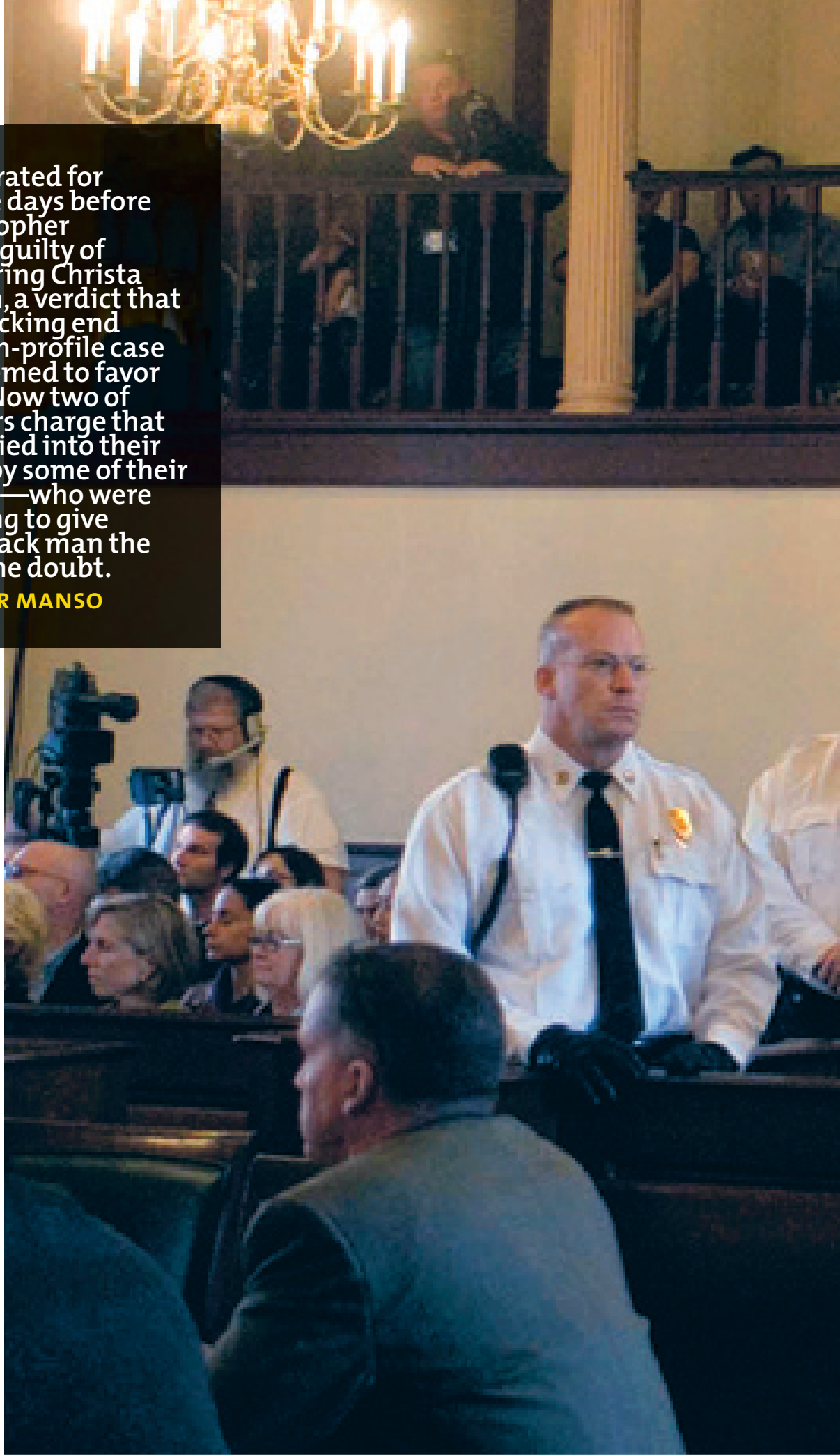
Jurors deliberated for eight tense days before finding Christopher McCowen guilty of murdering Christa Worthington, a verdict that brought a shocking end to a high-profile case that had seemed to favor the defense. Now two of those jurors charge that they were bullied into their decisions by some of their counterparts—who were never going to give a black man the benefit of the doubt.

