

# Karen Read Can't Avoid Retrial Without Verdict, Mass. Says

By **Chris Villani**

Law360 (October 17, 2024, 9:01 PM EDT) -- Massachusetts prosecutors on Thursday told the state's top court that Karen Read, the woman accused of killing her police officer boyfriend in a case that garnered national attention, cannot escape a retrial by pointing to posttrial juror claims that the jury voted to acquit her on two counts, noting that a formal verdict was never rendered before a mistrial was declared.

The Norfolk County District Attorney's Office filed a 77-page brief responding to arguments by Read that no verdict is necessary to free her from two charges tied to the death of Boston police officer John O'Keefe.

Prosecutors say Read intentionally hit O'Keefe with her SUV on a January 2022 night after drinking and left him to die in the cold. In a September brief to the state's Supreme Judicial Court, Read argued that multiple jurors have come forward since her first trial ended in a deadlock to say that they had unanimously agreed that she is innocent of two of the three charges — including the top charge.

But the state argued Thursday that there is no way double jeopardy can spare Read a second trial when the jury never actually returned a public verdict.

"That requirement is not a mere formalism, ministerial act, or empty technicality," the state wrote. "It is a fundamental safeguard that ensures no juror's position is mistaken, misrepresented, or coerced by other jurors. It also protects each juror's right to rethink their position and to change their vote before reaching a final verdict."

Read has argued that "hyper formalism" is not a necessity, pointing to U.S. Supreme Court precedent in her opening brief. But the government argued that "certain purported jurors do not constitute acquittals," and that the trial judge was right not to bring the jury back for further questioning on the matter.

"That inquiry would necessarily require delving into the jurors' deliberations, which this court has consistently and firmly held impermissible," the state argued.

Outside experts have given Read's appeal long odds due to the deference given to juries and the formality typically required when adjudicating criminal cases.

According to Read's defense, five jurors came forward after the mistrial and said the panel agreed that she is not guilty of murder and a related charge of leaving the scene of a death. The jurors said they were deadlocked only on a lesser charge of manslaughter while under the influence, Read said.

Superior Court Justice Beverly J. Cannone declined to dismiss the charges on the basis that there wasn't an "open and public verdict affirmed in open court."

**Read's appellate attorney, Martin G. Weinberg of Martin Weinberg PC, said Thursday that Read's team will file a response ahead of oral arguments slated for Nov. 6.**

**"We continue to strongly believe that the trustworthy and uncontradicted statements of five of 12 jurors that there was a unanimous vote of not guilty and that any impasse was limited to one of**

**three counts should not be ignored given the core concerns of the historic double jeopardy protections safeguarding citizens against multiple prosecutions for the same charge," Weinberg said, adding that courts "regularly" hold posttrial hearings if there are credible claims of juror bias or untruthfulness.**

**"Evidence of an acquittal of murder should equally merit such a hearing," Weinberg said.**

A representative for the state did not immediately respond to a request for comment.

Massachusetts argued Thursday that there was no alternative to a mistrial after the jury repeatedly sent notes to Justice Cannone saying that they were deadlocked. Even if there were, Read had a chance to be heard on the issue before the mistrial was declared and passed on it, prosecutors said.

"Defense counsel consistently pushed for [a mistrial] in response to those notes, had ample time to prepare for a mistrial before it was later declared, and raised no objection despite multiple opportunities to do so," the brief said. "The defendant's personal assent to the mistrial was not required."

Read has maintained her innocence in a trial that brought scores of supporters to the Dedham courthouse. The defense claims that Read is being framed and that O'Keefe was beaten by other police officers inside a Canton home before being dumped in the front yard where he was found in the early morning hours.

Massachusetts is represented by Adam Lally, Pamela Alford and Laura McLaughlin of the Norfolk County District Attorney's Office.

Read is represented by Martin G. Weinberg of Martin Weinberg PC, David Yannetti of Yannetti Criminal Defense Law Firm, Michael Pabian of Michael Pabian Law and Alan Jackson of Werksman Jackson & Quinn LLP.

The case is Commonwealth v. Read, case number SJC-13663, in the Supreme Judicial Court of Massachusetts.

--Editing by Alex Hubbard.