

Judge slaps renowned Spector expert over missing

by Matt Krasnowski

LOS ANGELES - Possibly undermining a key witness for Phil Spector, a judge concluded Wednesday that world-famous forensic expert Henry Lee took potential evidence from the scene of actress Lana Clarkson's death and didn't give it to prosecutors.

But the decision by Superior Court Judge Larry Paul Fidler hardly settled a sideshow controversy over what prosecutors say is a piece of a fake fingernail. The dispute will most likely play out before jurors during testimony in Spector's murder trial next month.

Prosecutors have complained for years that Lee may have removed evidence he found a day after the Feb. 3, 2003 shooting death at Spector's mansion. But Lee and former Spector lawyers have flatly denied it.

The controversy flared again earlier this month. Prosecution suspicions were bolstered this time by former Spector lawyer Sara Caplan, who said that she saw Lee collect a small, white item and place it in a vial while in the mansion's foyer.

Lee testified last week that Caplan was mistaken. But two other former defense team members - a law clerk and an investigator - said they saw a small item being handled in the foyer, supporting Caplan's testimony to a degree.

In his ruling, Fidler sided with Caplan.

"Dr. Lee did recover an item. It is flat, white, with rough edges. I cannot say if it is a fingernail. It has never been presented to the prosecution," Fidler said during a hearing with jurors out of the courtroom.

"If I have to choose between the two, I am going to choose Ms. Caplan is more credible than Dr. Lee," Fidler said. "Dr. Lee has a lot to lose if this turns out to be true."

Despite his decision, Fidler did not find the criminalist in contempt of court and rejected a prosecution request to tell jurors that Lee is not a credible witness.

But Fidler allowed prosecutors to call witnesses before the jury to contradict Lee and the judge said he would

later deliver an instruction to jurors about the alleged fingernail piece.

Outside of court, defense lawyers said they still plan to call Lee to testify.

Lee's expected stint on the witness stand is critical to the Spector defense, which contends that Clarkson, 40, shot herself. Lee is expected to testify that blood drops on Spector's clothes show he was not close enough to fire the gun that killed her.

Before Fidler ruled, Deputy District Attorney Alan Jackson displayed a photograph prosecutors recently received from Lee, which they said showed a white object on the wooden first step of Spector's stairway. Lee said it was a gouge in the wood.

"This is clearly a white, flat item sitting atop a wood grain area," Jackson said. "Is he lying or is he incompetent? Either way, it's not the truth. That is clearly not a gouge."

Jackson's co-counsel Patrick Dixon said he believed Lee "pocketed" the item, which could have undermined Spector's defense. Dixon said a fingernail piece could have showed that Clarkson's hand was in front of her face when the shot was fired, so "her hands and her fingers were not on the trigger."

A coroner's report states that Clarkson's right thumb is missing a piece of acrylic fingernail.

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