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Benno and sons acquitted on all but two counts, hung jury on two

By Jim Schultz , Record Searchlight

A Shasta County jury acquitted medical marijuana activist James Benno and his two sons Wednesday on all but two felony counts during their trial in Shasta County Superior Court, one of the three defense attorneys involved in the case said.

A mistrial was declared on those two concentrated marijuana-related counts, paving the way for a possible retrial on both of them.

Jurors, who began their deliberations late Tuesday morning, announced early Wednesday afternoon they were “hopelessly” deadlocked on the two felonies.

Those two hung counts are manufacture of a controlled substance and conspiracy to manufacture a controlled substance.

Superior Court Judge Dan

“It has been proven in court that the Benno collective was lawfully serving medical patients and not, as was charged, a cover for illegal activity. We hope no further public resources are wasted on this witch hunt.”

— Joseph Tully
Defense Attorney



James Benno, left, confers with defense attorney Joseph Tully after learning jury is deadlocked on two felony counts.

Flynn individually polled jurors to see whether there was still a possible chance that further deliberation might break the impasse.

But the jury forewoman said she did not believe any further deliberation would shatter the deadlock.

“Absolutely nothing would help,” another juror agreed.

Jurors were split 6-6 on both of the charges, but defense attorney Randall Schram said it won't be known until March 30 whether the Shasta County District Attorney's Office will seek a retrial on the two counts.

Benno's attorney, Joseph Tully, said in an email Wednesday evening he was pleased the jury found his client and sons not guilty on the bulk of the charges and hopes the DA's office does not attempt to retry the deadlocked counts.

“We headed into trial facing 17 counts and were vindicated on 15,” he wrote. “It has been proven in court that the Benno collective was lawfully serving medical patients and not, as was charged, a cover for illegal activity. They threw the book at the Bennos, including 10 gun charges, none of which survived. We hope no further public resources are wasted on this witch hunt.”

Defense attorney Ashley

Bargenquast, who represents one of Benno's sons, Logan, echoed those comments in the Wednesday evening email.

“The county has wasted countless resources on the foundless, prosecution of these men and we can only hope that they don't pursue it any further,” she said.

The jury's verdicts and deadlock come after Flynn, who took over the case earlier this month after Judge Stephen Baker disqualified himself from continuing to preside over the trial due to an apparent conflict, dismissed nine of 17 counts against the elder Benno last week.

The trial began nearly three years after the arrests of the now 51-year-old Benno and his sons, Logan, 22, and Jacob, 25, on illegal marijuana and weapon charges.

Benno and his sons, who are out of jail custody on bond, were arrested in a May 2014 raid at their 100-plant garden in Happy Valley.

But the felony charges involving growing and sales of marijuana were eventually reduced to misdemeanors due to the recent passage of Proposition 64, which legalized recreational cannabis use.

But that did not affect other charges, including

manufacturing a controlled substance and conspiracy,

According to the California Penal Code, the three face a maximum penalty of seven years in prison if retried and convicted of the remaining charges against them. ■