Hawaii 1988); *Jensen v. Dikel,* 244 Minn. 71, 69 N.W.2d 108, 115 (Minn. 1955); *King v. Ry. Express Agency, Inc.,* 94 N.W.2d 657, 660 (N.D. 1959).

For example, in *Snook v. Firestone Tire & Rubber Co.,* 485 So. 2d 496 (Fla. 5th DCA 1986), the court held that the plaintiff in a personal injury action was entitled to have the jurors interviewed because he sufficiently established that the verdict may have been improperly influenced by considerations outside the record. Snook had sued for damages allegedly caused by a defective tire manufactured by Firestone. The jury returned a verdict for Firestone. Snook then filed a motion for new trial and for leave to interview jurors, alleging that one juror had visited a tire installation garage and had inquired as to whether the accident could have occurred in the manner in which Snook

claimed that it had. The juror then reported the results of his independent investigation to the other jurors. The court held that these allegations were sufficient to support a motion to interview the jury:

> In reaching a verdict, jurors must not act on special or independent facts which were not received in evidence. *Edelstein v. Roskin,* 356 So. 2d 38 (Fla. 3d DCA 1978). In this instance, the juror was alleged to have deliberately disregarded the court's instructions not to discuss the case and to base the verdict solely on evidence presented during trial by not only consulting with someone else, but by also reporting to the other jurors that the testimony they had received was inaccurate. Had this happened and been discovered during the trial, it would certainly have justified the court in declaring a mistrial because the effect is that an unsworn and unqualified witness had given opinion testimony as to whether the accident occurred in the manner that Snook had testified. (footnote omitted).

485 So. 2d 499.

In *Edelstein v. Roskin*, 356 So.2d 38 (Fla. 3d DCA 1978), jurors asked if another juror, who was familiar with the intersection where the subject accident had occurred, could describe his personal views regarding the visibility and structures there. The trial court did not prohibit that inquiry but the appellate court held that it was error, stating "[t]here is no doubt that in evaluating evidence, the jury should confine its considerations to the facts in evidence as weighed and interpreted in the light of common knowledge. Jurors must not act on special or independent facts which were not received in evidence." *See also Bickel v. State Farm Mutual Automobile Ins. Co.,* 557 So. 2d 674 (Fla. 2d DCA 1990) (juror's misconduct in driving to the scene of the accident and performing his own experiment sufficient to warrant jury interview); *City of Winter Haven v. Allen,* 589 So. 2d 968 (Fla. 2d DCA 1991), *rev. denied,* 599 So. 2d 654 (Fla. 1992) (affirming order granting new trial where one juror informed other jurors that the plaintiff was receiving the proceeds from an earlier wrongful death action, the result of which had not been disclosed to the jury).

Numerous federal cases also support Mr. Goodman's position. For example, in *Durr v. Cook*, 589 F.2d 891, 892 (5th Cir. 1979), the defendant petitioned for habeas corpus relief on the grounds that a juror's out-of-court experiment violated his constitutional rights to confrontation and due process. In *Durr*, the jury foreman allegedly conducted an experiment at a local Ford dealership during the trial, making twisting movements in a Ford pickup truck in order to test the defendant's self-defense explanation. *Id.* The state trial court, on a motion for a new trial, enforced a Louisiana statute which prevented a juror from impeaching his own verdict, and held that the foreman could not testify as to the experiment or whether the results of that experiment were passed on to the rest of the jury. *Id*. at 892-93. The Fifth Circuit on habeas review, however, held that the defendant's constitutional rights take precedence over the Louisiana statute, and because the defendant "presented a substantial claim that his rights may have been violated," the foreman must be allowed to testify as to his conduct. *Id.* at 893. The Fifth Circuit remanded the case to the district court to hold an evidentiary hearing and for further proceedings.

