

Judge Acquits Hall in Shooting Incident

Cites Failure to Dispute Insanity Defense

By Lee Catteroll
Star-Bulletin Writer

Honolulu businessman Robert W. Hall was acquitted by a judge yesterday of attempted-murder charges and a firearms violation stemming from a 1980 shooting incident at the Waikiki Yacht Club.

Circuit Judge Patrick Yim ruled that Deputy City Prosecutor Thomas Pico Jr. should have elicited testimony disputing an elaborate insanity defense prepared by Hall's attorney, David Schutter.

Hall, 50, was charged with four counts of attempted murder and one count of illegally carrying a firearm. He was accused of firing pistol shots that injured three men at the club's bar in the early morning hours of May 17, 1980.

Schutter maintained in his opening statement last month that a non-alcoholic ingredient in wine that Hall drank earlier in the evening triggered a brain reaction that caused him to lose control of his actions. He said Hall's condition was aggravated by "barbs" thrown at him by real-estate broker Rodney Inaba, 46, one of those injured in the shooting.

Numerous Mainland experts were to testify later this year in support of such a defense.

Schutter said Hall, who has declared bankruptcy since the shooting incident, paid him \$25,000 and gave him a \$6,000 boat to prepare the defense and still owes him \$7,000 to \$8,000 in attorney fees.

PICO WAS "required to negative" that defense, Yim said. "There really is no quarrel as far as that's concerned."

Instead, Yim said, prosecutors provided "no testimony to negative the defense that they are fully aware of."

Pico did quarrel with the judge's assessment. Pico contended that he should have been allowed to "skip" prosecution testimony about Hall's mental condition until after defense experts had testified.

If the trial had resumed, Pico eventually would have been able to call experts to rebut defense

testimony. That was when he wanted to bring the prosecution experts to the witness stand.

"I think the judge was clearly wrong in his decision," Pico said. "The defendant is presumed sane unless there is some evidence produced in the case that he is not sane."

Yim's ruling apparently cannot be appealed to the state Supreme Court because it would subject Hall to double jeopardy.

"Normally, a judgment of acquittal (by a judge) is not appealable," Pico said. "If there's a way, we'll find it."

HALL SANK his head down on the defense table after Yim ac-



quitted him. Asked for his reaction moments later, Hall said, "I'm too numb."

Schutter called Yim's ruling "exactly the correct decision."

Schutter asked for the acquittal after Pico completed the prosecution's case. Such requests are routinely made and rarely granted, because a judge must look at the case in the light most favorable to the prosecution.

In asking for the acquittal, Schutter emphasized that Pico presented not "a shred of evidence" about Hall's mental condition.

Three court-appointed psychiatrists examined Hall and one — Dr. Elizabeth Adams — concluded that Hall suffered "substantial impairment" of his brain because of the chemical reaction from the wine. The other two agreed there was "impairment" but that it was not necessarily "substantial," the

standard in Hawaii's equivalent of the insanity defense.

Yim said that Pico was "fully aware of the fact that the experts appointed by this court find him (Hall) impaired" but chose not to address the insanity issues until after Schutter had presented his witnesses.

Pico said it was "improper" for Yim to consider the psychiatric reports in considering the acquittal motion.

"THAT evidence wasn't even introduced in the case" at that point, Pico said.

Although the reports were not introduced in the trial, Schutter cited them in asking Yim for the acquittal.

Pico did call two expert witnesses to the stand — Dr. Stuart Ruskak, a Honolulu allergist, and Dr. David Galin, a San Francisco professor.

Ruskak disputed the contention made by defense experts that a chemical allergy can cause a reaction in the part of a person's brain that suppresses hostility, fear, aggression and paranoia.

Galin took the witness stand yesterday but Yim would not allow him to testify about the method used by defense experts in analyzing Hall's condition.

Neither Ruskak nor Galin examined Hall, and the absence of testimony from any of the three psychiatrists who did examine him prompted Yim's ruling.

Still, Pico argued that there was evidence showing that Hall acted sanely when he fired shots that struck Inaba, Stephen Gratwick and California dentist Joseph McKeown and barely missed Harold K.H. Chun.

WITNESSES testified that Inaba had called Hall names earlier in the evening.

Hall "was not firing wildly," Pico told Yim. "He was firing in the direction of Rodney Inaba."

Pico cited testimony by one witness about Hall complaining "that he was being picked on by Inaba and he was going to get a gun and shoot him. And that's what he did."

"He was acting rationally," Pico insisted. "He hit his enemy



UNPERSUASIVE—Deputy City Prosecutor Thomas Pico Jr. argues unsuccessfully from the podium yesterday against a request that Robert W. Hall, right, be acquitted of attempted-murder charges. Hall is seated beside his attorney, David Schutter. —Star-Bulletin Photos by Terry Luke.

(Inaba) twice with bullets that were designed to kill."

"He knew what he was doing," Pico said. "He knew what he was doing before the shooting, and he knew what he was doing after the shooting."

"This was no spur-of-the-moment reaction," Pico said, and Hall's acts were "not aberrational in that they were insane or crazy."

"He intentionally shot Rodney Inaba," Pico said. "He intended to kill him."

The trial was conducted according to the terms of a law at the time that required the prosecution to show beyond a reasonable doubt that a defendant claiming

insanity was in control of his actions.

A LAW ENACTED in 1981 now requires the defense attorney to show that a defendant was more than likely unable to control his actions because of a mental or physical defect.

Yim had been testy with Pico since early in the trial, which began May 21. The judge agreed with Schutter that Pico should have provided Schutter with several written reports by prosecution experts before the trial started.

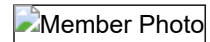
The dispute about the reports disrupted the trial and caused defense experts to return to their Mainland homes while Schutter

had a chance to review the reports.

Yim was prepared to assess the prosecutor's office nearly \$10,000 in expenses and experts' fees for gathering their testimony by videotape from the Mainland, probably in October.

Also, Yim charged Pico with contempt of court for failing to provide the reports to Schutter before the trial. Yim said he would conduct a hearing after the trial's conclusion on whether Pico should be convicted of the petty misdemeanor.

Hall said last month that his insurance carriers paid out of court settlements of \$425,000 to Inaba, \$150,000 to McKeown and \$10,000 to Gratwick.



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