

Schuster kept her cool on the stand Impact of her testimony on jurors is unknown as trial resumes this week.

Chris Collins The Fresno Bee
2007-11-26

During almost three full days on the witness stand, a smartly dressed Larissa Schuster kept her calm under tough questioning, displayed a strong knowledge of her field in chemistry, and often looked jurors in the eye. She even smiled once in a while.

Schuster's composed persona impressed at least one juror. During a break in Schuster's Nov. 15 testimony, a juror gave Schuster a brief thumbs-up sign -- a rare display of overt approval, experts say.

The juror, a woman who appears to be in her 50s, later told the judge she was "very impressed" with Schuster's intelligence and the way she handled herself on the stand.

But can Schuster -- accused of killing her estranged husband and disposing of his body in a barrel of acid -- charm her way out of a murder conviction?

Experts say that is unlikely, unless the evidence against her is weak or unclear. Schuster's testimony continues today in a Los Angeles County courthouse in Van Nuys after a weeklong Thanksgiving break.

"In the end, the evidence overwhelmingly accounts for the decision made by juries," said David S. Davis, a Texas trial consultant for 20 years who has interviewed thousands of jurors about their experiences.

But what about the thumbs-up sign? For now, Judge Wayne Ellison of Fresno County Superior Court has allowed the juror-- identified only as juror No. 79 -- to remain on the panel.

Neil Kressel, a psychology professor at William Paterson University in Wayne, N.J., who has closely studied juror behavior, said the gesture is difficult to interpret.

"The thumbs-up thing has me wondering," he said. "You only need one juror to hang the trial." But then again, Kressel said, the juror's gesture may have been a "momentary response" to an impression that Schuster is too decent and well-educated to have killed her husband. When the evidence is rehashed during deliberations, that impression could quickly fade, he said.

Former Fresno County District Attorney Ed Hunt agreed. He said the prosecution has no reason to panic. "Just because one juror gave [Schuster] a thumbs-up doesn't mean she's stealing the show," he said.

Schuster's own defense attorney, Roger Nuttall, dismissed the juror's gesture as relatively insignificant, saying, "I didn't think it was much of a big deal."

Prosecutors say Schuster, a 47-year-old former biochemist from Clovis, was going through a divorce in July 2003 when she broke into her husband's house late one night and -- along with her former employee, James Fagone -- kidnapped Timothy Schuster and stuffed him into a 55-gallon barrel. Fagone testified in his trial last December that Larissa Schuster then poured acid into the barrel. A jury found Fagone guilty of first-degree murder for his role in the killing.

Schuster has testified that she never was involved in the crime. She says Fagone confessed to her that he and his friends murdered her husband. But because she feared becoming a suspect and ruining a planned vacation with her 12-year-old son, Schuster says, she helped Fagone hide the body rather than call police.

Juror No. 79 told the judge she still has "questions" about Schuster's version of events. But Terri Lopez, Schuster's former manicurist and a key prosecution witness, wonders how the juror could give her a thumbs-up if she didn't believe her story.

"You cannot convince me that she has not already formed an opinion," Lopez said. Schuster's 'unflappability'

One thing seems clear: Even though Lopez and others find Schuster's story hard to believe, Schuster has done better on the witness stand than most defendants accused of murder.

She began testifying on the morning of Nov. 14, and for two full days she answered questions from her attorney and prosecutor Dennis Peterson. She recounted her growing-up years in a Midwestern, Christian family and her solid work ethic that allowed her to open her own research lab in Fresno in 1997. Schuster explained to the jury chemistry terms and concepts that applied to her job at the lab and portrayed herself as a mother deeply concerned with properly raising her two children.

But Schuster also admitted lying to police several times about her missing husband, and she had difficulty providing clear answers to some of Peterson's questions. It was after all this testimony that the juror gave Schuster a thumbs-up sign.

On the third day of Schuster's testimony, Peterson's questioning grew more intense and Schuster's answers were shorter and less thorough. She said she was tired that day and had only slept for three hours the previous night.

Still, the prosecution has had difficulty breaking through Schuster's composure, said Michael Berdinella, a Fresno defense attorney who sat in on part of Schuster's testimony.