By **PETER MANSO**



Surrounded by officers in Barnstable County Superior Court, Christopher McCowen bows his head as a jury finds him guilty of the 2002 murder of Christa Worthington. The decision, returned after more than a week of contentious deliberation, stuns the courtroom into silence. Hours later, McCowen is sentenced to three life terms with no parole.

An UNJUST CONCLUSION

On the morning of NOVEMBER 16, 2006,

Christopher M. McCowen, in handcuffs and leg irons, was led into the main courtroom of Barnstable County Superior Court. A big man with a shaved head, McCowen wore a tie and a suit that, noticeably, matched the dusky brown color of his skin. He was 34, a high school dropout with a verbal IQ of 76, which put him only six points above mental retardation. He stood accused of the 2002 killing of Christa Worthington, the Vassar-educated fashion writer, and today he would receive his verdict. ¶ The members of the jury shuffled in and took their seats without looking up. They'd been out for eight days, longer than anyone could remember for a Massachusetts murder trial. Whatever had transpired during their deliberations, whatever had led to a deadlock on day five, followed by a sequestration and the dismissal of one member, was a mystery. A mystery that would ultimately raise troubling questions about the verdict the court was about to hear. ¶ Standing at McCowen's side was the well-known Boston defense attorney Robert A. George, who had conducted his client's defense these past five weeks; in itself, this was odd, since George had traditionally

represented mob hit men, bad-boy cops, people with money—not indigent blacks. But after being contacted by one of McCowen's friends and McCowen's father, Roy, who had traveled up from Virginia to pitch him, George took the case, believing the arrest had been all too easy, too convenient. He had expected to be paid from the sale of the defendant's grandmother's farm in Oklahoma, which, as things turned out, never happened.

George had done his job, according to most observers. In what was originally considered an open-and-shut prosecution, cracks had appeared after nearly four weeks' testimony. George had scored heavily with withering cross-examinations, chipping away at the state's case element by element, and leaving the charges of murder, aggravated rape, and aggravated burglary subject to plenty of reasonable doubt. With few exceptions, the commonwealth's witnesses had been awful—liars, dope dealers, an outer Cape thug known as a snitch. The crime scene had been corrupted by local cops who'd never handled a murder case. They had no witnesses, no murder weapon, and no fingerprints other than those deposited by the victim and her daughter, the medics, and Truro police personnel (one of whom was rumored to have had an affair with the victim's cousin; some said with the victim herself). Even the state crime lab's testing was spotty. What the DA did have was a statement the defendant had made the night of his arrest, which detectives failed to record, and two samples of McCowen's DNA found in and on the victim. The latter evidence proved McCowen had had sex with Worthington, but the timing, and whether it was rape rather than a consensual romp, even the medical examiner hadn't been able to say with certitude. The once powerful case had been exposed as poorly investigated, and run by a District Attorney's Office bent on an arrest and, in some quarters, regarded as irresponsible, if not corrupt. The state police had ignored sure suspects when the evidence pointed directly at them for a variety of reasons, which seemed to be business as usual on Cape Cod.

Police had no weapon, no witnesses, and no fingerprint evidence. But even during the trial itself, claims one juror, other members of the jury had decided McCowen, right, was guilty.

The drama assumed even greater resonance from the fact that the media had treated the Worthington murder as one of the most spectacular homicide cases in state history. It quickly became a made-for-cable-news tale of the heiress fashion writer and her lowly Portuguese fisherman lover, illicit sex, and an out-of-wedlock child, all set in a tony seaside village.

Thus, on this morning the high-ceilinged courtroom, with its arch-topped windows, pilasters, and larger-than-life portraits of past judges, was full. The Worthington family clustered near the front. A phalanx of court officers, half a dozen more than usual, held positions around the room. Judge Gary Nickerson sat in his high-backed chair.