Similarly, in, *Kiser v. Bryant Electric*, 695 F.2d 207, 211-12 (6th Cir. 1982), *cert. denied*, 461 U.S. 929 (1983), a federal diversity case, following a plaintiffs' expert witness's testimony, a juror conducted "an improper experiment" when he examined the aluminum wiring in his home and reported his findings to at least six other jurors during the course of the trial. The defendants in the case contended that the juror's conduct was neither an experiment nor an intentional attempt to uncover additional information, but instead was a "personal" experience which could not have affected the judgment of that juror or those to whom he communicated that information." *Id.* at 213. The court held to the contrary, however, stating that, rather than this being a "mental or emotional reaction or expression" during deliberations, this was an experiment that tainted the jury's verdict

by "injecting extraneous information into the trial." *Id.* *See also United States v. Posner*, 644 F. Supp. 885 (S.D. Fla. 1986), *aff'd without opinion sub nom. United States v. Scharrer*, 828 F.2d 773 (11th Cir. 1987) (affirming new trial order where it was discovered that a juror had visited the property site that the defendant allegedly claimed illegally as a deduction on his income tax return and conveyed her impressions on the jury as to the value of the property and appropriate land use).

In the instant case, an inquiry into ***whether*** a juror conducted an extrajudicial investigation is hardly necessary, since Mr. DeMartin has boasted about it now on television and, of course, published the account in his book. Accordingly, even if he infected no other jurors with his misconduct – an issue a hearing would be necessary to determine – the jury would be irreparably tainted by Mr. DeMartin's conduct itself.

Moreover, Mr. DeMartin's conduct was far more egregious than in any of these reported decisions, since the motive for conducting his "experiment" may very well have been driven by his desire for profits from his book. Whatever his motivation, Mr. DeMartin's "experiment" was improper and tainted the deliberations. He even concedes that he based part of his verdict – that Mr. Goodman was, in fact, impaired – on the outcome of his flawed experiment, not the evidence at trial. The only question is how far did Mr. DeMartin spread the infection. In light of the other evidence, already presented to the Court, that Mr. DeMartin was freely discussing his notes and book writing with other jurors, it is reasonable to believe that Mr. DeMartin tainted the other jurors with the results of his flawed "experiment."

CONCLUSION

What began as a snowball has now become an avalanche. The trial was tainted by premature deliberations and prejudicial comments about Mr. Goodman's wealth and a juror whose motive was profit, not his civil duty. Mr. DeMartin, whose mendacity has already been demonstrated in prior pleadings, now admits he violated his oath as a juror and direct instructions from the Court to not engage in extrajudicial experiments and investigations. He nonetheless did so and used his experiment to nullify the testimony of the State's own witness. And, he is so brazen about his misconduct that he has published it to the world in a book, now on sale at Amazon.com. The Court should vacate Mr. Goodman's conviction now. Alternatively, it should conduct further hearings into how far the taint of Mr. DeMartin's extrajudicial experiment spread to the other members of the jury.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 4, 2012, my office hand-delivered a true copy of the foregoing to:

Ellen Roberts
Assistant State Attorney
West Palm Beach State Attorney's Office
Traffic Homicide Unit
401 North Dixie Hwy.
West Palm Beach, FL 33401

By: _____
Mark A.J. Shapiro, Esq.

EXHIBIT 1

Book: Goodman juror conducted drinking experiment night before guilty verdict

May 03, 2012 | By Peter Franceschina, Sun Sentinel

One of the jurors in John Goodman's DUI-manslaughter trial who wrote a book about his experiences makes a startling revelation: He conducted an experiment the night before the Wellington polo mogul was convicted by drinking three vodkas to see how they would affect him.

Juror Dennis DeMartin of Delray Beach, who provided a copy of his book to the Sun Sentinel on Thursday, wrote that the experiment helped convince him that Goodman was guilty. The revelation comes as Goodman's defense attorneys are seeking to have the conviction thrown out based on jury misconduct.

Defense attorney Roy Black told the Sun Sentinel that DeMartin's experiment was a "classic case of jury misconduct."

Prosecutors could not be be reached for comment Thursday despite an attempt by phone.

DeMartin wrote in his book, "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" about where he was in the complex. He wrote that he went home and went 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.

