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Spector trial expert backs suicide theory

By Peter Y. Hong
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Phil Spector's murder defense team began its case Tuesday with testimony from a prominent forensic pathologist who said the circumstances of Lana Clarkson's death suggest she killed herself.

Vincent DiMaio, former chief medical examiner of Bexar County, Texas, and a sought-after expert trial witness, challenged several assertions put forth by prosecution witnesses who had testified that Spector most likely fired the gun that killed the 40-year-old actress in his Alhambra mansion Feb. 3, 2003.

The fatal shot was fired when the muzzle of the revolver was in Clarkson's mouth. "Ninety-nine percent of those are suicides," DiMaio said of so-called intra-oral gunshot deaths.

"In my whole career I have seen three homicides that were intra-oral," DiMaio said.

Suicides are often committed spontaneously, and most of those who kill themselves do not leave notes, said DiMaio, who was a public medical examiner for 35 years. He also said women bent on self-destruction overwhelmingly use handguns.

Deputy Coroner Louis Pena, who had ruled Clarkson's death a homicide, testified a few weeks ago that women in Los Angeles County rarely kill themselves with guns, and that when they do, they seldom shoot themselves in the face.

Pena also testified that the level of alcohol and drugs found in Clarkson's body did not affect his decision to rule her death a homicide. Clarkson's blood alcohol level was 0.12, above the legal limit of 0.08 for driving. The medications Aleve and Vicodin were found in her body at levels Pena said were at the low end of commonly prescribed doses for pain.

But DiMaio said that "people start doing stupid things at 0.1. She was at 0.12, [and with] Vicodin there is a synergistic action. It's not one plus one equals two, it's one plus one equals five."

He also attacked the prosecution's expert testimony that blood spatter can travel only 3 feet from a person struck by a bullet. Prosecutors said the spatter distance limitation proved that Spector, whose jacket was splashed by Clarkson's blood, was close enough to have fired the gun in her mouth.

The defense contends that blood can spatter more than 6 feet if a gun is fired into a person's mouth and that the number and pattern of bloodstains on Spector's jacket actually show the 67-year-old legendary music producer was standing too far away from Clarkson to have held the gun in her mouth.

DiMaio told jurors that when a gun is discharged in a person's mouth, the pressure from the gases trapped in the mouth creates a violent explosion. He likened the force of the gunfire to "dropping an SUV in your mouth.... The gas is now like a whirlwind; it ejects out of the mouth, out of the nose."

Soft-voiced and often smiling, DiMaio spoke slowly to the jurors, splitting his syllables. "Stick to the ob-ject-ive scientific evidence," he said, almost whispering. In the hallway outside the courtroom, Spector gave DiMaio a hearty hug.

Robert Hirschhorn, a Dallas jury consultant who is following the trial, said DiMaio could help the defense offset what he called an effective prosecution case thus far.

"He's got to come across as a guy who can communicate well to an L.A. jury, who knows what he's talking about, and his conclusion must be consistent and logical. Vince DiMaio can do all three," said Hirschhorn, who worked with DiMaio on two cases and opposed him in six.

The defense's forensics experts must do more than simply challenge the prosecution's assertions, said USC law professor Jean Rosenbluth.

"If you have a bunch of experts come out saying things that are at least at some level completely contradictory, jurors tend to tune it all out," she said. "It's all well and good to give colorful metaphors, but the bottom line is if you cannot say Phil Spector categorically could not have pulled the trigger in her mouth, how helpful is that?"

Kathy Kellermann, a Marina del Rey jury consultant who has attended the trial, also said the defense needed to do more than raise the possibility that Spector stood too far away to have pulled the trigger; they must prove it.

Forensic evidence "raises reasonable doubt when there aren't witnesses or other evidence," Kellermann said.

In this case the defense did not succeed in discrediting the limousine driver, who said he saw Spector holding a gun in his bloody hand and saying, "I think I killed somebody," she said.

To meet that challenge, the defense has retained several renowned experts to help make its case. Along with DiMaio, pathologist Werner Spitz and blood spatter experts Henry C. Lee and Stuart James are on Spector's team.

DiMaio's testimony will resume this morning at Los Angeles County Superior Court downtown.

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