"What say you, Mr. Foreman?" queried the court clerk. "Is the defendant, Christopher M. McCowen, guilty or not guilty of any offense?"

Guilty, came the reply. On all counts.

The stunned courtroom was silent. McCowen's head slumped. His girlfriend, Catherine Rios Cisneros, seated directly behind him, convulsed and began sobbing. Upstairs in the balcony, several hard-bitten reporters let out gasps, audible in the stillness. How could this be? Had the jury heard the same case as the people who had watched the trial day by day?

George asked the court to poll the jury. One by one the jurors uttered, "Guilty." It would later come to light that two of them, those who'd been responsible for the day-five impasse, regretted changing their votes at the last minute. If they had held firm and the jury had remained deadlocked, the judge would've been forced to call for a new trial with a new jury. But in the end, they caved and went along with the majority. And at 12:09, the silver-haired Judge Nickerson discharged the jurors, asking them to please return to the jury room. "I would like to come up and thank you for your service," he said. "I'll be up promptly."

Judge Nickerson now revoked the defendant's bail. McCowen was weeping. George reached up and wiped away his client's tears with the cuff of his expensive suit jacket.

A few hours later, McCowen was handed three life sentences without parole.

Before the WORTHINGTON CASE, Bob George had worked more than a hundred murder trials, many of them high profile, and all his experience had taught him never to get ahead of himself, never think he was winning. But halfway through the trial, George had received word that the prosecution might be willing to accept a plea to second-degree murder, to back off on the first degree and the other charges. Judge Nick-

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erson himself had supposedly urged Assistant District Attorney Robert Welsh III to consider a deal. Now, after the unusual dismissal of a juror, the surprising verdicts, and the sentences, the normally loquacious George was tense, angry—and suspicious. Something wasn't right. It all didn't add up.

He insinuated as much to the crowd of reporters gathered outside the courthouse afterward. "We'll find out what happened here," he said.

Within days of the verdict, he had a better idea of what might have transpired. Three of the jurors had contacted him, moved by guilt, they said, and a need to try to set things straight. They all cited racial bias in the jury room.

Four weeks later, on December 12, George filed a motion that McCowen be given a new trial. It was accompanied by affidavits from the three jurors.

From George's point of view, based on precedents, this was a home run. The demographics were perfect: The dissident jurors, identified in the motion as Jurors A, B, and C, were, respectively, Roshena Bohanna, a woman in her thirties, married with three children, and the only black jury member; Norman J. Audet, a middle-aged white man; and the dismissed juror, Rachel L. Huffman, a young white woman with a two-year-old child by her boyfriend, who was black. All three were later identified by the press.

The motion, which began with a quote from *To Kill a Mockingbird,* read: "The allegations in each affidavit, which appear to be generally consistent when compared to one another, clearly raise the following issues: ethnic bias of several jurors; racially oriented statements attributed to several jurors during deliberations; ignorance of the court's jury instructions; misunderstanding of the applicable law; inappropriate discussion CONTINUED ON PAGE 132

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of the case with alternate jurors," and a "misinterpretation" of Judge Nickerson's instructions to continue deliberating after the deadlock.

The jurors cited several concrete instances of racial bias in their affidavits, the most egregious being a comment from a white woman who, while trying to convince other jurors that Worthington had been bruised during a struggle, had claimed, according to Bohanna's affidavit, "'When a big black guy beats up on a small woman,' bruises of that size would happen." Bohanna had responded by calling the woman a racist, and the two had to be separated.

Cape and Islands DA Michael O'Keefe dismissed the motion as another "routine post-conviction relief motion." He also refused to comment on the allegations, saying, "As a general proposition, lawyers exploit what they think they can exploit in order to further their interests."

"You're sitting in the jury box with your proud-ass rich self, saying, 'I'm afraid of this guy.' You're a racist!" Bohanna yelled.

