

DEATH-PENALTY CASE

All-white jury picked for Parker trial

One alternate is only black chosen for duty

By MATT GRUTA

News Staff Reporter

A jury of eight women and four men — ~~none of them African-Americans~~ — has been selected in the trial of Jonathan Parker, who is charged with the murder of a Buffalo police officer last year and could face the death penalty if convicted.

Parker, 20, of Titus Avenue, who is black, is accused of killing Officer Charles "Skip" McDougald and wounding Detective Michael Martinez during a confrontation on Northampton Street on April 9, 1997.

One African-American woman is among the five female and four male alternate jurors who also were sworn in.

Opening arguments are set to begin Sept. 9 in what will be the first death-penalty case in Buffalo in almost 40 years. The trial is expected to last six weeks.

A key factor in the jury-selection process was that jurors had to state that they would be willing to consider both the death penalty and life in prison without parole if they vote to convict Parker.

Court sources familiar with Thursday's jury selection proceedings said prosecutors routinely opted to have prospective African-American jurors dropped from the



Buffalo News file photo

Court sources said prosecutors in the case of Jonathan Parker, above, routinely opted to have African-Americans dropped from the jury because of their stated opposition to imposing the death penalty.

jury pool because they said they opposed the death penalty.

Erie County Judge Michael L. D'Amico, prosecutors and Parker's attorneys, James P. Harrington and John V. Elmore, all declined to comment on the jury-selection process, which began July 6 with 808 prospective jurors.

Thursday, 91 men and women, about 10 percent of them African-American, were called back to court for the first votes by the rival attorneys on the jury itself.

Parker's attorneys rejected a

black Buffalo firefighter from the jury with one of their challenges, according to court sources. They did not have to give a reason for excluding him.

African-Americans rejected Thursday included a teacher, a male nurse, a former Marine, a Thruway toll taker and an employee of the Buffalo Board of Education.

D'Amico agreed that the prosecutors rejected the prospective African-American jurors for what he

See Parker Page A8

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Parker: Defense team objected to racial makeup of jury pool

Continued from Page A1

called "race-neutral reasons," meaning that their concern was the individual's opposition to the death penalty.

Throughout the jury-selection process, defense attorneys complained about the racial makeup of the jury pool.

"For the defense, it's troubling, but it's doubtful that it's going to be trouble," observed University at Buffalo law professor Charles E. Carr. "They'd have to show a pattern of deliberate discrimination against an identifiable group."

Carr said Thursday that willingness to impose the death penalty "has traditionally been a sticking point" in jury selection for capital-punishment cases. Opposing it, he noted, "is tantamount to saying they couldn't follow the legal instructions from the judge."

Opening arguments in the trial — which will include a penalty phase should Parker be convicted — were pushed back a day to allow one of the female jurors to complete a previously scheduled West Coast vacation, court sources said.

McDougald, 36, the father of four, was the first Buffalo police officer killed in the line of duty in more than 27 years.

McDougald and Martinez, then a patrol officer, were shot after they allegedly ordered Parker to stop for questioning on Northampton. The two officers had previously arrested Parker.

Parker has been serving a 15-year prison term on unrelated gun charges since shortly after the fatal shooting.

News Staff Reporter Dale Anderson also contributed to this report.

No usable prints found on card or gun tied to Parker case

By MATT GRYTA
News Staff Reporter

The business card of a county probation officer that Jonathan Parker met with less than 12 hours before the murder of a Buffalo police officer was found in a leather jacket discarded hours after the killing, the jury at Parker's death-penalty trial learned Wednesday.

Det. Sgt. Henry Smardz, chief of the Buffalo Police Evidence Collection Unit, testified that he was unable to find any usable fingerprints on that business card after the head of the Central Police Services lab found it some hours after the fatal shooting of Officer Charles "Skip" McDougald.

Smardz also testified that he could not find any identifiable latent fingerprints on the murder weapon, a 9 mm handgun, which,

like the jacket, was found on Urban Street two blocks north of where McDougald, 36, and Detective Michael Martinez, now 30, were shot about 12:50 a.m. April 9, 1997, on Northampton Street.