Later in the book, titled "Believing in the Truth," DeMartin wrote that during deliberations, jurors decided that Goodman was "not fit to drive."

He puts the next sentence in parentheses and underlined it: "(I surely decided that the night before.)" The self-published book is for sale on Amazon.com.

At the outset of the trial, jurors were instructed by Palm Beach Circuit Judge Jeffrey Colbath not to conduct any "experiments" or outside investigations of the case, and that their verdict had to be based solely on the evidence presented in the courtroom.

Black said Thursday that DeMartin had a profit motive in voting guilty, and that in itself is grounds for the verdict to be overturned.

"You can't have jurors that have a profit motive sitting on your case. It is turned from deciding guilt or innocence into a platform for a book that he is going to publish," Black said, adding that DeMartin's drinking experiment violated the judge's instructions.

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John Goodman Juror Selling Book About Trial Online, Admits to Doing Vodka Experiments Before Verdict

By Rich AbdillFri., May 4 2012 at 8:00 AM

echoes of Hemingway. It was at this point he had three drinks, got "confused," then went to bed.

He says he woke up "relieved," because "the question in my mind the night before was answered to me." If DeMartin got confused after drinking three vodkas, his logic seems to go, then surely that means Goodman is guilty of manslaughter.

You can pick up a copy for yourself for $9.99, but Amazon says the thing is 32 pages long and made of standard letter-sized paper. And if the book is written like the online book description, you'd probably rather go to jail than get all the way to chapter 11.

No word yet on whether DeMartin is going to write a chapter 12 covering how a convicted killer got his verdict thrown out because some guy thought it would be cute to take his loose grasp of the English language and an even looser grasp of biology and weave them into a lovely case of jury misconduct for Goodman's lawyers.

Maybe he could co-author it with fellow juror Michael St. John, who said in court Monday that he only voted guilty because he felt his "voice didn't mean anything." The two could expand it into a criminal justice textbook.

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Juror 'experiment' in Goodman case called 'outrageous'

By JANE MUSGRAVE AND DAPHNE DURET

Palm Beach Post Staff Writer

Updated: 8:22 a.m. Friday, May 4, 2012
Posted: 12:49 p.m. Thursday, May 3, 2012

In what some defense attorneys predict is the bombshell John Goodman has been looking for to throw out his DUI manslaughter conviction, a juror says he had three vodkas one night during the trial just to see how it would affect him.

While not the two shots of tequila and Grey Goose cocktail witnesses testified that Goodman had before the 2010 crash that killed 23-year-old Scott Wilson, the experiment that juror Dennis DeMartin details in his self-published book violates time-honored rules of the criminal justice system, defense attorneys said.

"If we now have a juror doing exactly what was alleged during the trial, that crosses the line," said attorney Michael Salnick. "It's outrageous. It shocks the conscious and goes against everything the jury system stands for."

Attorney Gregg Lerman voiced similar views. "Jurors are not supposed to go home and conduct any experiments," he said. "You're suppose to base your decision on evidence you hear at the trial, not outside influences."

The revelations come as Palm Beach County Circuit Judge Jeffrey Colbath weighs whether to grant the Wellington polo mogul a new trial because one juror said Monday that other jurors pressured him to find the Wellington polo mogul guilty. Goodman's attorney Roy Black has also raised questions about the propriety of DeMartin's plans to write a book about his experience.

On Thursday, DeMartin finally got copies of his book, Believing In the Truth, and released one to the Sun-Sentinel. In the 32-page book he produced on Createspace, DeMartin writes that he conducted the drinking experiment to satisfy his curiosity.

"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," DeMartin writes, according to the Sun-Sentinel.

After realizing that the drinks left him "confused," he concluded that a person shouldn't drive after drinking.

"When the alarm went off the next morning, I got up and felt relieved," he wrote. "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."

During that day's deliberations, he said jurors found that Goodman was "not fit to drive." He doesn't say he told them about his experiment. However, he writes, "I surely decided that the night before."