In his formal response filed on January 8, he claimed that the statement "when a big black guy beats up on a small woman" was not racist but "an accurate reflection, however insensitive, of the evidence."

"Perhaps another juror would have used the term 'African-American' or not used any descriptor at all," O'Keefe's document read. "There may be a more sensitive method of articulating one's views. However, there is no indication of racial prejudice or bias.... Absent the evidence of racial prejudice or bias influencing the verdict, there is no basis for invading the sanctity of juror deliberations."

But he was wrong. While judges typically avoid prying into jury deliberations, notable exceptions are made for irrelevant racist remarks, especially if the comments intimidate jurors and interfere with their voting their conscience. Racial bias in the jury room is unconstitutional, and although cases, as a practical matter, are rarely reversed on grounds of jury misconduct, the courts have taken action when race injects itself, as with a 1996 federal case, *United States* v. *Henley*, in which a juror alleg-

edly used the word "nigger." In Massachusetts, the Supreme Judicial Court ordered hearings into the infamous Benjamin LaGuer case partly due to charges of racist remarks in the jury room.

Several weeks after the motion was filed, two of the dissident jurors, Bohanna and Audet, agreed to meet with me to expand on their affidavits. In interviews, they described a jury riddled with conflicts and prejudice. Their remarkably consistent stories suggest abhorrent attitudes about race on Cape Cod and raise unsettling questions about whether a black man can receive justice here.

Did the jurors' remarks interfere with other jurors' voting their conscience? And did the remarks themselves betray biases—racial in nature—that blinded the majority jurors to the evidence? Did it happen here, on lily-white Cape Cod?

For three of the jurors, the answer is a resounding yes. "There was no way that man was going to get a fair trial on the Cape," Bohanna told me. "No way. *Impossible*."

According to BOHANNA, the trouble began "three or four days" before the deliberations, when one of the jurors, Eric Gomes, a manager at a Falmouth bar, ignored Judge Nickerson's instructions not to discuss the case until they got into the jury room. "I think he's guilty," Bohanna recalled Gomes's telling her. Jurors do this all the time, but the salient fact here was that Gomes is dark-skinned, from all appearances African-American himself, which had previously led observers to cheer the fact that he and Bohanna lent an almost 17 percent black cast to the jury panel. Since the defendant was black, and the black population figure for Cape Cod is a scant 1.7 percent (versus 12.7 percent nationally and 6.8 percent statewide), this was considered a triumph of proportionate representation.

But Gomes was not McCowen's peer. Acting on a hunch one day, Bohanna asked him what his race was. "Cape Verdean," he replied almost disdainfully, according to Bohanna. "Not black. Most of my family is white. I was brought up mainly by white people"—an assertion Rachel Huffman would also recount in her affidavit.

It was the old story of someone lifting himself by placing someone else below him. It's Darwinian. On Cape Cod, which has gone through seismic socioeconomic shifts over the past CONTINUED ON PAGE 134

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20 years, the Cape Verdeans get their edge by dumping on blacks. Then and there, Bohanna made a mental note to watch out for this guy.

"This was still while the trial was going on," she told me, referring to Gomes's early declaration that McCowen was guilty. "I told him, 'I don't. He may have done it but the state hasn't proved it.'"

The dissident jurors say a second racially charged incident occurred about the same time. The day before deliberations began, Huffman returned from lunch and straight away told Bohanna that a middle-aged white juror, referred to as Juror X in the affidavits, had looked up from her plate and remarked, "Guys, the defendant looked at me. He scares me." When Huffman had asked why, Juror X answered, "I don't know, he's this big black guy, you know. He frightens me." It was to become a theme—the "big black guy" and his "intimidating" courtroom glares.

Bohanna was furious, telling me later, "I already felt these people had some type of bias, and I told [Huffman] that."

"It was obvious to me that several of my fellow jurors were biased against blacks and against the defendant because he was black," Huffman swore in her affidavit.

