

Karen Read Asks 1st Circ. To Intervene As 2nd Trial Looms

By **Chris Villani**

Law360 (March 18, 2025, 5:47 PM EDT) -- Karen Read on Tuesday asked the First Circuit to consider her so far unsuccessful bid to claim double jeopardy to avoid another trial for allegedly killing her boyfriend with her SUV, telling the panel that the trial judge assumed, but never verified, that the first jury was deadlocked on all charges.

Read's 100-page brief to the appellate panel largely echoes arguments she has already made to the judge who presided over her first trial, which ended with a hung jury, as well as to the state Supreme Judicial Court and a Massachusetts federal judge.

The Bay State woman, who is slated to be tried again on April 1, claims jeopardy should attach on the top count of second-degree murder and another charge of leaving the scene after several jurors came forward posttrial and declared that the panel had voted to acquit her on those charges.

The jury could not reach a verdict on the third charge, manslaughter while operating under the influence of alcohol, and never issued a verdict in open court.

Read told the First Circuit that Superior Court Justice Beverly J. Cannone should have probed the jury to see if a partial verdict was possible after the panel repeatedly told her they were at an impasse without specifying whether they could agree on anything at all.

"Contrary to longstanding federal as well as state case law, the trial court gave no consideration to any of the existing viable alternatives to a mistrial, nor was counsel consulted or given any opportunity to be heard in relation to the court's declaration of a mistrial, and the record does not reflect that the trial court considered the defendant's rights, reflected in the double jeopardy clause, to avoid the burdens and perils of a successive prosecution prior to declaring a mistrial," the brief states.

Read says the posttrial affidavits submitted by at least four jurors, which have not been contradicted by anyone else on the panel despite intense media coverage, are enough to spare her from another trial on those two charges.

"The affidavits, at the very least, entitled Read to a post-trial judicial inquiry to substantiate the acquittals, just as this court has required where a defendant comes forward after trial with evidence of juror bias or extraneous influence," the brief argues.

Read pointed to the First Circuit's ruling in March of last year that more fact-finding is needed to see whether two of the jurors who sentenced the Boston Marathon bomber to death lied about social media posts that may have shown they were biased.

Read argues that a defendant's Fifth Amendment right to avoid double jeopardy is no less vital than her Sixth Amendment right to a fair and impartial jury.

She said the case also "included substantial media publicity both before and after the trial," yet the First Circuit "ordered the district court to voir dire the jurors, nine years after the trial."

The argument sought to challenge the finding by U.S. District Judge F. Dennis Saylor IV that more than eight months after Read's trial ended, "the jurors' willingness to speak honestly about their

deliberations would surely be compromised."

Judge Saylor also found in last week's order that the affidavits could not trigger double jeopardy, as a verdict in open court would, and that Justice Cannone did not abuse her discretion in declaring a mistrial. His findings largely tracked with those of the SJC, which considered Read's double jeopardy claims before she turned to the federal courts.

Read's attorney and a representative for the Norfolk County District Attorney, which is prosecuting the case, declined to comment Tuesday.

According to the Commonwealth, Read intentionally hit her boyfriend, Boston police officer John O'Keefe, with her SUV after a night of drinking and left him to die in the cold.

The defense contends that Read was framed. Her attorneys argued O'Keefe was beaten by other police officers inside a Canton, Massachusetts, home before being dumped in the front yard.

The high-profile case has garnered local and national media attention, with scores of pink-clad Read supporters demonstrating outside the courthouse during her first trial.

Read is represented by **Martin G. Weinberg of Martin G. 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 Commonwealth of Massachusetts is represented by Caleb J. Schillinger of the Office of the Norfolk County District Attorney and Thomas E. Bocian of the Office of the Attorney General of Massachusetts.

The case is Read v. Norfolk County Superior Court et al., case number 1:25-cv-10399, in U.S. District Court for the District of Massachusetts.

--Editing by Drashti Mehta.