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Jurors say judge in Jeremy Johnson case had bias against defense

SALT LAKE CITY — Convicted businessman Jeremy Johnson claims in new court filings that a federal judge's comments and demeanor during his trial affected jurors' ability to be impartial.

One juror says the conduct of U.S. District Judge David Nuffer was "at times embarrassingly nasty" toward Johnson and Ryan Riddle, who represented themselves, and toward attorney Marcus Mumford, counsel for Scott Leavitt, according to a court affidavit.

Another juror reached the "unavoidable conclusion" that Nuffer was "very openly biased" for the prosecution and against the defendants and Mumford during the seven-week trial earlier this year.

Johnson and his lawyers, Karra Porter and Mary Corporon, who joined the case after his conviction, want the judge to consider the jurors' observations as part of a motion for a new trial and as factors in sentencing.

The 12-person jury convicted Johnson of eight counts of making false statements to a bank in connection with his once lucrative online marketing company, iWorks. It acquitted him of 78 fraud charges. Prosecutors are recommending he spend 14 to 18 years in prison.

Jurors found Riddle guilty on six counts of making false statements to a bank and acquitted Leavitt of all charges.

Assistant U.S. attorney Jason Burt argues in court papers that Johnson's request for a new trial is "legally frivolous" and claims that allowing the juror affidavits violates the court's order restricting contact with jurors after the trial ended.

"The motion is further evidence that Jeremy Johnson does not think any rules apply to him," Burt wrote. "Neither Johnson nor his counsel get to ignore court orders simply because he is Jeremy Johnson and whatever filings he makes are sure to draw press attention."

The two jurors are not named in the affidavits.

One identified as Juror No. 6 wrote, "I was very disturbed by what I witnessed during the trial."

Nuffer sometimes scolded or admonished Mumford, and tried to give the impression that he was out of line, the juror wrote. Jurors were "very uncomfortable and embarrassed" for Mumford when Nuffer put him in "time outs" when it appeared to them he was only trying to represent his client.

Juror No. 9 wrote about being "troubled" that Nuffer multiple times referred to making sure the record was correct "for the appeal."

"I felt like this was not OK because it seemed to the jury that the judge was assuming the defendants would and should be found guilty," the juror wrote.

During deliberations, it became commonplace for jurors to say "they can just appeal it" to justify their positions or sway others into cutting the discussion short, according to the juror's affidavit.

The juror also wrote that the defense was handcuffed because Nuffer would not allow "important" evidence, including witnesses, to discredit the prosecution.

In his reply, Burt wondered how the jurors have detailed knowledge of evidence that wasn't admitted.

"How do they know about arguments the United States has raised in its response to Johnson's motion for a new trial and why do they seek to offer substantive responses to those arguments?" he wrote.

Burt noted the motion "curiously" refuses to disclose how the affidavits were obtained.

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