The next day, according to Bohanna, Huffman decided to test the clique formed by Juror X and a young white female juror, Juror Y. She showed them a snapshot of her boyfriend, who was black, and their young child. Juror X reportedly reacted by saying, "Oh, my God, Rachel, he's…*big*." To Bohanna, who heard the story from Huffman afterward, it connected the dots between the boyfriend and the defendant: All black males were big and, therefore, threatening.

So before the jury had even begun deliberations, its backroom dynamics were beginning to overshadow the drama of the case itself. A man's freedom hung in the balance, and instead of concentrating on the evidence, the people deciding his fate were embroiled in a racially charged game of cat-and-mouse. "Every day something different would unfold, like in a movie you never thought you'd be involved in," Bohanna recalled. "I'm going, like, 'This is some crazy shit.'"

After Judge Nickerson's two-hour instructional that morning, followed by the court clerk's choosing the alternates, the jurors finally withdrew to the

jury room. The first thing they did was take a vote to see where everyone stood. The tally was "five or six" for guilty, "two or three" for not guilty, the rest undecided. Bohanna objected: So far there had been no discussion, and the "guilty" majority—led by Juror X, Juror Y, and Gomes and including the foreman, a middle-aged woman who worked as a schoolteacher, and a man in his early forties who was in the food supply business—seemed to have their minds made up already. Both Bohanna and Audet felt the majority was deciding on its initial gut reaction rather than the evidence.

"I mean, all they had was the DNA and that meant nothing until we discussed it," Audet, who is white, explained to me.

The next day Bohanna got into it with Juror Y. And there was more to it than what the dissident jurors talked about in their affidavits. Tone matters, and it was the way things were said that intensified the growing tension. The jury room had a long table where they all sat and two smaller conference tables off to the side: one piled with the evidence exhibits; the other, near the windows, used as a serving board for the food the court officers would bring in at noon. In the corner was an easel where jurors could write in marker on an artist's pad. Bohanna had been standing at the easel, using a rubber-tipped pointer to go through her list of "points" that supported a finding of reasonable doubt.

After she finished presenting her case, she went to sit down. Juror Y stood up and countered, "Yes, if this big black man beat this lady the way they said, she would have these same marks—"

"What the hell does *black* got to do with it?" Bohanna interrupted.

She was now on her feet again and gave the table a resounding *whack* with the pointer, causing everyone to duck. She then went to the easel, where she started to go back over her points one by one, rapid-fire, and point by point she'd give another *whack*. When she was done she yelled out, "I don't appreciate this shit! First I hear a comment that you're afraid of the defendant because he's this big *black* guy. Now, I hear out of your mouth that if some big, *black* guy—*What the hell is going on here?*"

Before the two women could be separated, the middle-aged schoolteacher screamed at Bohanna, "Don't play the race card!" Juror X yelled, "You're acting like Bob George!" CONTINUED ON PAGE 136

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This last was a reference to George's introducing the race issue in his opening statement. But he had brought it up with good reason. Research into jury behavior, which was later cited in George's motion, has shown that discussions of race generally make whites uncomfortable and that many whites who believe themselves to be nonprejudiced actually harbor unconscious negative feelings about blacks. In other words, the race card had already been played by the trial's racial dynamics, by circumstances.

The jury foreman cut everyone off, calling for order. He summoned the court officers and declared a break. Some of the jurors went outside for a cigarette; others next door to visit with the alternates. When everyone was back in place, Bohanna told me, Juror Y still couldn't shut up.

"He was looking at me. It scared me," she said, echoing the remark Juror X had made to Huffman before deliberations.

Bohanna exploded. "That means you're racist!" she yelled. She motioned toward Juror X and added, "She's a racist, too! You're sitting in the jury box with your proud-ass rich self, taking a vacation, saying, 'I'm afraid of this guy.' You're a racist!"

During another break soon after, Gomes turned to Huffman and, referring to Bohanna, said, "That's why I don't like black people. You see what they are capable of?"

