

## **NM Supreme Court hears animal cruelty case**

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SANTA FE - The beating death of a thoroughbred colt reached the New Mexico Supreme Court on Tuesday, but the legal twists and turns may not be over.

Three of the five justices were publicly skeptical of horse trainer Greg Collier's arguments that he cannot be tried a third time on a charge of animal cruelty. Both of his trials in Las Cruces ended in mistrials.

Collier, 41, contends that the case against him should be dismissed because of double jeopardy, expiration of the statute of limitations and a violation of his right to a speedy trial.

Both a district court judge and the state Court of Appeals agreed with him that the state should be barred from trying him for a third time, though their reasoning differed.

The trial judge said the statute of limitations had lapsed. The appeals court rejected that analysis, but ruled that a third trial would constitute double jeopardy.

None of Collier's legal arguments, presented to the Supreme Court by his attorney, Caren Friedman, appeared to sway the justices.

"You really are trying to turn our jurisprudence system on its head," Justice Richard Bosson said to Friedman.

Chief Justice Charles Daniels said other defendants whose cases ended in mistrials were tried yet again. He asked Friedman why Collier should be treated to a different standard.

"Name any case where a hung jury precludes a retrial on a lesser offense," Daniels said to her.

She had no answer.

Afterward, Friedman turned to Collier and said, "I got beat up in there."

For his appearance in court, Collier wore boots and a necktie depicting a cowboy on a horse. He declined to comment on how he thought the hearing went.

The state's prosecution of Collier began more than five years ago.

A grand jury indicted him on a fourth-degree felony, alleging that he used a whip handle to kill a thoroughbred yearling named Cowboy on Feb. 13, 2006, near Chaparral.

Cowboy's owner had hired Collier to train the colt as a racehorse.

Prosecutors alleged that Collier was "humiliated" over his lack of progress and struck the horse repeatedly with the whip handle. But Collier, at one of his trials, testified that he was not violent with the colt.

Collier first stood trial in March 2008 on the felony charge of extreme cruelty to animals. Jurors could not agree on a verdict, and the judge declared a mistrial.

The state retried him in January 2009, bringing the same felony count.

But prosecutors asked that the jury also be allowed to consider whether Collier was guilty of a lesser charge, one that was a misdemeanor. The defense consented.

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

Because the jury focused only on the misdemeanor count, Collier implicitly was acquitted of the felony.

Prosecutors in Doña Ana County attempted to try Collier again in the summer of 2009 solely on the misdemeanor. But District Judge Fernando R. Macias said the two-year statute of limitations on that count had expired.

The case has been on appeal since.

Joel Jacobsen of the state attorney general's staff represented the government before the Supreme Court. He received so few questions from the justices that he did not use the 30 minutes allotted to him.

Jacobsen argued that well-established case law gives the state the right to try Collier again.

Bosson seemed to agree. Bosson also pointed out that the defense allowed inclusion of the misdemeanor charge at the second trial, then said the two-year statute of limitations had expired when the state wanted to try Collier again seven months later.

As for the speedy trial claim, Jacobsen said Collier had only presented the court with contradictions and attempts at delay.

"He's been tried twice. Now he is fighting tooth and nail not to be tried a third time," Jacobsen said.

Collier, of Lubbock, Texas, took notes as the justices grilled his attorney. Now he must wait for the Supreme Court to rule whether he is a free man or if the state can try him again.

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