"She seemed secure and very confident in her testimony, which has kind of unsettled the prosecution," he said. "She's unsettled the prosecution by her unflappability."

Lopez suspects the jury is seeing one of the "many faces of Larissa." She said Schuster once told her that she gave an "Academy Award-winning performance" when she told police she was not involved in an August 2002 break-in into her husband's house. Schuster later admitted she broke into Timothy Schuster's house while he was out of town.

"She is able to lie to your face," Lopez said. "She can manipulate whoever can be manipulated."

Nuttall says his client is being truthful. He says he told Schuster before she took the stand: "Just be yourself, because 12 people are capable of seeing through something that isn't natural."

Evidence trumps charisma

Experts say studies show that the vast majority of the time jurors get it right. If the evidence is there, jurors will convict. If not, they'll acquit. "If you've got a photo of her pouring acid in one hand and her husband in a barrel, then you could think she's the most intelligent person in the world but still find her guilty," said Los Angeles trial consultant Katherine James, who has been in the business for 30 years. "The jurors could say, 'I really liked her. Too bad she did it.' "

James, who co-founded **ACT of Communication**, which trains attorneys and witnesses to use acting skills to accurately express their thoughts to juries, said Schuster's intellect could end up hurting her.

The jurors, James said, may be thinking: "She is really intelligent. Yeah, bright enough to stick her husband in a barrel of acid."

But Schuster doesn't fit the stereotypical profile of a murderer, said Davis, who founded R&D Strategic Solutions, a Houston trial consulting firm. He said that in jurors' minds, a killer is a man in his 20s, a racial minority who is emotionless, less educated, less intelligent and less articulate than most people. By contrast, Schuster is a well-educated and well-spoken middle-aged white woman.

Kressel, the William Paterson University psychologist, said this could create confusion in jurors' minds.

"She doesn't fit the picture," he said. "Each juror looks at this woman and then thinks about the guy in the barrel disintegrating and thinks, could this woman really do that?"

But, Kressel said, studies show that factors like a defendant's race, gender and charisma only affect the outcome of a case when the evidence is murky. "That means the prosecution has to make the case very, very strongly that there's no logic behind her explanation."

The reporter can be reached at ccollins@fresnobee.com or (559) 441-6412 .
INFOBOX

What was said

Juror No. 79, who gave a thumbs-up sign to Larissa Schuster on Nov. 15, was called into the courtroom the next day outside the presence of the other jurors to explain her actions. She was asked by Fresno County Superior Court Judge Wayne Ellison whether she had made the gesture.

Juror: I did. I was very impressed with Ms. Schuster's response and intelligence, and I just felt very compelled to let her know that I felt she had thought through her responses and was very straightforward and I was commending her for her intelligence and how she had handled herself in the jury box. That was the extent of it. I knew I couldn't talk with her and couldn't say anything, but I thought I'd like her to know she handled herself well. I thought afterward that it was not a good thing to do, and not appropriate.

Defense attorney Roger Nuttall: You feel ultimately you can defer your opinion and wait until the case is concluded to form a judgment?

Juror: Absolutely. I didn't mean to imply that there was a judgment in what was going on in the proceedings, I was just commending her on her intelligence and how she handled it.

Prosecutor Dennis Peterson: It appears you formed a judgment about Ms. Schuster and expressed it, and the way you expressed it was through encouragement?

Juror: I was thinking later that that definitely was unwise. It's a good lesson that you don't do those things and no matter how you feel about it, just retain it until the appropriate time.

Peterson: At least at that time yesterday you had formed a judgment regarding Ms. Schuster?

Juror: Yes, but not in light of what is happening here, only in light of her intelligence and I thought she had done a good job in light of how she's doing so far. It doesn't have anything to do with

the outcome of the case, it was just appreciating her intelligence and means of communicating herself. It didn't have anything to do with her testimony and the job we're here to do. It was a foolish thing and it was a mistake and I apologize.

Peterson: Obviously the task of jurors is to make judgments about the veracity and believability of witnesses, and my problem is that you've already formed an opinion about her veracity.

Juror: That's not true. I do have questions. My gesture only implies that 'I think you're intelligent and I thought you did a good job' -- it had nothing to do with whether I thought it was true or not.