



ARIZONA JUDGE DECLARES MISTRIAL IN THE CASE OF A RANCHER ACCUSED OF FATALLY SHOOTING A MIGRANT - ASSOCIATED PRESS

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An Arizona judge declared a mistrial Monday in the case of a rancher accused of fatally shooting a Mexican man on his property near the U.S.-Mexico border.

The decision came after jurors failed to reach a unanimous decision after more than two full days of deliberation in trial of George Alan Kelly, 75, who was charged with second-degree murder in the Jan. 30, 2023, shooting of Gabriel Cuen-Buitimea.

"Based upon the jury's inability to reach a verdict on any count," Superior Court Judge Thomas Fink said, "This case is in mistrial."

The Santa Cruz County Attorney's Office can still decide whether to retry Kelly for any charge, or drop the case all together.

A status hearing was scheduled for next Monday afternoon, when prosecutors could inform the judge if they plan to refile the case. Prosecutors did not immediately respond to emailed requests for additional comment.

Kelly was charged with second-degree murder in killing of Cuen-Buitimea, 48, who lived just south of the border in Nogales, Mexico.

Prosecutors said Kelly recklessly fired nine shots from an AK-47 rifle toward a group of men, including Cuen-Buitimea, about 100 yards (90 meters) away on his cattle ranch. Kelly has said he fired warning shots in the air, but he didn't shoot directly at anyone.

Court officials took jurors to Kelly's ranch as well as a section of the border. Fink denied news media requests to tag along.

After Monday's ruling, Consul General Marcos Moreno Baez of the Mexican consulate in Nogales, Arizona, said he would wait with Cuen-Buitimea's two adult daughters on Monday evening to meet with prosecutors from Santa Cruz County Attorney's Office to learn about the implications of a mistrial.

"Mexico will continue to follow the case and continue to accompany the family, which wants justice," said Moreno. "We hope for a very fair outcome."

Kelly's defense attorney Brenna Larkin did not immediately respond to an emailed request for comment after the ruling was issued. Larkin had asked Fink to have jurors keep deliberating another day.

Kelly had earlier rejected an agreement with prosecutors that would have reduced the charge to one count of negligent homicide if he pleaded guilty.



Kelly was also charged with aggravated assault that day against another person in the group of about eight people, including a man from Honduras who was living in Mexico and who testified during the trial that he had gone into the U.S. that day seeking work.

The other migrants weren't injured and they all made it back to Mexico.

Cuen-Buitimea lived just south of the border in Nogales, Mexico. He had previously entered the U.S. illegally several times and was deported, most recently in 2016, court records show.

The nearly monthlong trial coincided with a presidential election year that has drawn widespread interest in border security.

Fink had told jurors that if they could not reach a verdict on the second-degree murder charge, they could try for a unanimous decision on a lesser charge of reckless manslaughter or negligent homicide. A second-degree murder conviction would have brought a minimum prison sentence of 10 years.

The jury got the case Thursday afternoon, deliberated briefly that day and then all of Friday and Monday.