Black will undoubtedly use the book to bolster his arguments that Colbath should throw out the verdict. Attorney Grey Tesh said he's not sure he will succeed.

Unlike the other lawyers, Tesh said he's not sure it matters whether a juror conducted an experiment during the trial or whether a juror came into the trial knowing what it felt like to have three drinks.

"People bring in their own perceptions about things, their own experience their own views, their own biases," he said. "One of the things judges always tell jurors is don't leave your common sense at the door."

Salnick disagreed, saying conducting an experiment, mimicking the exact situation portrayed during the trial, is akin to visiting the scene of a crime or doing independent research - both reasons appeals courts have invalidated jury verdicts.

"You have a juror re-enacting the allegations of the crime. How could anyone in that situation get a fair trial?" he said.

When questioned by Colbath on Monday, DeMartin said he initially voted to find the 48-year-old Texas tycoon innocent. Reached later, he said he was convinced of Goodman's guilt after the jury, during its deliberations, replayed a 911 call Goodman made after the crash on 120th Avenue South and Lake Worth Road. Unlike his trial testimony, Goodman doesn't tell the dispatcher that his Bentley surged uncontrollably. That, DeMartin said, sealed his decision that Goodman was guilty of crimes that could send him to prison for 30 years.

Since the March 23 verdict, Black has filed more than a half-dozen motions, pointing out media, prosecutorial and even bailiff misconduct that he said should be reason to overturn Goodman's conviction. His allegations of jury misconduct prompted Colbath to summon jurors back to court Monday.

Responding to comments jurors made when Colbath interviewed them, Black filed another motion Thursday, criticizing Colbath's limited questions. He said Colbath should have delved deeper into juror Michael St. John's assertion that he felt forced to "go with the flow" of other jurors who wanted to convict.

In a motion filed late Wednesday, prosecutor Ellen Roberts said courts have rejected requests for new trials based on what she described as "juror remorse."

Black also raised new questions about DeMartin's behavior. He quoted from a previously unreleased letter DeMartin sent to Colbath. In the letter, DeMartin asks the judge to be lenient when he sentences Goodman. Instead of paying lawyers, DeMartin said Goodman should have saved his money "by saying he was wrong and put himself on the mercy of the court."

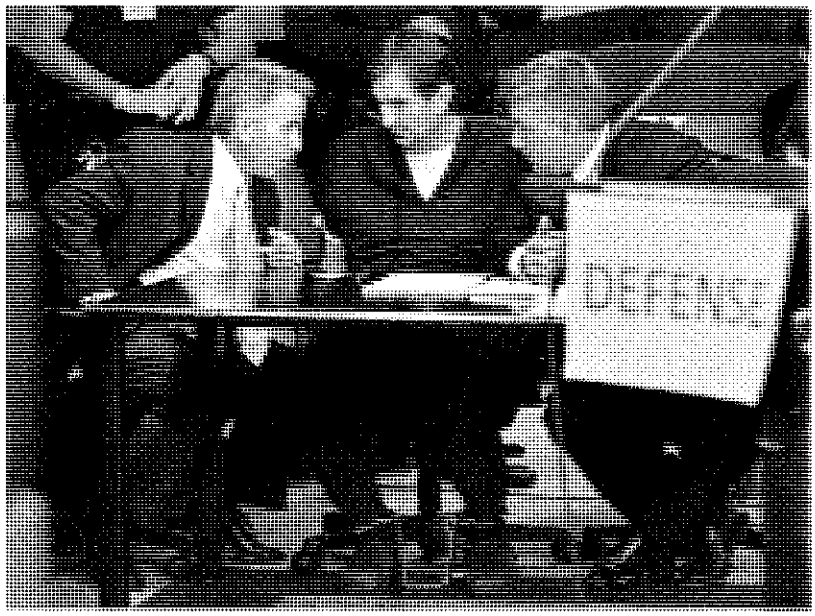
Black said the statement betrayed a bias against Goodman because of his wealth, but DeMartin said the notion was ridiculous.

