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COMMENTARY

Standing alone against a determined jury

By Anthony Oliver



We were a hung jury; the vote was 11 to 1 for conviction. I was the one voting not guilty.

Four young male defendants accused of murder, robbery and gun possession — not people you'd invite to your house for dinner. They were accused by a fifth defendant, who became the prosecution's witness in exchange for a lighter sentence.

The victim was found to be a drug user, and the murder occurred at a house where drugs were allegedly sold. Television and newspaper reporters were in the courtroom covering the trial.

Testimony included DNA evidence, information on bullet trajectories and photos of bullet wounds on the victim's body. We deliberated for eight days. We considered all the evidence, examined testimony, remembered things differently and argued respectfully but intensely.

Law Week

This is the last in a series of articles written for The Advertiser in collaboration with the state Judiciary and Hawai'i State Bar Association that will run this week in conjunction with Law Day and Juror Appreciation Week.

On a two-month trial, you feel like a family, but families do argue. The foreman kept us focused and polite, while another juror guided us through the logistics.

We were careful and didn't deal in stereotypes. We kept in mind the judge's instructions — all 104 pages of them.

Everything hinged on one man's testimony. Eleven people believed him. I didn't.

Some things just didn't fit, just didn't seem right. I had reasonable doubt — plenty of doubt. But the others didn't. I asked myself why I felt so differently? Was I wrong or blind or stupid? What was I not seeing?

The others tried to convince me, and I wanted to go along with them. But I couldn't. One juror almost cried trying to change my mind; she had experience with troubled boys and just didn't trust the defendants. Another dropped her head on the table, exasperated with me. My fellow smokers were not always happy to be on smoke breaks with me.

I felt badly that I couldn't agree. Always in the back of my mind was the burden of proof. We were there to ensure that the prosecution, indeed, proved its case — beyond a reasonable doubt. And it didn't. Not to me.

During the jury-selection process, the attorney asks if you can stand your ground when everyone else is against you. Everybody says yes. Everyone sounds so certain. But it's not easy.

I believe that defendants are presumed innocent. We are all presumed innocent. We could all be sitting in court — we could, any of us, be in their place. We all expect to be presumed innocent. We are presumed innocent.

I was quiet on the last day. I looked at everyone around the table. No one looked back at me, the holdout.

A man was dead.

Children had been orphaned by this murder, their father now dead from a gunshot. Most of the jurors were convinced these were the killers. They could leave this trial behind them and feel good about their votes.

When it was over, I left by myself. Could I have been wrong? Yes. I hope I wasn't. Particularly in a murder trial, you have to be certain — there are lives at stake. I was certain the prosecution did not prove its case. Now I can sleep at night.

Anthony Oliver was a juror in a recent murder trial in circuit court. He wrote this commentary for The Advertiser.