It was shocking: *What they are capable of?*

Huffman's affidavit describes this exchange, and Audet, by nature a quiet, soft-spoken guy, swore to me that the fight took place. He pointed out that after the incident between Bohanna and Jurors X and Y, nobody in the majority group wanted to talk about race, perhaps because it cut too close to the bone.

Later that afternoon, Bohanna decided to focus solely on the facts. She came back to the subject of reasonable doubt. The group, she said, was blinding itself to the possibility that Christa Worthington might have had consensual sex with her garbage man. Maybe it wasn't rape. On cross-examination the state's medical examiner had conceded there was no hard evidence. Furthermore, the charge itself was dubious: During the three-year search for Worthington's killer, the DA's Office hadn't once talked about rape, only first-degree murder; the

rape allegation was tacked on only after they had busted a black man.

But Bohanna's efforts were to no avail. "What I thought was reasonable doubt nobody agreed with. All they wanted to say was 'Well, we got this picture. He's guilty of it.'"

The schoolteacher more than anyone, Bohanna said, kept studying the bloody crime-scene photo, declaring, "This could be my daughter."

Even so, Bohanna dug in her heels. "I wasn't going to convict this guy when we had no evidence."

Things got so loud that even with the unseasonably warm weather they had to shut the windows so the "Fuck you"s couldn't be heard downstairs on the courthouse steps or out in the parking lot. To try to break the logjam, the foreman proposed they go with majority-wins voting: for example, seven or more in favor would convict.

The majority's reasoning remained vague. They kept repeating, "What are the chances of *this* guy having sex with *her*?"

Bohanna objected. "You just want to disregard my vote? That's baloney."

She continued dissecting the corrupted crime scene and the possibility that Worthington's ex-boyfriend, Tim Arnold, not McCowen, could have been the killer. She questioned why the police hadn't tape-recorded the defendant's statement following his arrest; the prosecution had submitted a 27-page statement, but expert testimony had shown that a six-hour interview like the one the defendant had been subjected to would have produced several hundred pages. Also, why had those 27 pages taken the cops eight days to edit and type before filing? Why, she continued, hadn't investigators fully probed a neighbor's report of spotting a van, driven by a Caucasian man, careening out of Worthington's Truro driveway the weekend of the killing? Or tested for matching fibers between the clothing of another man—a local drug dealer McCowen pointed to as the killer (and also one of the prosecution's lead witnesses)—and fibers of the same color found at the scene? The state crime lab had not even DNA CONTINUED ON PAGE 138

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tested all the semen samples found on Worthington's body.

Again, though, most of the jury members fixated on the gory crime-scene photo of the half-naked Worthington, lying with her legs splayed in a pool of blood, that remained on display in the middle of the jury table. A few of the jurors even wanted to pin it up on the bulletin board. Over and over a female juror would look at it and say, "Who else would do such a thing like this?"

"They never used the word," Audet recalled, suggesting what they really meant was: Who else but the *nigger?*

Although Audet and Huffman were Bohanna's allies, the constant struggling began to take its toll on her. She felt alone. After all, she was the only black in the room. "They weren't pressuring [Audet] like they were pressuring me," Bohanna remembered. "If I disagreed with something, it was 'Why do you disagree? You need to explain this, explain that.' I'm like, 'Why the hell do I have to explain everything? I'm not on trial here—and I'm damn glad I'm not, because I'd be sent straight to prison dealing with you people.'"

All things considered, the defendant might have been better off if they had "used the word." An unequivocally racist remark surely would have brought into question the fairness of the jury. But the majority's reasoning remained vague. They kept repeating, "What are the chances of *this* guy having sex with *her*?" or, "She wouldn't have sex with him while her daughter was home."

"They wanted to blame somebody for it, especially the women," Audet explained later. "They didn't care. Someone had to pay because that child was now motherless." He added they were "not even using facts anymore."