"I would have said it if it were anyone," DeMartin said. "I would have said it if it were me."

Colbath is expected to rule on Black's claims by Monday at the latest. Attorneys said they doubted he would order a new trial, instead leaving it up to appellate courts.

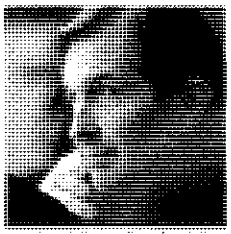
"The circus that never ends," Lerman said.

Juror 'experiment' in Goodman case called 'outrageous'



Lannis Waters/Palm Beach Post

John Goodman sits at the defense table talking with attorneys Mark Shapiro (left) and Guy Fronstin during a hearing Monday when the jurors from Goodman's trial were questioned.



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John Goodman sits at the defense table during Monday's hearing when jurors from his trial were questioned.

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Juror 'experiment' in Goodman case called 'outrageous'

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WEST PALM BEACH — In a motion filed late Wednesday, prosecutor Ellen Roberts said courts have rejected requests for new trials based on what she described as "juror remorse."

Black also raised new questions about DeMartin's behavior. He quoted from a previously unreleased letter DeMartin sent to Colbath. In the letter, DeMartin asks the judge to be lenient when he sentences Goodman. Instead of paying lawyers, DeMartin said Goodman should have saved his money "by saying he was wrong and put himself on the mercy of the court."

Black said the statement betrayed a bias against Goodman because of his wealth, but DeMartin said the notion was ridiculous.

"I would have said it if it were anyone," DeMartin said. "I would have said it if it were me."

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"The circus that never ends," Lerman said.

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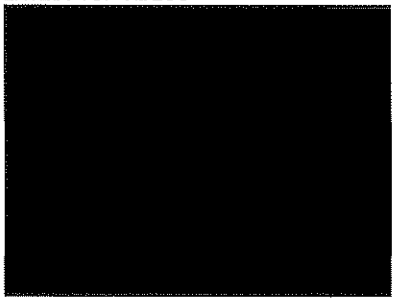

Juror's 3 drinks may be costly

A juror said he conducted an experiment before deliberating in the John Goodman case. Goodman's attorney called it jury misconduct.

BY PETER FRANCESCHINA
Sun Sentinel

One of the jurors in John Goodman's DUI-manslaughter trial who wrote a book about his experiences makes a startling revelation: He conducted an experiment the night before the Wellington polo mogul was convicted by drinking three vodkas to see how they would affect him.

Juror Dennis DeMartin of Delray Beach, who provided a copy of his book to the Sun Sentinel on Thursday, wrote that the experiment helped convince him that Goodman was guilty. The revelation comes as Goodman's attorneys are asking to have the conviction thrown out based on jury misconduct.

Defense attorney Roy Black told the Sun Sentinel that DeMartin's experiment was a "classic case of jury misconduct."

Prosecutors could not immediately be reached for comment Thursday.

DeMartin wrote in his book, "It was bothering me that if there was proof that if Mr. Goodman only had three or four drinks, how drunk would he be? How drunk would I be? I decided to see."

"At 9 p.m. I had a vodka and tonic, followed by another at 9:30 p.m. and a third at 10 p.m.," DeMartin wrote, adding he then walked around his condo complex and realized he was "confused" about where he was in the complex. He wrote that he went home and went 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, three or four 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.

Later in the book, DeMartin wrote that during deliberations, jurors decided that Goodman was "not fit to drive."

At the outset of the trial, jurors were instructed by Palm Beach Circuit Judge Jeffrey Colbath that they could not conduct any "experiments" or outside investigations of the case, and that their verdict had to be based solely on the evidence presented in the courtroom.

Black said Thursday that DeMartin had a profit motive in voting guilty, and that in itself is grounds for the verdict to be overturned.

"You can't have jurors that have a profit motive sitting on your case. It is turned from deciding guilt or innocence into a platform for a book that he is going to publish," Black said, adding that DeMartin's drinking experiment violated the judge's instructions.

