

COURTS

Second mistrial declared in murder-conspiracy case

Judge cites 'reasonable apprehension of bias' toward Crown

ALEYSHA HANIFF

A second mistrial was declared Thursday in a bizarre murder-conspiracy case involving wealthy businessman Alex Petraitis, his dominatrix, and her ex-boyfriend, that saw his wife of 40 years as the target of the alleged plot.

Judge Robert Clark declared a mistrial on the cusp of closing arguments on the grounds of "reasonable apprehension of bias" toward the Crown — that an average informed person could conclude that the judge exhibited some signs of bias based on his behaviour during the trial. He made the declaration in Ontario Superior Court when the jury was sequestered. (It is not, however, an admission that Judge Clark was actually biased in any way.) Once the jury entered the courtroom, he told them he had declared a mistrial because of "certain developments" that occurred over time.

"This trial is now void, effectively," Judge Clark told the 12-person jury. "It may seem a bit odd to you, for sure. It doesn't happen all that often."

Mr. Petraitis, 68, is charged with conspiracy to commit murder and counselling murder. He and dominatrix, Sandra Rinella, are alleged to have hired a hit man to kill Mr. Petraitis's wife in 2003. The murder never happened. The case against Ms. Rinella, 47, was also declared a mistrial.

Based in Toronto, Mr. Petraitis was at one time president of Canadian Mass Media Inc. and a principal in Metro News Ltd., both of which distributed magazines and books to retailers.

Thursday's ruling is the latest twist in a tale of kinky sex and role-playing. The alleged hit man, Kerry Anderson, was Ms. Rinella's ex-boyfriend and fathered a child with her. He gradually increased his fee for the planned murder to about \$120,000 and was convicted of attempted extortion against Mr. Petraitis in 2004.



Businessman Alex Petraitis and his current wife leave a Toronto courthouse Thursday after his case was declared a mistrial. FRED LUM/THE GLOBE AND MAIL

Mr. Anderson testified that he made secret audio tapes of conversations he had with Mr. Petraitis and Ms. Rinella by hiding a recorder in his sock. Mr. Anderson also told the court he met with Mr. Petraitis while the other man was clad only in something he said looked like a diaper or a toga fashioned from a sheet.

Park Dietz, a U.S. forensic psychiatrist who has worked on such cases as the Unabomber and Menendez brothers, testified on behalf of the defence that it was possible the murder plot was just a fantasy, and that Mr. Petraitis may have liked to play at being an "adult baby."

A sexual masochist, Mr. Dietz testified, could love his wife and wish her dead as part of an arousing fantasy.

The defence also focused on the death of Robert Verch, who was to appear as a witness in the first trial. He was found dead in February after being subpoenaed

by the defence, sparking a mistrial. No foul play was suspected.

Joseph Neuberger, who served as Ms. Rinella's lawyer, said it was disappointing that the case was declared a mistrial when they were so close to the end of the proceedings. Mr. Dietz was the last witness for the defence.

Edward Greenspan, Mr. Petraitis's lawyer, declined to go into detail about what caused the mistrial. "I think that's probably the one subject I cannot address," Mr. Greenspan said.

Had the proceedings continued, he said, his client would have been vindicated. "I believe that the end of this trial would have been an acquittal," he said.

Nonetheless, he said, what happened was "serious enough" the defence had to seek a mistrial.

Both defendants have been remanded to court on Dec. 7.

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