Parker, 20, is on trial for first-degree murder before Erie County Judge Michael L. D'Amico and a jury of seven women and five men. He faces a possible death penalty if convicted.

An 11th day of testimony gets under way today.

Smardz testified that he conducted inconclusive fingerprint tests on the business card, the murder weapon and Parker's pager, which had also been found in discarded jacket.

The jury also learned Wednesday that Michael B. Dujanovich, director of the Erie County Central Police Services lab, found in a

pocket of that jacket the business card of Richard Carter, the probation officer dealing with Parker after he had pleaded guilty in March 1997 to three gun charges.

Parker, the jury learned, had been interviewed by Carter less than 12 hours before McDougald was murdered. Dujanovich testified he found Carter's business card in the left inside pocket of the jacket.

Also Wednesday, Detective Charles Wilson of the evidence unit showed the jury McDougald's bullet-holed and blood-stained police shirt and Martinez's police pants with a bullet hole about four inches from the bottom of the right leg and a blood-stained sock containing a bullet hole from the bullet that shattered Martinez' right ankle.

Buffalo Police Officer Deana Hoefler told the jury Wednesday

that McDougald showed no signs of life as she held him in her lap in the back seat of the patrol car McDougald had been driving that morning as another officer drove them to the Erie County Medical Center moments after the shooting.

Officer Hoefler, one of the first officers to respond to Martinez's radio call for help, said she had to pull the limp McDougald into the back seat of patrol car for the trip to the hospital where he was officially declared dead just shortly after 1 a.m. that morning.

Wiping away tears, Officer Hoefler testified that on that high-speed ride she kept calling out McDougald's name to see if he would react and kept pressing her hands on his chest to try to stop the bleeding.

Parker: Protest says jury makeup not representative of community

Continued from Page B1

Lott said, but at the time, "it seemed like forever," before her vehicle drove away after Martinez had emerged from the passenger side of the patrol car.

Mrs. Lott said she did not know that McDougald had been killed until later that day, after she turned on the television in her West Side home about midday.

She acknowledged that she did not report what she saw to police but "continued my everyday life like nothing happened" until an investigator working for the Parker defense team contacted her days after the shooting. She later was called to testify before the grand jury that eventually indicted Parker.

Ms. Lott testified that in January or February of 1997, she alerted police that her husband had stolen her car during a domestic dispute they later resolved. She said McDougald arrested the husband in the car on April 8, 1997.

When she went to the Genesee Station to retrieve the car, Mrs. Lott testified, she had an encounter with McDougald, who she said gave her a ticket for not reporting the recovery of her car earlier.

She said McDougald also gave her a ticket for allowing her car, which was registered to her mother, to be driven that April by her husband, who lacked a valid driver's license.

As the trial began, Marusak assured the jury and Erie County Judge Michael L. D'Amico that they would be hearing from the Lotts and three others who saw Parker fleeing down East Parade

Avenue after the shooting, still holding a 9mm handgun.

In his opening statement, Marusak said Parker "intentionally gunned down" McDougald and shot Martinez because he thought that being stopped would lengthen the prison term he faced on his guilty plea a month earlier in three unrelated weapons cases.

Marusak told the jury that McDougald, a father of four who also worked as a substitute teacher in Buffalo schools, returned gunfire, even though he was mortally wounded.

McDougald was not wearing a bulletproof vest, Marusak said. The officer was waiting to be fitted for a new vest because a strap had broken on the one that he had been issued, Marusak said.

With McDougald's widow sitting in the front row of the spectator area, Harrington urged the jury to keep an open mind about the testimony they will hear in the next month, assuring them that their view of the case will change.

One juror had to be excused, and was replaced by an alternate.

The trial began after several African-American men conducted a peaceful rally outside the downtown courthouse protesting the fact that there is an all-white jury, rather than a jury that reflects the racial composition of the community, and seeking "justice for Jonathan Parker."

The trial could take up to six weeks. If Parker is found guilty of first-degree murder, the jury would decide whether he should face the death penalty of life imprisonment without parole.