"I think it is a classic case of jury misconduct," he said.

Black already was seeking to have the guilty verdict thrown out, largely based on alleged jury misconduct. Black filed a motion Thursday outlining a number of reasons why the jury's verdict was fatally flawed.

The defense alleges jurors discussed evidence in the case and had already made up their minds to convict Goodman even before they began their formal deliberations. Black said he now wants to know if DeMartin told the other jurors about his drinking experiment.


GOODMAN

Colbath held a hearing Monday to pose limited questions to jurors about whether they had discussed Goodman's vast wealth and whether it influenced their deliberations. The jurors said they had not discussed Goodman's wealth, and denied that they had made up their minds to convict Goodman before deliberations. Black also wants to be able to pose far wider ranging questions to jurors.

One juror, Michael St. John of West Palm Beach, said during Monday's hearing that he felt pressured by the other jurors to vote for guilty, and that he felt some of the jurors had made up their minds to convict Goodman before the trial was over.

"The testimony elicited at the April 30 hearing has now made crystal clear that the court must grant a new trial based on the jury's improper, premature deliberations," Black wrote in the defense motion. "The evidence that now exists establishes that the jury not only discussed the evidence, but had made up their minds to convict Mr. Goodman prior to the commencement of deliberations."

Prosecutors filed their own motion arguing that juror misconduct was not established and that St. John agreed with the guilty verdict when it was handed down. His remorse over his guilty vote is not a legal reason to toss the verdict, prosecutors said.

"Juror St. John is the only juror out of seven other jurors who told the court he thought that the other jurors had their minds made up as to the defendant's guilt prior to deliberations. And, as such, the veracity of his statement is suspect," prosecutor Ellen Roberts wrote. "St. John admitted that the verdict as read was his verdict. Never once did he hesitate or in any way indicate that the verdict was not his until a month later."

Colbath indicated to the prosecution and defense that he would rule on the motion for a new trial either Friday or Monday. Goodman, who was convicted on March 23, faces up to 30 years in prison at his May 11 sentencing.

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 Scott 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.

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

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.

Friday, May 4, 2012

John Goodman juror Dennis DeMartin conducted drinking experiment before guilty verdict, book says

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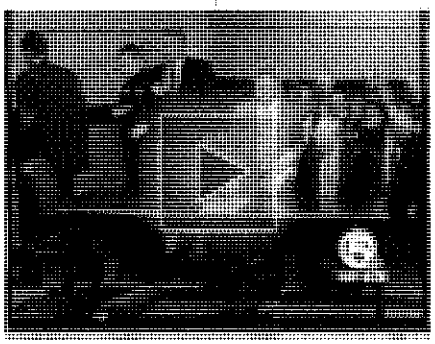

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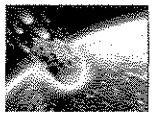

'Preppers' ready for 'end of the world'

More south Floridians are proudly identifying themselves as ' Preppers', dedicated to making sure they are ready for the very worst, whenever and however it may come.

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- John Goodman juror Dennis DeMartin conducted drinking experiment before guilty verdict, book says

During that day's deliberations, he said jurors found that Goodman was "not fit to drive." He doesn't say he told them about his experiment. However, he writes, "I surely decided that the night before."

Black will undoubtedly use the book to bolster his arguments that Colbath should throw out the verdict. Attorney Grey Tesh said he's not sure he will succeed.

Unlike the other lawyers, Tesh said he's not sure it matters whether a juror conducted an experiment during the trial or whether a juror came into the trial knowing what it felt like to have three drinks.

"People bring in their own perceptions about things, their own experience their own views, their own biases," he said. "One of the things judges always tell jurors is don't leave your common sense at the door."

Salnick objected, saying conducting an experiment, mimicking the exact situation portrayed during the [illegible] visiting the scene of a crime or doing independent research - both reasons appeals courts have [illegible] jury verdicts.

