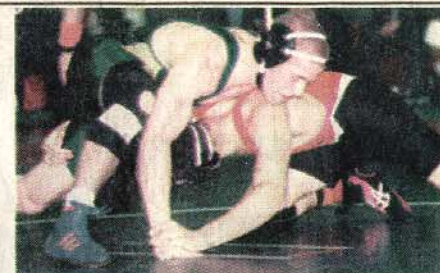


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Santa Cruz County

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Acquitted of murder



Bill Lovejoy/Sentinel

Jurors and other supporters embraced acquitted murder suspect David Turturici after the judge dismissed the jury.

Turturici jury deadlocks on manslaughter charge

By MAY WONG
Sentinel staff writer

SANTA CRUZ — The man accused in the county's first freeway killing was acquitted of murder Friday, and received warm hugs and handshakes from jurors who believed he was justified in shooting an unarmed motorist who had terrorized him for miles.

The seven-man, five-woman jury unanimously agreed that Aptos resident David Turturici did not intend to kill Rick E. Foster last year on Highway 1 in Capitola, but the panel was split 10-2 between self-defense and involuntary manslaughter.

"We absolutely believed David, that he acted out of self-defense," said jury forewoman Lynette Poncin. "He was at the wrong place and at the wrong time. It could have happened to any of us."

The verdict, announced just a day before the anniversary of the slaying, meant Turturici, 42, walked out of the courthouse Friday a free man, for the time being. He can no longer be charged with murder or voluntary manslaughter in the case. Prosecutors could, however, retry the case on any of the lesser charges, including involuntary manslaughter or a misdemeanor for carrying a loaded weapon in a car.

Turturici cried tears of joy while the verdict was read and nodded thanks to the panel, which had deliberated for five days after four weeks of trial testimony.

Behind him, two dozen of his supporters who had attended the trial nearly every day exchanged

What do you think?

What do you think of the verdict? Does it send a message that it's OK to use a gun in a freeway dispute? Or was this a rare case, as one juror said, where it was necessary for a person to act in self defense?

Call our NewsLine, 423-6397, enter access code 6105, and give us your opinion. You have 30 seconds to leave your message. Include your name (please spell it) and the city in which you live.

We'll print your comments in a story Sunday.



smiles.

On the other side of the courtroom, the half-dozen friends and relatives of the slain motorist sat quietly, their faces solemn, their eyes laden with disappointment.

"I get to go home now and tell my two kids that 12 people decided there was nothing wrong that David Turturici killed their father," the victim's ex-wife, Terry Foster, said later outside the courtroom. "It was not a victimless crime."

Foster, a 38-year-old software engineer who lived in the Summit ar-

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Turturici trial

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ea, was slain around midnight Feb. 8 on the northbound shoulder of Highway 1 in Capitola. He died from a single gunshot wound in his chest.

He was found dead near the 41st Avenue exit about 30 feet behind his car.

Turturici turned himself in to authorities a day later, after police already had linked him to the shooting from a license plate number Foster had scrawled on a piece of paper in his car.

No one saw the shooting. Two witnesses who were driving along the freeway that night testified they saw both cars pulled over on the shoulder — Turturici with his emergency flashers blinking, and Foster getting out of his red Mercury Capri convertible, walking “in an ordinary fashion” back to Turturici’s Mercedes sedan.

One witness who thought he saw part of the preceding freeway dispute testified that he saw Turturici’s sedan speed past him on Highway 17 with a red “sporty car” — Foster’s — in hot pursuit.

The case hinged largely on Turturici’s tearful account of the incident.

Taking the stand for two days, the San Jose restaurateur told the jury he was “petrified” of “this crazy driver.” He described how Foster — who was later found to be driving illegally with a blood-alcohol level of .13 — chased him all the way from Highway 17 in Los Gatos, tailgating him, flashing high beams, and cursing and spitting at him.

Turturici said he pulled his gun, which he had bought for protection while carrying cash for his restaurants, only to scare Foster.

