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## Judge grants new trial in murder case

### Rules right to counsel violated in questioning

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**O**ROVILLE — One of two men convicted of a double murder at a Berry Creek tavern nearly six years ago will get a new trial, a Butte County judge has ruled.

Superior Court Judge William Patrick, who heard the pair's first trial, ruled this week that the sheriff's continued questioning of Alford Lee Coker after he asked to speak to an attorney violated his Sixth Amendment right to counsel.

If those statements had been barred from evidence, the judge ruled, Coker would have taken the stand in his own defense and the outcome of the trial might have been different.

Coker maintains that had he testified, he would have told the jury that he had gone back to the tavern the night of the shootings only to apologize for his companion's earlier behavior and that the subsequent killings were in self-defense.

The 3rd District Court of Appeal in Sacramento last February ruled that the trial court judge had erred in not throwing out the police statements, but refused to overturn Coker's conviction.

"We are persuaded beyond a reasonable doubt," the appeals court said, "that (admitting the statements as evidence) had no adverse impact on the defendant's trial."

Marilee Marshall, a Los Angeles appellate attorney retained by Coker's mother, filed a writ with the Butte County Superior Court, challenging that decision.

In his decision Monday, Judge Patrick ruled he could not say "beyond a reasonable doubt" that had Coker testified, the outcome of his first trial might not have been different.

Coker has been serving a term of life without parole along with co-defendant, Richard Bridgewater, both of Berry Creek, for the first-degree murders in March, 1990, of a bartender and a customer at the Brush Creek Bar near Berry Creek.

During the pair's Butte County Superior Court trial, witnesses



Alford Lee Coker, shown during trial, had been serving life-without-parole for shootings that killed 2 at tavern

## Murder

From 1A

testified that after an argument with the bartender, Dave Lewis, Coker and Bridgewater had been thrown out of the rural tavern.

Coker was alleged to have vowed at the time: "We're coming back. We'll get you ..." according to testimony in the case.

Several minutes later the pair returned to the bar with Coker entering first and sitting down, followed by Bridgewater who was holding a shotgun in each hand, according to a bar patron, Jay Tapp, who is now-deceased.

Tapp told sheriff's officers that as he was fleeing the tavern he saw Bridgewater point a pistol at the bartender, saying: "Don't reach for the gun, Dave."

The witness testified during the pair's first trial that as he was running, he heard several shots in rapid succession.

The bartender was found dead on the floor with multiple gunshot wounds. An elderly bar patron, Richard Haley, of Berry Creek, was found shot to death in the parking lot.

A few days after a warrant was issued for their arrest, Coker and Bridgewater were apprehended in New Mexico.

When Butte County sheriff's officers attempted to question Coker, he requested to talk to a lawyer, according to court records in the case.

But after the suspects were returned to Butte County, District Attorney Mike Ramsey directed sheriff's investigators to conduct a so-called "impeachment interview" with Coker, with the intention of using his responses at his trial if Coker took the witness stand and attempted to tell a different story.

During the first trial, Judge Patrick denied a motion to dismiss the murder charges against Coker for violation of his right to an attorney before questioning.

Although the judge found that the tactic used by the DA and sheriff's officers was "offensive," he felt compelled by law to permit the statements to be used by the prosecutor for "impeachment" purposes only.

Following his conviction on the

double murder charges, Coker appealed.

During a series of hearings in the last few months, Coker's original trial attorney, Public Defender Dennis Hoptowitz, testified that had the post-arrest statements been suppressed he would have called Coker to testify.

Judge Patrick has ordered Coker held in the Butte County Jail without bail pending the setting of a new trial date.

"We're disappointed that we have to try him again," said deputy district attorney Jim Reilley, who prosecuted Coker the first time. But the prosecutor added: "We're convinced that this time around he'll be convicted again."

Reilley said given the passage of time he did not know if the witnesses who originally testified in the case would be available for a second trial.

But he doubted that would be a serious problem because their testimony is preserved in transcript form which could be read to the jury if necessary.

Marshall, Coker's appellate attorney, said although she had won reversals on a few murder cases before, this was the first one involving a person who had been sentenced to life-without-parole.

"Once the (new) jury hears his (Coker's) side of the story, there's no way they will find him guilty of premeditated murder," she predicted.