"You've never heard [illegible] reenacting the allegations of the crime. How could anyone in that situation get a fair trial?" he [illegible]

When Colbath ruled for Colbath on Monday, DeMartin said he initially voted to find the 48-year-old Texas [illegible] later, he said he was convinced of Goodman's guilt after the jury, during its deliberations, listened to a 911 call Goodman made after the crash on 120th Avenue South and Lake Worth Road. In that call, testimony, Goodman doesn't tell the dispatcher that his Bentley surged [illegible] DeMartin said, sealed his decision that Goodman was guilty of crimes that could [illegible] prison for 30 years.

[illegible] the March 23 verdict, Black has filed more than a half-dozen motions, pointing out media, [illegible] bailiff misconduct that he said should be reason to overturn Goodman's conviction. [illegible] misconduct prompted Colbath to summon jurors back to court Monday.

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Rosemary Fricker Dias

Good grief! The man got a fair trial. His wealth had nothing to do with the criminal case. I don't believe there was misconduct on the part of the jury. The alternate has already recanted her original statement and DeMartin is a wanna be writer who did nothing wrong. I don't believe the experiment with vodka is a problem. He did it for his own satisfaction and he DID NOT drive while intoxicated. I would have found a better tasting drink. Oh, and in which county would you like this case to be tried???

17 Minutes Ago · **Reply**

Doug Talbott

Steabie - I don't know. So much has been reported regarding Jury misconduct that I think he will get a new trial. Also, they will have to go outside of PBC to get a jury this time. More money will have to be spent. Colbath will have to consider this new news and I just do not see how he can move forward with sentencing. I am no lawyer but after reading some of the commentary from lawyers this is a big stinking mess and too many things have gone wrong to say that the trial was fair. Will just have to wait and see I guess.

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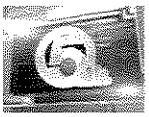

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John Goodman juror Dennis DeMartin conducted drinking experiment before guilty verdict, book says

Posted: 8:50 PM
Last Updated: 4 hours and 4 minutes ago

- Jane Musgrave and Daphne Duret, Palm Beach Post Staff Writer

WEST PALM BEACH, Fla. - WEST PALM BEACH, Fla. — In what some defense attorneys predict is the bombshell John Goodman has been looking for to throw out his DUI manslaughter conviction, a juror says he had three vodkas one night during the trial just to see how it would affect him.

While not the two shots of tequila and Grey Goose cocktail witnesses testified that Goodman had before the 2010 crash that killed 23-year-old Scott Wilson, the experiment that juror Dennis DeMartin details in his self-published book violates time-honored rules of the criminal justice system, defense attorneys said.

"If we now have a juror doing exactly what was alleged during the trial, that crosses the line," said attorney Michael Salnick. "It's outrageous. It shocks the conscious and goes against everything the jury system stands for."

Attorney Gregg Lerman voiced similar views. "Jurors are not supposed to go home and conduct any experiments," he said. "You're suppose to base your decision on evidence you hear at the trial, not outside influences."

The revelations come as Palm Beach County Circuit Judge Jeffrey Colbath weighs whether to grant the Wellington polo mogul a new trial because one juror said Monday that other jurors pressured him to find the Wellington polo mogul guilty. Goodman's attorney Roy Black has also raised questions about the propriety of DeMartin's plans to write a book about his experience.

On Thursday, DeMartin finally got copies of his book, Believing In the Truth, and released one to the Sun-Sentinel. In the 32-page book he produced on Createspace, DeMartin writes that he conducted the drinking experiment to satisfy his curiosity.

"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," DeMartin writes, according to the Sun-Sentinel.

After realizing that the drinks left him "confused," he concluded that a person shouldn't drive after drinking.

"When the alarm went off the next morning, I got up and felt relieved," he wrote. "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."

During that day's deliberations, he said jurors found that Goodman was "not fit to drive." He doesn't say he told them about his experiment. However, he writes, "I surely decided that the night before."

Black will undoubtedly use the book to bolster his arguments that Colbath should throw out the verdict. Attorney Grey Tesh said he's not sure he will succeed.

