

Sports Law Update: Is the Clemens Trial Boring Jurors?

by Anthony Caruso on May 16, 2012

As a sports law attorney, I know that it is crucial to keep jurors engaged during a trial, no matter how dull the subject matter may be. According to the judge in Roger Clemens' perjury trial, both the prosecutor and defense attorney are not doing a very good job.

"Look at those people," U.S. District Judge Reggie B. Walton told the lawyers, gesturing toward an empty jury box before proceedings began.

"Those folk are fed up," Walton said. "You are boring the jurors. Somebody is going to pay a price for that."

Just prior to the judge's comments, prosecutors had spent several days introducing scientific evidence, photos, and records. Walton also raised concerns that jurors were already talking about the case before starting official deliberations, after a juror asked a law clerk when they would be advised of the charges.

"When you create a boring environment, which is being created in this case, it precipitates jurors to start talking about the case," Walton said. "They are bored."

To spice things up, prosecutors subsequently called three of Clemens' former trainers to the stand, although it is unclear if they helped the case. They all testified that they never injected Clemens with the pain killer lidocaine or the vitamin B-12, and that trainers and strength coaches were not authorized to administer such medications. As we discussed in last week's sports law blog post, Brian McNamee, Clemens' former personal trainer, contends he gave Clemens steroids and other banned substances.

Kirk Radomski, the former New York Mets batboy who provided banned substances to dozens of major league baseball players, also took the stand. He testified that he sent a shipment of human growth hormone to Brian McNamee at Clemens' home address in Texas.

According to media reports, Radomski's testimony reenergized the courtroom. He spoke so quickly and with such a thick Bronx accent that the court reporter had to repeatedly ask him to speak more slowly. He also stumbled over pronunciations and spellings, at one point saying: "Hey, I'm from the Bronx. I'm not a scholar." Describing himself as a "health nut," he suggested the judge get an "orthopedic chair" to deal with recurring back problems.

Of course, given his status as a convicted drug dealer, it is unclear how much influence his testimony will have the jurors. If nothing else, he certainly caught their attention.

Along with my colleagues in Scarinci Hollenbeck's Sports and Entertainment Law Group, I will continue to provide updates and analysis as the trial progresses. Stay tuned.