



CRIME

# Retrying Karen Read would violate double jeopardy, lawyers argue in motion to dismiss

Judge Beverly Cannone took a motion under advisement to dismiss two of the three charges Karen Read is facing in the death of Boston Police Officer John O’Keefe.



Karen Read made an appearance at Norfolk Superior Court Friday for a hearing to dismiss charges against her. *John Tlumacki/Boston Globe Staff*

By **Abby Patkin**



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Retrying **Karen Read** on charges of second-degree murder and leaving the scene of a fatal accident would violate the rules of **double jeopardy**, lawyers for the Mansfield woman argued Friday.

Read's first trial **ended in a mistrial** July 1 after jurors told Judge Beverly Cannone they were "starkly divided" over the evidence in the high-profile case.

The defense is now asking Cannone to dismiss two of the three charges Read is facing in the death of her former boyfriend, Boston Police Officer John O'Keefe. To back up their request, Read's lawyers say they've received **information from five jurors** that the jury was only at an impasse on the charge of manslaughter while operating a motor vehicle under the influence. The Norfolk County District Attorney's Office has indicated that prosecutors **heard similar intel** from at least one purported juror.

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“I contend, judge, that ... we can’t just accept the fiction that the jury was at an impasse on all three counts, when four jurors are saying to you — through counsel — they were not, and a fifth juror is saying to counsel indirectly they were not,” defense attorney Martin G. Weinberg said in a hearing Friday.

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He argued that the jury's alleged consensus on two of the charges is enough to trigger double jeopardy and prevent prosecutors from retrying Read on those counts. Weinberg further suggested Cannone could either allow the jurors to verify the secondhand information provided by the defense in writing or schedule a hearing where the jurors could testify anonymously.

"I want the prosecutor to get the facts in the best way we can at this point in the case, which is through your honor. Order a hearing, judge," Weinberg said. "Don't make Ms. Read be the first person in the history of the commonwealth to face re-prosecution for murder by the same prosecutor's office that tried her once and failed to persuade the jury she was guilty."

Cannone did not issue a ruling on the motion to dismiss Friday, instead taking the matter under advisement.

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Prosecutors allege Read drunkenly and deliberately backed her SUV into O'Keefe following a night of bar-hopping in Canton in January 2022. The defense maintains Read was a "convenient outsider" framed in a widespread coverup between law enforcement and witnesses.

While Weinberg suggested the communication from jurors was ambiguous prior to Cannone's declaration of a mistrial, Assistant District Attorney Adam Lally argued that the jury's **final note** was clear and referred to "charges" in the plural.

He said the defense had ample opportunity to weigh in on and object to Cannone's mistrial declaration, also pointing out that the jury received lengthy oral and written instructions before its deliberations. As for the charges of second-degree murder and leaving the scene of a fatal accident, Lally noted jurors had a "simple choice" between checking boxes for "guilty" or "not guilty."

"Neither was checked," he said. "Neither was returned to the court at any point in time. There is no verdict in this case."



John O'Keefe's mother Peggy watches as attorney Martin Weinberg argues to have some of the murder charges dismissed against Karen Read. – *Greg Derr/Pool*

Further, he asserted that courts are not required to poll jurors on where they stand or whether they have reached a partial verdict. To Weinberg's suggestion of calling the

jurors back to court, Lally raised concerns about the external influences jurors have faced since the mistrial. He also pointed out that Massachusetts **case law** and the **Rules of Professional Conduct** bar lawyers from inquiring about the substance of jury deliberations, even if the juror is the one to initiate the conversation.

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Both the prosecution and defense say they've received information from purported jurors indicating that the jury's deadlock only concerned Read's OUI manslaughter charge and its lesser included offenses of involuntary manslaughter and motor vehicle homicide.

In a court filing last week, the DA's office said Lally received a voicemail alleging that the jury was "9-3 guilty on the manslaughter charges ... on the lower-level manslaughter charges."

And in an affidavit filed Monday, defense attorney David Yannetti said a juror who reached out to him opined: "No one thought she [Read] hit him on purpose or even knew that she had hit him."

Read's second trial is slated to begin Jan. 27, 2025.