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Appellate court hears Mario Casciaro's Johnsburg murder appeal

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ELGIN – Attorneys made oral arguments Monday before a panel of three judges who will now decide whether to overturn or affirm the first-degree murder conviction for Mario Casciaro.

The key issue before the Second District Court of Appeals in Elgin is whether or not asking someone to "talk to" another amounts to a specific threat, and whether that's enough to uphold a murder conviction.

Casciaro was found guilty of first-degree murder with intimidation stemming from the 2002 death of 17-year-old Brian Carrick. Casciaro's appellate attorney says it's the first conviction of its kind in the state, if not the country.

"I hope this doesn't become the standard," Kathleen Zellner told the panel of judges.

Casciaro was sentenced him to 26 years in prison.

Appellate Justices Kathryn Zenoff, Susan Hutchinson and Robert Spence will consider the arguments though it's unclear how long it will be before they issue a decision. It could be weeks or months.

Prosecutors have successfully argued that Casciaro used another man – Shane Lamb – as the "muscle" to intimidate Carrick into paying a drug debt. Evidence presented at trial revealed that Casciaro would front the teens marijuana, and they would pay Casciaro once the drugs were sold.

According to trial testimony, Carrick owed Casciaro money, so Casciaro called Lamb into the Johnsburg grocery store where all three worked to "talk to" Carrick. An argument between Lamb and Carrick turned violent.

But Zellner says there is no evidence that Casciaro phoned Lamb to return to the grocery store, other than Lamb's testimony.

"We dispute entirely that that conversation occurred," Zellner said. "There is no evidence that phone conversation ever occurred. ... Not a single person ever saw Mr. Lamb return to the

store that night."

Zellner also said the crime didn't happen the way the state presented. She said another teen – Robert Render – was responsible for the death, and said it didn't occur in the cooler, but in the hallway leading into it.

Lamb was granted full immunity from murder charges in exchange for his testimony against Casciaro – a fact that jurors were aware of at trial, and still believed his testimony, Appellate prosecutor David Bernhard said.

Lamb has since recanted that entire testimony, saying prosecutors put him up to it. Lamb was convicted earlier this year on unrelated weapons charges and was sentenced to 20 years in the Illinois Department of Corrections.

Zenoff asked appellate prosecutor Bernhard whether or not Lamb's presence alone was enough to intimidate Carrick.

Based on his dominating physical size, his violent criminal history and the fact that Lamb "muffed" Carrick, or pushed him by the face into the cooler would have scared Carrick, Bernhard said.

"I think that certainly gives you enough reason to be intimidated if you were Brain," Bernhard said. " ... It's clear the jury made the reasonable inference that this would scare him."

There are a few possible results that could come on Casciaro's appeal. The justices could affirm the conviction, they could overturn it and send it back to McHenry County for trial, or they could reverse the verdict outright.