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Defense expert in Oyler murder trial suggests multiple arsonists



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A defense expert in the Raymond Lee Oyler arson and murder trial said Monday he believes two or possibly three arsonists were setting blazes in the San Geronio Pass in 2006, based on the differences of recovered cigarette-and-match devices.

The prosecutor said the expert was overlooking similarities among the devices and ignoring improbabilities, such as the lack of overlap among fires set with different kinds of gadgets.

Oyler, 38, is charged with arson and five counts of murder for starting the Esperanza Fire on Oct. 26, 2006. The early-morning fire was started in Cabazon and was pushed by Santa Ana winds up the San Jacinto Mountains.

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It overran five U.S. Forest Service firefighters defending a home in the mountain community of Twin Pines. Oyler is charged with setting 23 fires in the San Geronio Pass between May and October 2006, including the Esperanza blaze.

He faces the death penalty. He has pleaded not guilty to all 45 charges.

David M. Smith, a private fire investigator from Arizona, testified that similar devices -- a cigarette surrounded by matches and secured by a rubber band -- were used in three fires set on May 16 and for the Oct. 26 Esperanza Fire.

"I believe it is the same person" who used the devices for the first and last fires of the series Oyler is charged with, Smith told defense attorney Mark McDonald.

Smith said he believed another arsonist used devices in which a row of matches were set over a burning cigarette as a timing device, which became known in the case as the "lay-over device," used in 10 fires between June 3 and July 2, 2006.

Two of the cigarettes used in those fires were found to have Oyler's DNA on them, and Deputy District Attorney Michael Hestrin asked Smith if that meant all 10 of the lay-over fires were set by Oyler.

"You could extrapolate that ... those 10 devices are from the same person," Smith said.

A third device returned to matches bound to a lit cigarette with a rubber band, but with far fewer matches -- five to seven -- than the original May 16

trio of devices that had 31 to 33 wooden safety matches.

Smith said he based his conclusions on arsonists' needs to have a "signature" device.

"This is something of an 'in-your-face' ... to let the law enforcement and fire community know they are doing it," Smith testified about signature devices.

He also told McDonald that one arsonist can inspire copycats. "It happens all the time ... it is very, very typical that one arsonist starts a string that the other arsonists join in."

During cross-examination, prosecutor Hestrin asked Smith about similarities between the devices, and suggested Smith's view of an arsonist was a "robotic" criminal who could "never, never vary from that device for any reason."

"I would say it is possible, but not probable," Smith said.

Hestrin suggested that if an arsonist was trying to set a bigger fire, he or she might try different devices. And that they might switch if they were spotted by witnesses, as prosecutors claim Oyler was by three people at the end of the lay-over series of fires.

Hestrin also noted that under the scenario of separate arsonists, there was no mix in the use of devices.

"Did you consider they seem to have politely waited for one to finish their work before (the next one) started?" he asked.

In other testimony, a DNA expert from a private lab hired by the defense testified that a rubber band retrieved from one of the May 16 devices yielded a DNA sample that did not match Oyler's.

Under questioning by Hestrin, the expert said the DNA sample was degraded and not a full profile, and that she could not conclude whether the DNA that was found had anything to do with the blaze.

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