



The judge in the Harvey Weinstein case told potential jurors it's 'not a referendum on the #MeToo movement'

Michelle Mark Jan 17, 2020, 6:35 AM



Harvey Weinstein leaving a Manhattan courthouse Thursday during a break in the jury selection for his trial on rape and sexual-assault charges in New York. Associated Press/Seth Wenig

Judge James Burke told prospective jurors on Thursday not to view Harvey Weinstein's criminal trial as a "referendum on the #MeToo movement" or on women's rights.

Weinstein's trial is now in its second week, and seven jurors were selected Thursday: four men and three women.

Burke has repeated throughout the trial that it's fine if jurors have heard of Weinstein or the allegations against him and that it is also fine if they have

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warned that Weinstein's defense team cannot underestimate the power of social opinion and social pressure and the hatred and the power of the #MeToo movement."

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The judge overseeing Harvey Weinstein's criminal trial warned dozens of prospective jurors on Thursday not to view the case through the lens of the wider #MeToo movement against sexual assault, urging them to evaluate the case based only on the evidence heard in court.

"This trial is not a referendum on the #MeToo movement," Judge James Burke told roughly 140 prospective jurors. "It is not a referendum on sexual harassment," he continued, adding: "It is not a referendum on women's rights."

Jury selection for Weinstein's trial has now stretched into its second week. The disgraced former Hollywood producer stands accused of raping a woman in 2013 and sexually assaulting another in 2006.

Seven jurors were selected Thursday — four men and three women. Jury selection is expected to continue Friday, and opening arguments are set to begin next week.

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ask prospective jurors questions to suss out any biases.

Weinstein's lead defense attorney, Donna Rotunno, asked whether any of them already believed that Weinstein was guilty (two raised their hand) and whether anyone thought Weinstein's female accusers were more credible simply because of their gender (none raised their hand).

The lead prosecutor, Joan Illuzzi, asked jurors at one point whether anything about Weinstein's physical appearance made them believe he was not capable of being violent or a rapist. Weinstein, who recently had back surgery, has attended court each day clutching a walker.

Weinstein's reputation is the 'beast' in the courtroom — and that may be hard for jurors to overcome



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Weinstein leaving a Manhattan courthouse Thursday. Associated Press/Bebeto Matthews

Burke told the prospective jurors that it was fine for them to have strong opinions on the #MeToo movement and women's rights — so long as the opinions didn't prevent them from listening to the facts heard throughout the case or from remaining fair and impartial.

"The sole issue is for you to decide whether or not the defendant committed certain acts which constitute a particular crime," he said. "You must decide this case on the evidence."

Legal experts told Insider that's easier said than done. Lara Yeretsian, a [criminal-defense attorney](#) based in Los Angeles, cautioned that Weinstein's defense team "cannot underestimate the power of social opinion and social pressure and the hatred and the power of the #MeToo movement."

Yeretsian, who once helped defend Scott Peterson, who was convicted of murder, said it's possible that "stealth jurors" with a vendetta against Weinstein could make their way onto the panel or that even well-intentioned jurors might simply disregard much of the defense team's evidence in favor of their prior views about Weinstein.

"You cannot ignore that huge beast that's going to be that courtroom,"

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Cheryl Bader, a former prosecutor who is now an associate professor at Fordham University's law school, told Insider that members of the general public were not always as capable of being "fair and impartial" as they believed.

That doesn't necessarily mean people would be lying when telling the judge they could be fair, Bader said, but more so that some could be overestimating their abilities to remain bias-free.

"Harvey Weinstein has become the poster child for not just sex abuse, but abuse of power within the entertainment industry," Bader said. "There's also this sense of pressure in some ways on jurors because this particular case has touched off this whole #MeToo movement. It may be that jurors feel the eyes of the public watching them and that it stands for something larger than bringing this particular defendant to justice."

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[Harvey Weinstein's lawyers want the judge to recuse himself from his trial, arguing that scolding the mogul for texting in court proves he's biased](#)

[How Harvey Weinstein became one of the most powerful figures in Democratic politics before his career was rocked by a sexual harassment scandal](#)

[Harvey Weinstein's trial is underway in NYC. Here's a timeline of the 2-year conflict between journalist Ronan Farrow and NBC, the network accused of trying to kill his exposé.](#)

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