

Jury selection just the start of the process

By: John Pirro, Staff Writer

With his neat appearance, articulate speech and six years of military service, the former nuclear power training officer impressed everyone in the courtroom.

His personal library included works by Tolstoy and Steinbeck, his civilian resume reeked of responsibility and commitment, and his thoughtful, intelligent responses to questions about the presumption of innocence, reasonable doubt and an accused person's right not to testify seemingly marked him as an ideal juror, potentially even the foreman.

But when it came time for defense attorney Mickey Sherman to accept or reject the ex-Navy man for the Superior Court jury that will decide whether Marash Gojcaj is guilty or innocent of murder, the veteran litigator said, "Excused."

"A born leader, you could see it from across the room," Sherman said later. "Whichever way he went, the rest of the jury would follow."

In a case where a single "not guilty" vote could spell the difference between another chance at freedom through a retrial, or a sentence of up to 25 years in prison if he is convicted, risking Gojcaj's fate on a defense attorney's ability to sway one specific juror was clearly not a gamble Sherman was willing to take.

Over the past 10 days, nearly 300 area residents, their names culled from a variety of state databases, including voter registrations and state Department of Motor Vehicle records, have filtered through Judge Robin Pavia's small, third-floor courtroom on White Street in Danbury as Sherman and Danbury State's Attorney Stephen Sedensky seek an impartial panel of 16 jurors: 12 regular members and four alternates to hear the case.

Gojcaj, 34, of Greenwich, is accused of killing his uncle and business partner, Joe Vuli, also known as Zef Vulevic, in their Danbury restaurant in 2004.

By the time court adjourned Friday afternoon, 13 jurors had been seated. The process will resume on Tuesday.

Pleading that sitting on what is expected to be a month-long trial would be either a personal or economic hardship, the majority of prospective jurors brought into the courthouse each day were sent home by the judge.

“ It's (in jury selection) all about bounce. I'm looking for people who are open to what I have to say," said Norm Pattis, of Bethany, one of the state's most prominent defense lawyers.

"I ask questions that are designed to see whether potential jurors are open to the defense and are willing to apply the principles of law as they are instructed by the judge. The real heart of jury selection is trying to get people to talk, and if they don't want to talk about themselves, they are rejecting you."

But several dozen have gone through the voir dire process, where they are interviewed individually by the lawyers to ferret out those who have already made up their minds, or who may be predisposed to favor either the state or the defense.

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In addition to the standard inquiries regarding the criminal justice system, whether they have been or know anyone who was ever involved in a trial, and if they believe a person who is charged with a crime is automatically guilty, potential jurors also found themselves talking about books they've read, movies they've seen or television shows they watch.

"You're trying to get a window into the personality of the potential jurors," said James Diamond, a defense lawyer from Danbury.

But like anyone else, in life or in court, prospective jurors aren't always completely honest, he said.

"Very often, they will tell you what they think

you want to hear if they want to get on the case, or what you don't want to hear if they want to get out of it," Diamond said. "Then it comes down to your own gut feeling and instinct."

The passage of time has resolved one problem that frequently crops up in many high-profile criminal cases -- the likelihood that prospective jurors may be familiar with the case as a result of extensive news coverage.

The murder that Gojcaj is on trial for occurred more than six years ago in April 2004. It took four years for Danbury police to make an arrest, and another two-plus years before the case was ready for trial.

Only a few of the potential jurors said they even remembered the murder, which attracted wide publicity at the time.

Even when they get that kind of response, lawyers have to dig deeper, said Dave Shannon, a former assistant state's attorney in Danbury now assigned to the prosecutor's office in Litchfield.

"You never want to take an accusatory tone," Shannon said. "But if it's a high-profile case and someone says they never heard of it, then says they get their news from (a local paper), that's when you have to ask more questions."

During his voir dire, Sherman made frequent references to the classic Henry Fonda movie, "Twelve Angry Men," in which a holdout juror eventually convinces the other 11 members the defendant was innocent of the crime.

Sedensky closely questioned prospective jurors who had extensive backgrounds in science or mathematics, a common strategy with prosecutors, according to Shannon, who has tried nearly three dozen criminal cases, including two murders, during his 11 years as a state's attorney.

"The fear is they will expect us to prove something to a mathematical certainty, not just beyond a reasonable doubt," he said.

From a prosecutor's viewpoint, the best jurors are "people with a lot of life experience who are invested in the community," generally those over 30 years of age, said Shannon.

"But it's hard to get six people to agree on anything, even what restaurant to go to for lunch, let alone 12," he said. ■