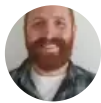


Jury tosses murder case, deadlocks on manslaughter charge in 2022 killing of Oakland homeless man

Kevin Mak faced a second-degree murder charge in the killing of Chi Leung, 66



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UPDATED: October 16, 2024 at 5:57 a.m.

OAKLAND — An Alameda County jury acquitted a man of second-degree murder Tuesday, yet found itself deadlocked on lesser charges in a killing that was [allegedly spurred by \\$450 in stolen surveillance gear](#).

The jury's partial verdict capped more than three days of deliberations in the trial of 43-year-old Kevin Mak, who stood [accused of hitting a homeless man with a minivan](#) two years ago during a heated argument in Oakland's Chinatown neighborhood. Chi Leung, 66, hit his head on the concrete after being struck by the van and died several days later in a hospital.

While the jurors unanimously tossed the murder charge against Mak, they could not agree on whether he was guilty of voluntary manslaughter. Eight of them pushed to convict him of the lesser charge, while four of them maintained he was innocent.

Dressed in a dark grey suit, Mak bowed his face into his hands as Alameda County Superior Court Judge Thomas Reardon declared a mistrial on the manslaughter charge. Mak hugged his attorney, Neil Hallinan, after the jury left the courtroom.

Hallinan later cheered the jury's decision to toss the murder charge, calling it "spot on." The fact that a third of the jury also refused to convict Mak of voluntary manslaughter "sends a clear message that you're not going to get 12 people to agree that this was intentional," he added.

In a statement, Alameda County District Attorney Pamela Price's office vowed to press ahead on prosecuting Mak with voluntary manslaughter. Her office declined to comment further.

The three-week trial centered on whether Leung's death was [the result of vigilante justice or simply a tragic accident](#).

Prosecutors claimed Mak tried "turning his 1,000-pound car into a weapon" during a confrontation over busted security cameras, which had been knocked down with a shovel from a nearby building that Mak had been renting. Unsatisfied with the response by Oakland police to the vandalism, Mak and a friend tracked down Leung and blamed him for the vandalism, prosecutor Alyssa Fielding told the jury at trial.

"The defendant decided to take matters into his own hands," Fielding said during opening statements. "He makes the choice to press on the accelerator."

Surveillance footage showed Mak and another person in the minivan stepping out to confront Leung on the sidewalk near 8th and Alice streets. About 90 seconds before the encounter turned deadly, Mak could be seen trying to flag down two Oakland police cruisers that had stopped just feet away at a traffic light — both of which continued on without investigating.

Moments later, Leung ran down the street toward his black pickup, while Mak and his friend got back in the vehicle and followed behind him, parking right behind the truck, surveillance footage showed.

Cell phone footage captured by Mak then showed Leung hitting the driver's window of the minivan six or seven times with a shovel.

Yet Hallinan claimed Mak never intended to hit Leung. Rather, he said Mak had been looking over his shoulder when the minivan drove onto the sidewalk, and only noticed him in the way at the last possible moment.

"He was subject to blind spots, he was subject to poor visibility," Hallinan said. "This happened so quickly."

On Tuesday afternoon, a juror called the killing "a sad accident and situation," yet stressed she was unconvinced beyond a reasonable doubt that Mak was guilty of manslaughter. While Mak may have been acting out of anger, the juror said it was "just as likely he wanted to get away."

"You don't want to punish an accidental act and compound the tragedy," said the juror, Monica Melville, 62.

Mak was ordered to appear in court on Oct. 30 on the outstanding voluntary manslaughter charge. In the meantime, Judge Reardon ruled that Mak no longer needed to wear an ankle monitor.



Mak spent much of the time leading up to his trial [out of jail on his own recognizance](#), after his attorneys argued that the killing was an accident and that Mak had cooperated with investigators. The decision was a rarity in murder cases, where defendants are often held without bail.

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Originally Published: October 15, 2024 at 2:27 p.m.

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