He said he had hoped Foster would just drive on when he pulled over onto the freeway shoulder, but instead, Foster also pulled over and taunted him, unabashed at the sight of the gun. The two wrestled over the gun, and Turturici fired after Foster fell back for a moment, he said.

The prosecution thinks the verdict will send a bad message to the community.

“Basically it says someone could use a gun during a traffic dispute, and then they’re free to say whatever they want afterward, unchallenged,” Chief Deputy District Attorney Jon Hopkins said.

“I still have this underlying feeling that it’s not right to pull a gun on an unarmed person on the freeway,” he said.

Hopkins also said he was disappointed that the jury believed Turturici’s testimony.

“It seemed really fake to me,” he said.

Hopkins, who declined to have the jury polled in the courtroom, said he will review the jurors’ viewpoints before deciding whether to refile charges against Turturici.

If he does, a new trial date will be set Feb. 18.

Defense attorney Ben Rice said it would be “outrageous” for the prosecution to put Turturici on trial again.

“It would be shocking after such a strong showing of innocence,” Rice said.

Rice disagreed that the verdict legitimizes a call to arms for warring motorists.

“People should learn from this that they shouldn’t carry guns. The message is, carry a cell phone and leave the handgun at home,” Rice said.

Turturici, who did not own a cellular phone at the time of the shooting but now has one, said he does not want to touch a gun ever again.

“I’ve given a lot of thought to that. ... I don’t own a weapon any longer,” he said.

Turturici told a group of reporters outside the courtroom that he was sorry for what happened. He said he was sorry Foster was dead. He apologized for the pain the families involved had to endure, and the “disruption” to the community.

“I’m sorry for mankind in general, that something as horrible as what happened last year had to happen,” he said.

“Maybe we could all learn some lessons from this terrible ordeal,” Turturici continued. “I want to make a plea that people just get along and treat other people kindly ... and enjoy this paradise we live in.”

In an unusual show of sympathy for the accused, several jurors approached Turturici as soon as Municipal Court Judge Tom Kelly thanked them for their hard work and dismissed them.

Juror Christina Ann Jennings rushed to hug Turturici and said, “I’m sorry ...”

Others walked up and shook his and his mother’s hands. They told him, “God bless” and “take care.”

Several of the jurors who believed Turturici acted in self-defense said the prosecution did not prove the contrary “beyond a reasonable doubt.”

“The prosecution poked a few holes in Turturici’s testimony,” said juror Erik Larsen. “But in general, we had to go with what Turturici said ... and his testimony was the only evidence we had to decide whether Foster’s actions were threatening.”

Larsen, who works at the Resource Center for Nonviolence, said that though he strongly believes violence is not the way to resolve conflict, he believed the freeway shooting was one of the “rare instances it may be necessary for a person to act in self-defense.”

Juror Doug Howard, a PG&E worker who also voted for acquittal, said it was a “tough call” for him.

“I’m not saying I would have done what (Turturici) did. I don’t own a gun. I just don’t think anybody has to put up with somebody chasing him for 18 miles,” Howard said.

Another juror who declined to give his name said he had “no doubt” that Turturici never intended to kill Foster. He said he watched Turturici very carefully

during his testimony and was convinced the man feared for his life that evening.

“I believed him, that he was scared to pieces,” the juror said. “For all he knew, this guy could have kicked the (expletive) out of him.”

The jurors said they thought Turturici was justified to defend himself from a man who seemed intent upon hurting him. They said they thought Turturici’s fears were reasonable based on his account that Foster chased him, nearly ran into him, followed him on and off the freeway twice, then almost killed him during a struggle over the gun.

The two jurors who stuck to their belief that Turturici was guilty of involuntary manslaughter could not be reached for comment. Involuntary manslaughter is an unintentional killing that occurs during the commission of an inherently dangerous misdemeanor act, such as the brandishing of a gun.

Like many of the jurors, the two quickly departed after the verdict was read.

But according to some of the others, the two jurors firmly believed that Turturici was wrong to introduce a loaded weapon into the traffic dispute. The two were self-described conscientious objectors, those who are against violence.

Staff writer Robert Gammon contributed to this report.

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