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Erie Times-News (PA)

Jury acquits driver of homicide

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Tag: trial0721

Section: News Edition: ETN LISA THOMPSON

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The prosecution called Kevin Imler's death a crime committed by Martin P. Allen, a man who drank to excess and then crashed his Mercury Mountaineer into Imler's motorcycle.

The defense called Imler's death an accident for which Imler was partly to blame.

The jury -- after nearly 16 hours of sometimes contentious deliberations -- on Monday came up with its own vision of what happened the night that Imler, 30, died at the intersection of West 12th and Liberty streets.

It found Allen guilty of driving drunk, but decided that Allen's intoxication -- nearly three times the legal limit for driving in Pennsylvania -- did not directly cause Allen to drive his vehicle into the path of Imler's Harley-Davidson.

The jury convicted Allen, 55, of two misdemeanor counts of driving under the influence: driving under the influence of alcohol to the point where he was not capable of safe driving; and driving under the influence of alcohol with a blood-alcohol content of 0.16 percent or more.

It also convicted him of a misdemeanor count of recklessly endangering another person.

But the jury acquitted Allen of the most serious charge he faced, homicide by vehicle while driving under the influence, a second-degree felony that carries a mandatory minimum sentence of three years in prison. The jury also declared itself unable to reach a verdict on the first-degree misdemeanor charge of involuntary manslaughter.

The split verdict came at about 11:30 a.m. Monday, the third day of jury deliberations in Judge Michael E. Dunlavey's courtroom.

Jurors left the courthouse without comment.

Sentencing is set for Aug. 31.

The verdict marked a victory for the defense, which sought both to discredit the blood-alcohol testing that showed Allen's blood-alcohol content less than an hour after the crash to be 0.21 percent, and to argue that Imler was partly to blame for the Aug. 21 collision.

"It is impossible to describe the degree of relief," Allen's lawyer, William

It is impossible to describe the degree of remorse," Allen's lawyer, William Weichler, said, describing Allen's reaction.

"I have never met a client with a greater sense of remorse than Marty Allen had for the loss of Kevin Imler," Weichler said. "He has told me in no uncertain terms if he could trade places with Kevin Imler today, he would."

Weichler said the jury apparently found either that Imler's conduct contributed to the crash or that Allen's negligence was not criminal.

Chief Deputy District Attorney Jack Daneri said he and the Imler family understood that the jury worked hard to reach its verdict. Dunlavey had reported on Thursday that he could hear jurors "screaming and yelling" at one another during their deliberations.

But Daneri said the outcome disappointed them, nonetheless.

He noted the defense raised a number of different arguments.

"It is tough to know what they bit on," he said.

Daneri said the jury apparently accepted that Allen was operating his vehicle with a 0.21 percent blood-alcohol content.

"What they did not believe was that level of alcohol was responsible for the death of Kevin Imler," he said.

The Erie County District Attorney's Office charged that Allen, then the plant superintendent at Erie Coke Corp., was driving west on West 12th Street at about 9 p.m. when he turned his company-owned sport utility vehicle left to travel south on Liberty Street. The vehicle collided with Imler, who was riding a 2007 Harley-Davidson motorcycle east on West 12th Street.

Police determined that Allen's blood-alcohol content was 0.21 percent and that Imler's was 0.09 percent. The legal limit for driving in Pennsylvania is 0.08 percent.

Allen testified that he had been drinking with friends and co-workers at the Huzars Club, 1122 E. 10th St., before the crash. But the defense maintained the alcohol did not impair him.

Weichler suggested that the machine that Hamot Medical Center used to test Allen's blood issued a faulty result because the laboratory did not properly maintain it. He also said the results were inconsistent with observations made by witnesses, including one police officer, who said Allen showed no signs of intoxication.

Allen told jurors he was trying to beat a yellow light at the intersection and turn south onto Liberty Street. He claimed he did not see Imler's motorcycle. "I made a mistake," he said.

One eyewitness to the crash, whose account did not match those of two other witnesses, said Allen's vehicle struck Imler when Imler sped up his motorcycle to beat the yellow light.

The prosecution countered there was no evidence that Allen's blood-test results were inaccurate.

Daneri pointed to two eyewitnesses who said Allen drove his vehicle suddenly in front of Imler's motorcycle while the light was green and while Imler had the right of way.

Daneri argued that Allen's decision to make a turn under those conditions proved Allen's impairment. He recalled that Allen told police the night of the crash that he thought he had hit a van.

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