RETRIAL CLEARS MAN OF MURDERS 1979 TRIPLE-SLAYING SUSPECT NOW FACES LESSER CHARGES

Frank (**Frank** Nitti) **Usher** , who has been serving a life sentence for a notorious 1979 triple beheading, was ordered acquitted of those murders Thursday.

Recorder's Court Judge David Kerwin found that **Usher** himself was to have been one of the victims. The fact that **Usher** somehow survived the drug-related slayings is not sufficient evidence, Kerwin ruled, to convict him of the killings.

But Kerwin ordered **Usher** 's trial to continue on a lesser charge of being an accessory to murder after the fact, which carries a maximum five-year penalty. Final arguments are scheduled for this morning.

The jury, which had heard a week of graphic testimony about hired killers recruited from California to settle a dope feud and about the decapitation of the victims, took Kerwin's announcement with no visible reaction.

Usher , who has served six months of an almost 16-year federal drug sentence, smiled broadly, tilted back in his chair and clapped defense attorney Steven Fishman on the back.

Co-defense attorney Patricia Streeter took a set of worry beads from **Usher** 's hands, saying, "You don't need them now."

The outcome of the continuing trial could have an effect on how soon **Usher** could be eligible for parole. He has been imprisoned for almost 10 years since he was convicted of first- degree murder in the killings at the Federated Democratic Club at 43 E. Garfield and sentenced to life in prison without parole.

Usher 's conviction in the killings was overturned because of faulty jury instructions and because the prosecution did not reveal the special treatment given star witness Cynthia Skeen, who admitted helping bring the hired killers to Detroit.

After a full day of argument from Fishman and assistant Wayne County prosecutor James Metz, Kerwin said there "is no evidence that supports any theory that Mr. **Usher** participated in any premeditated act or planning by any persons to kill the individuals. . . . The only factor for a possibility or supposition -- and that's not enough -- is that Mr. **Usher** is alive."

Metz told Kerwin the decision would be appealed if possible.

Usher was charged in the murders of Joann Clark, Willie McJoy and Willie Perry Jackson at the private social club owned by Adolph (Doc Holiday) Powell. The victims -- all affiliated with **Usher** 's narcotics operation -- were shot and beheaded.

According to testimony, **Usher** and Powell -- both drug dealers -- were at odds and Powell brought in James Freeman and Robert Partee to kill **Usher** .

"There is no question . . . that the target of the hired killers was to be **Frank Usher** ," Kerwin said. "Red and Lefty were the sure-enough killers in this case and hired by Doc."

Kerwin said testimony that "Red" Freeman and "Lefty" Partee ordered **Usher** to "sit down and shut up" during the killings showed that **Usher** took no part in the killings.

That **Usher** somehow survived -- possibly buying his life with drugs or money -- does not mean that he was in on the killings, Kerwin said.

Testimony that **Usher** may have helped decapitate the victims and may have helped in a later cover-up should be considered as evidence of being an accessory after the fact, Kerwin said.

Of all the people charged with the killings -- **Usher** , Powell, Freeman, Partee and Benny (Shorty) Fountain -- only Partee's conviction still stands.

Charges against Fountain were dismissed before trial and Powell and Freeman were acquitted. Powell was later killed amid speculation that he'd become a police informant, and Freeman, with several drug and gun convictions, was sentenced to life in prison last year as a habitual criminal.

CUTLINE

Frank (**Frank** Nitti) **Usher**

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Caption: Photo

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