

Future of fatal horse beating case goes to NM high court

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SANTA FE - Horse trainer Greg Collier, charged with beating a colt to death, has spent the last five years fighting for his freedom and reputation.

Now he hopes the New Mexico Supreme Court will end his ordeal by barring the state from trying him for a third time.

The five-member court will hear arguments Nov. 15 on whether prosecutors squandered their opportunities to convict Collier of cruelty to animals.

Collier, 41, was charged with using a whip handle to kill a thoroughbred yearling named Cowboy on Feb. 13, 2006.

By the state's account, Collier was "humiliated" over his lack of progress in developing Cowboy as a racehorse. Collier attacked the colt, striking him repeatedly, prosecutors said.

The alleged crime occurred in Doña Ana County when Gov. Susana Martinez was the district attorney.

Six months after Cowboy's death, Martinez's staff obtained an indictment against Collier for extreme cruelty to animals, a fourth-degree felony. A conviction could have sent Collier to prison.

He stood trial in March 2008 in Las Cruces, but jurors could not agree on a verdict. The judge declared a mistrial.

At a retrial in January 2009, the state charged Collier with the same felony. But prosecutors asked that the jury also be allowed to consider whether Collier was guilty of a lesser cruelty charge, one that was a misdemeanor.

That time, jurors voted 11-1 to convict Collier of the misdemeanor. With a lone holdout juror blocking a unanimous verdict, the judge declared another mistrial.

But one clear result was established in that trial.

Because the jury voted only on the misdemeanor charge, it implicitly acquitted Collier of the felony. The demise of the felony case was one of the few points that the prosecution and defense agreed on.

Doña Ana prosecutors still wanted to pursue the misdemeanor charge against Collier.

They attempted to try him for a third time in the summer of 2009, but a judge in Las Cruces stopped them.

Collier's lawyer argued that he could not be tried again because the two-year statute of limitations for a misdemeanor had lapsed.

In fact, Collier had never been indicted on the misdemeanor. That charge was tacked on as a lesser included offense at the end of his second trial.

Doña Ana County District Judge Fernando R. Macias said a third trial would violate Collier's rights, agreeing with the defense that the statute of limitations had expired.

Prosecutors appealed and lost again, though for a different reason than Macias gave.

The state Court of Appeals ruled that a third trial would subject Collier to double jeopardy - the legal term for being tried twice for the same crime.

State Attorney General Gary King's staff is appealing yet again, this time to New Mexico's highest court.

In its brief to the Supreme Court, the state said it has the right to try Collier on the misdemeanor count. King's staff said the hung jury on that charge meant there was no outcome, and therefore Collier would not be subjected to double jeopardy.

Collier, of Lubbock, Texas, is being represented by lawyers from New Mexico.

They say the long, tangled case should be dismissed. The defense is offering three reasons - double jeopardy, expiration of the statute of limitations and denial of Collier's right to a speedy trial.

The state devised the belated strategy of trying Collier for a misdemeanor because "it realized there were serious problems with its ability to prove the felony charge," the defense lawyers wrote in their brief.

Collier has faced heavy criticism, in southern New Mexico and on the Internet, since the state charged him.

The colt's owner, Kevin Williams of El Paso, testified during the second trial that he saw Collier strike the horse with the whip handle. But the juries' struggles showed that the case was not so clear-cut as an angry trainer lashing out at an animal.

Still, anonymous posters in chat rooms and on message boards took up for the prosecution. Many of them said true justice would have meant Collier being struck with a whip handle.

Cowboy, according to the state, came from a bloodline that included the famous racehorse Alydar. Alydar finished second in all three Triple Crown races of 1978, losing to Affirmed each time.

Collier and Cowboy attained no such glory.

The state says the long-dead colt deserves justice. Collier's defense team counters that the case should die.

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