It got worse, beginning with a symbolic shift in the seating arrangements. From the start, Audet had sat at the foot of the table, opposite the foreman. But a few days in, Gomes abruptly grabbed Audet's spot. It was emblematic: The clique was at both ends now, the dissenters being squeezed in the middle.

Still more bizarre, a member of the majority clique had a bailiff take photos of the jury posing as if they were on a vacation instead of deciding a life sentence for someone charged with murder. One of these snapshots featured the jurors arranged in two rows, upper and

lower, standing and sitting, with the foreman lying across the laps of Jurors X and Y and the schoolteacher, who are seated in the bottom row. Gomes stands directly behind them, leaning forward, grinning. Bohanna, Audet, and Huffman are all off to the right, isolated from the others.

On FRIDAY, four days after beginning deliberations, the jury was still undecided. But events over the weekend would have vast repercussions on the case, some of which George later suggested may have tipped the scales against the defendant. Namely, on Saturday Huffman's boyfriend was arrested in connection with a shooting in East Falmouth.

Monday afternoon, the jury announced it was deadlocked. Nickerson gave jurors the customary "dynamite charge" to deliberate further. Later in the day, around 4:15, the jurors were back in the courtroom. Judge Nickerson, prompted by a request from both attorneys based upon the hoopla surrounding the arrest of Huffman's boyfriend and the mention of her name in the press, announced he had no choice but to sequester the jury. Several of the jurors moaned loudly enough for reporters in the balcony to hear.

Sequestering the jury was to prove fateful. At the Hyannis Radisson, an entire floor was closed off; court officers controlled the jurors' phone use, meals, smoke breaks, TV hours, everything. The majority jurors grew tighter, ostracizing the dissenters from the supervised TV room and even at meals. Bohanna crumbled further. Sequestration took her away from her kids and the support she was receiving at home. Monday evening, she was rushed to a dental surgeon after dislodging a crown the night before: She had been grinding her teeth incessantly.

The next day, Tuesday, Judge Nickerson dismissed Rachel Huffman from the jury. The state police had taped three cell-phone calls she received from her boyfriend, who was in lockup at the Barnstable County Correctional Facility—the same jailhouse where McCowen was being held. Two of the tape recordings, played in open court, revealed that Huffman had been following media coverage of the trial and had disparaged the police. George argued that her removal was highly unusual, "possibly unprecedented," in a major murder case. He asked for a mistrial, but to no avail. Still, the incident CONTINUED ON PAGE 140

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raised the specter of a setup: Normally prisoners are not permitted to call out to cell-phone numbers, and here several such calls were allowed. If the jury had deadlocked at 10-2 or 11-1, Huffman's removal could have shifted the equilibrium. Asked later if he thought that the DA's Office might have had a hand in this, George replied dryly, "If it walks like a duck and talks like a duck and smells like a duck, then it's a duck."

Huffman's ejection destabilized the jury's taut balance almost immediately. Although she had never stood unequivocally for "not guilty," she had always respected the dissenters' opinion. Her replacement, however, arrived seemingly determined to break the logjam. A woman in her 60s with two advanced degrees, she originally looked like a lucky get for the defense: a warm, Maureen Stapleton type, recently retired from a career in nonprofits in Manhattan. But she turned out to be pushy, self-assured. She had taken lots of notes and declared that there was no need to discuss every detail again.

One juror had suggested they go see *12 Angry Men*—apparently forgetting that, in the movie, the defendant goes free.

Jury alternates aren't supposed to know anything about the deliberations, but this woman did, probably as a result of the jurors' talkativeness during smoke breaks and lunch. Her mind, Audet believed, "was already made up."

At one point on her first day, she turned on Bohanna, who was scribbling notes to herself. "What are you doing?" the new juror demanded. "We're supposed to be working together!"

On WEDNESDAY, the day before the verdict, Bohanna had nothing left. She remained silent as the others talked. She didn't argue, she didn't protest, she didn't demonstrate. "I was exhausted," Bohanna told me later. "I couldn't process. I was having a mental breakdown, I think." Sometime in the morning, the other jury members asked for her opinion. "You're so quiet, Roshena," they said.

