

Buju still walks tightrope

Cocaine trial ends in hung jury; retrial set for December

BY PAUL HENRY Observer staff reporter henryp@jamaicaobserver.com
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TAMPA, Florida — The closely watched cocaine trial of Reggae superstar Buju Banton was yesterday declared a mistrial as jurors were unable to arrive at a verdict following three days of deliberations.

Judge Jim Moody made the declaration following an application by Banton's lawyer David Oscar Markus after jurors, for a second time yesterday, informed the court that they were unable to reach a decision as to the artiste's innocence or guilt.

Reacting to Moody's decision, one relieved supporter of the artiste punched the air in approval.

Other supporters, who sat for a few anxious minutes before the jurors were ushered inside the number 13 courtroom, were also relieved at the development, as they would express later.

Still, the artiste, whose real name is Mark Anthony Myrie, is not yet out of woods as he will face retrial in December. A date yet to be set.

Not wanting his client to spend the next three months in jail before the second trial starts, Markus immediately applied for bail on Banton's behalf, but was told by Moody to file the relevant documents, which is expected to be done today in the Sam M Gibbons Federal Court, where the trial was being held since last Monday.

The application will not be heard today as the prosecution will need time to respond in writing to the motion.

Markus had told the court yesterday that his client was not a flight risk, nor did he pose a threat to the society.

The lawyer added that the court could — if minded to grant bail — stipulate that the artiste wear a tracking device.

But should Banton be offered bail, he faces detention by immigration officials who would seek to have him deported to Jamaica as his entertainment visa was revoked when he was arrested at his Florida home December 10, 2009 and charged with conspiracy to possess and distribute five kilograms of cocaine and possession of a firearm during the furtherance of a crime.

Markus told the court yesterday that this was the reason Banton was not previously offered bail, noting that he would apply for bond in the immigration court so the artiste could face his retrial and not be deported should he be granted bail in the federal court.

The 37-year-old artiste was arrested hours after his friend Ian Thomas and James Mack were busted during a sting operation at a warehouse purchasing five kilograms of cocaine from undercover drug enforcement agents. Mack was carrying the gun for which Banton was jointly charged. Both Thomas and Mack have since pleaded guilty and are to be sentenced in November.

Had Banton been convicted yesterday, he faced the possibility of being sentenced to life imprisonment and slapped with millions of dollars in fines.

The US Government had contended that Banton was in a conspiracy with Thomas and Mack to possess and distribute the illicit drug.

Jurors were last Thursday asked to determine if Banton was a part of the crime committed on December 10 when Thomas and Mack were arrested. But at the weekend the 12-member panel could not arrive at a verdict and resumed deliberations yesterday morning.

After deliberating for a few hours yesterday morning, the jurors sent Judge Moody a note stating that they were still deadlocked after reviewing the evidence presented.

"I don't know if we will get to a final decision. We don't feel that we will progress, so could you provide further instructions? Since Thursday we have been reviewing evidence, nobody has changed their minds from their original (positions)," the jury foreman's note read.

After the court was informed of the jurors' plight, Markus filed his first motion for a mistrial, which was rejected by Judge Moody, who instructed the jurors to take their time in coming to a final decision.

"Be as leisurely as the occasion may require," Moody advised, while instructing that none of the jurors should yield their "conscience decision".

That episode resulted in heightened anticipation among Banton's supporters who, thereafter, delved deeper into reading of the scriptures aloud on the fifth floor of the multi-storey building where they waited anxiously.

As they read in unison from the Psalms and other books of the Bible, they interjected the artist's name into key areas of passages.

The jurors' second and final note to the court came around 3:15 pm (Tampa time), following the lunch break. Again, the jurors were not able to come to a unanimous decision on Banton's fate.

And again, the anxiety level rose, as supporters rushed into the courtroom not knowing what to expect.

Banton, dressed in a white long-sleeve shirt and cream-coloured pants, was already seated beside his attorneys. He appeared nervous, but held a straight face, just moments before the jurors informed of their indecision at 3:20 pm.

Markus then moved the unchallenged motion for the declaration of a mistrial.

Jurors were afterwards tight-lipped and refused to discuss the matter with journalists.

"It was different. That's all I can say," a female juror responded when asked by the Observer about the deliberations.

Though this was not the outcome they prayed for, Banton and his supporters appeared relieved.

Following the adjournment, Banton hugged his lawyer and chatted for a while.

"We are still alive," Markus said, trying to lift Banton's spirit. Markus then walked over to the throng of supporters, slightly pumping his fist while repeating, "We're still alive!"

Turning to the supporters Banton said, "Thanks, everyone," in a low tone.

"We love you, Buju!" said a female supporter.

"Love you, too," Banton replied, before being led away.

Banton, through his attorney, later thanked the many loyal supporters who stayed by him following his arrest and during the trial.

"Buju wants to really thank everyone for their support," said Markus in one of his many post-trial interviews.

The attorney also knocked the US Government's case and expressed confidence in a victory come December.

"The Government tried to prove its case beyond a reasonable doubt and did not do it," Markus told journalists. "We are confident, we can't wait for the next trial to prove that he is not guilty. The next trial will be better for us."

Markus had contended during the trial that his client was entrapped by the US Government. The prosecution, led by James Preston, however said that Banton is a drug dealer and that he made arrangements with confidential informant Alexander Johnson to distribute the illegal drugs.

Yesterday, a sombre Traci McGregor, Banton's manager, struck a philosophical tone.

"His body is locked away but Buju is with us through his music," she said.

Banton's trial climaxes a day ahead of the planned release of his highly-anticipated album, titled Before the Dawn. McGregor said that the album release will go ahead as planned.

Supporters were holding faith that Banton's acquittal would have been reason for a double celebration. Still, they are "thankful for small mercies".

"At least it's not a guilty verdict," Afrette 'Hopie' Miller told the Observer. For his part, entertainer Wayne Wonder added: "We just have to keep positive. We just have to keep praying. It's not over yet, but this is still better than a guilty