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Salnick disagreed, saying conducting an experiment, mimicking the exact situation portrayed during the trial, is akin to visiting the scene of a crime or doing independent research - both reasons appeals courts have invalidated jury verdicts.

"You have a juror re-enacting the allegations of the crime. How could anyone in that situation get a fair trial?" he said.

When questioned by Colbath on Monday, DeMartin said he initially voted to find the 48-year-old Texas tycoon innocent. Reached later, he said he was convinced of Goodman's guilt after the jury, during its deliberations, replayed a 911 call Goodman made after the crash on 120th Avenue South and Lake Worth Road. Unlike his trial testimony, Goodman doesn't tell the dispatcher that his Bentley surged uncontrollably. That, DeMartin said, sealed his decision that Goodman was guilty of crimes that could send him to prison for 30 years.

Since the March 23 verdict, Black has filed more than a half-dozen motions, pointing out media, prosecutorial and even bailiff misconduct that he said should be reason to overturn Goodman's conviction. His allegations of jury misconduct prompted Colbath to summon jurors back to court Monday.

Responding to comments jurors made when Colbath interviewed them, Black filed another motion Thursday, criticizing Colbath's limited questions. He said Colbath should have delved deeper into juror Michael St. John's assertion that he felt forced to "go with the flow" of other jurors who wanted to convict.

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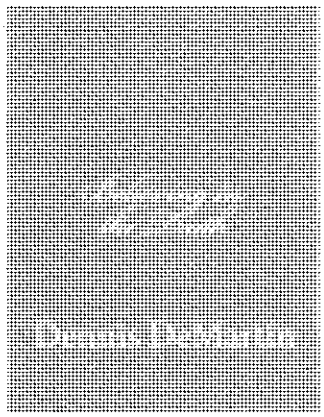
EXHIBIT 2



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Book is about the John Goodman Trial Chapter 1 deals with how I was picked to be on the Jury. Chapter 2-10 deals with each day of the trial and how I recapped the day on a spreadsheet on my computer with notes to write the book. Each evening I would list the Prosecutor on one side of the worksheet and the Defense on the other side. I would have sub headings with what I thought were testimony and facts, and presumptions for each side. I made separate worksheets for each day of testimony and when the trial was over, I used my worksheets to write each chapter. Chapter 11 deals with what happen after the trial was over.

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EXHIBIT 3

[BOOK "BELIEVING IN THE TRUTH" BY DENNIS DeMARTIN]

EXHIBIT 4

Dennis DeMartin, John Goodman juror, experimented with alcohol before guilty verdict, book says

Posted: 12:32 PM

- By: Jeff Skrzypek

WEST PALM BEACH, Fla. - WEST PALM BEACH, Fla. — A book written and published by Dennis DeMartin, a juror in the John Goodman DUI trial, continues to generate controversy.

A chapter many are paying attention to deals with what DeMartin did the day before deliberating in the trial.

DeMartin writes in chapter nine of his newly self-published book, "Believing in the Truth," about an experiment he did to better understand how much Goodman might have had to drink the night he crashed his car into Scott Wilson.

"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," writes DeMartin in "Believing in the Truth."

DeMartin then explains how he drank three vodka and tonics between 9:00-10:00 p.m. and became disoriented walking around his apartment complex as a result.

"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 deliberate the evidence we had," concluded DeMartin to close chapter nine of his book.

DeMartin conducted his experiment despite being told by Judge Colbath jurors were supposed to make a decision solely based on evidence provided in the courtroom.

"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," said DeMartin in an interview on Friday.

DeMartin said he has not been contacted by Goodman's lawyers, nor received any instructions from Goodman's attorneys. He said he is not trying to cause problems or a mistrial. DeMartin said he is just speaking from his hearth about his experience.

Judge Colbath is expected to make a decision about the claims of juror misconduct on Friday or Monday.

Goodman's lawyers are expected to file another motion on Friday using what DeMartin wrote in his book.

Friday, May 4, 2012

Dennis DeMartin, John Goodman juror, experimented with alcohol before guilty verdict, book says

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