

Jury begins deliberations in third Jasper trial

JASPER (AP) — After hearing his attorney insist that Shawn Allen Berry made poor choices at whether he should be convicted of capital murder in last year's dragging death of a black Texas man, jurors began deliberating shortly after 12:30 p.m. CST, following roughly one and a half hours of closing arguments.

To find Berry, 24, guilty of capital murder, the jury must agree that he intentionally took part in the killing and kidnapping of James Byrd Jr. Conviction would require either a life prison term or a death sentence.

State District Judge Joe Bob Golden also gave jurors the option of finding Berry guilty of the lesser charge of murder, which does not include the kidnapping component and does not carry a potential death sentence.

Berry is accused of helping chain Byrd to the rear of a pickup truck and dragging him for more than three miles along bumpy, country road to his death on June 7, 1998. Two other white co-defendants, avowed racists Lawrence Russell Brewer and John William King, were sentenced to die in separate trials earlier this year.

In closing arguments yesterday, Berry's attorney, Joseph C. "Lum" Hawthorn, told the jury that Berry concedes to making "terrible" decisions after the killing — not calling the police, rashing off his truck and the chain and lying to investigators.

But prosecutors have changed their story to fit the defendant in each of the three trials, Hawthorn argued.

"When Bill King was prosecuted, he was the ringleader," Hawthorn told jurors. "When Brew-

er was prosecuted, he was the ringleader. It was still a racial hate crime. Then they shift gears. [Prosecutor Pat] Hardy now says he's worse than Bill King and Russell Brewer?"

"The two people who killed James Byrd have been tried, convicted and have been given a death sentence," he said.

"That man right there was the worst of the bunch."

— Pat Hardy
prosecutor

Berry contends he was a paralyzed bystander when Brewer, 32, and King, 25, decided to kill Byrd in a frenzy of racist hate. His attorney presented more than a dozen witnesses — some black — who testified that Berry was not a racist. Hawthorn also challenged the integrity of the crime scene and certain blood and footprint evidence.

"What is amazing to me is the African-Americans we had on the stand in this case, in this county — with the Byrd family sitting right there — saying Shawn Berry couldn't do this," Hawthorn said.

Prosecutors contend that he was aware that his roommates — both covered in white supremacist tattoos — had deadly plans for the black man as they drove into the wooded country outside Jasper. They did not try to prove Berry was a racist, but that his participation made him equally responsible for the crime.

In his closing, Hardy told jurors that "a pro-

gression of events ... show Shawn Berry knew what was going on."

Hardy noted that Berry had Byrd in the front seat of the pickup truck "so he couldn't get away," and Berry convinced Byrd he had nothing to fear as they rode out to the remote logging road where the attack began.

"Who keeps him in the vehicle? Who soothes him over? Shawn Berry," Hardy said.

Hardy also reminded the jury that prints from the shoes of King and Brewer were found in the dirt on passenger side of the vehicle, meaning Berry must have been driving when Byrd was dragged.

"Mr. Berry beat the man up," Hardy said. "Mr. Berry had the chain. Mr. Berry drove down to the property he knew. This was Mr. Berry's show as much as the others. That man right there was the worst of the bunch."

Hardy and Jasper County District Attorney Guy James Gray have acknowledged that convicting Berry would be a harder sell. Jasper is Berry's hometown, and he is well-liked in the community.

Although Hawthorn originally requested a trial in Jasper, he sought a last-minute change of venue that was denied.

The trial also was complicated by a separate legal battle between prosecutors and CBS executives over a tearful interview Berry gave to anchor Dan Rather, portions of which aired on "60 Minutes II" in September.

After the fight reached two appellate courts and a CBS producer was facing jail for contempt of court, the network turned over the entire transcript of Berry's interview to prosecutors.

Jurors will be able to compare Berry's explanation of his role in the statement he gave police with the CBS interview.

Three charged in beating death

WACO (AP) — Two teen-agers and a 19-year-old have been charged with capital murder in the beating death of a 68-year-old handyman.

Waco police said Edward M. Lee was killed during the robbery Tuesday morning of a downtown Waco used car business.

The owner of Burns Used Cars, Glenn Burns, arrived shortly after the attack and also was assaulted by the suspects, police say.

Rayshun Dewayne Gooden, 19, and a 14-year-old boy, whose identity is being withheld as a juvenile, were arrested by police shortly after fleeing the scene.

A third suspect, a 16-year-old male, was arrested late that afternoon. Police declined to release the juvenile's name.

Gooden remained jailed yesterday at the McLennan County Jail in lieu of \$500,000 bond. The juveniles were being held in a local detention center, officials said.

In an arrest affidavit, police said it appeared Lee had been beaten with an unknown object, "causing severe blunt force trauma."

"There was definitely a struggle and quite an amount of blood (inside the office)," Justice of the Peace Billy Martin told the *Waco Tribune Herald*. "What we have right now is a victim, and it definitely appears to be a murder or homicide. We don't know much more than that right now."

Police said Gooden and the 14-year-old were in possession of two bank bags that the car lot's owner dropped when one of the suspects attempted to hit him with a fire extinguisher. The business owner was not seriously injured.

Gooden was also in possession of credit cards that belonged to Lee, police said.

Lee often arrived at the business shortly before 9 a.m. to open the office for Burns, employees of nearby businesses said.

News in Brief

Boy grazed by bullet while on school bus

SPRINGTOWN (AP) — A 12-year-old boy was injured yesterday when a bullet struck him while riding on a school bus.

The shooting appears to have been an accident. The shot came from a small-caliber weapon outside the bus, possibly from a hunter, officials said.

Authorities said the bullet grazed the boy's head, and the injury does not appear life-threatening. The youngster went by ambulance to Cook Children's Medical Center in Fort Worth.

Deputies were questioning a young person at the scene of the shooting in Wise County, 28 miles northwest of Fort Worth.

The shooting happened about 4:30 p.m., Lt. Randy Joy of the Wise County Sheriff's Department said. Hunters and target shooters frequently use the rural area where the shooting happened.

When the bus driver heard a gunshot, he told the children to duck. He drove into Parker County before calling police.

Swiss architects quit project at UT

AUSTIN (AP) — The Swiss architects who have been designing an art museum for the University of Texas have quit, a setback that could delay the museum a year.

The resignation of Herzog & de Meuron was announced Tuesday by UT officials.

University president Larry Faulkner, who had been negotiating with the firm to resolve regents' concerns about its nontraditional design, said the architects did not believe they could satisfy the regents' demand that the design be compatible with the campus master plan and other university buildings.

UT now will search for a new architect "with a closer coupling with regents than is normally done," Faulkner said.

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