"Whatever you say, I agree with," Bohanna replied. CONTINUED ON PAGE 149

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In the afternoon they took a show of hands. Guilty? Bohanna raised her hand. Audet, too, went along, knowing he couldn't do it alone. There was no point in trying, he thought, since there was no way he could convince the others—the case would just go on and on. Both he and Bohanna failed to realize that continued deadlocks can lead to a hung jury.

The night of the voting, alone in her room, Bohanna wept. She put on the TV at one point, despite knowing its signal had been disconnected, and watched the snowy screen for an hour or more. She did some ironing. She dozed off around 3 but couldn't sleep more than two and a half hours. "I tried to fix my eyes," she said. "I'd been crying all night." Later in the morning, before delivering the verdict, she vomited at the courthouse.

As they waited for Judge Nickerson in the jury room afterward, Audet recollected, one of the female jurors was going, "Cha-ching, cha-ching," making like a cash register. The idea, as she explained it, was that this was another O.J. trial, and they were going to cash in. When one juror objected to their giving interviews, Gomes replied, "It all depends on how much money is involved." Juror Y, Bohanna said, got giggly. She reminded everyone she was married and asked them to promise not to repeat remarks she'd made during the deliberations when she talked about fixing up one of her friends with the blond, muscular bailiff, or her own expressions of longing for detective Chris Mason—the prosecution's tall, gangly star witness and lead investigator who'd taped Huffman's phone calls.

She may or may not have been joking, coming down from eight arduous days in a jury room. But it pointed up this jury's less-than-grave approach. Another member added, "We should all go see *12 Angry Men*," referring to the Henry Fonda–Lee J. Cobb classic, in which a deadlocked jury is riddled with racial hatred and class bias. The problem was that whoever made the suggestion forgot that the defendant in the movie goes free.

There are, OF COURSE, two sides to every accusation. I contacted the other jurors for their version of events, but only one got back to me, saying that for her there was no racism in the jury room. Obviously, Bohanna and Audet, along with Huffman, feel strongly that McCowen did not CONTINUED ON PAGE 150

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receive a fair trial. But questions linger about why they didn't keep struggling or ask about the ramifications of a continued deadlock. Questions have also been raised about Huffman, who was picked up in late November in connection with her boyfriend's arrest. That charge was soon dropped, although she still faces additional charges, including misdemeanor marijuana possession. Some believe the arrest was in retribution for her disparaging the cops in the cell-phone tapes.

The motion for a retrial awaits review by Judge Nickerson. He can deny it outright; he can hold a hearing in which the defense and prosecution present oral arguments; or, more broadly, he can order a hearing in which the jurors are questioned one by one to determine the validity of the allegations set forth in George's motion and its affidavits.

At this point, the court must step forward. The law mandates it, and in some figurative sense this is especially important on Cape Cod, where, after all, the Mayflower Compact was signed, giving rise to American democracy.

But Cape Cod is not what it used to be. The rules of justice have been severed by the lines of class and race. A telling event took place just two weeks after the trial ended, on December 4, when eight of the jurors threw themselves a party at the Osterville restaurant Wimpy's Seafood Café, a family-style place known for wedding receptions and graduations. Incredibly enough, two of the court officers attended. So did prosecutor Robert Welsh III. Another get-together was scheduled for January 20 at Anthony's Cummaquid Inn, to be hosted by none other than the Worthingtons—who, it turned out, had been swapping e-mails with Gomes, thanking him and his fellow jurors for "being brave" and doing "the right thing." Four jurors have also booked an appearance on NBC's *Dateline*.

A party on the back of three life sentences? It was unreal, and doubly so when one of the "hang 'em high" female jurors subsequently tried to justify the gathering with calls to the *Cape Cod Times* and the *Boston Herald,* explaining that as jurors they'd still had questions to ask of the prosecutor. It never occurred to this woman, who refused to be identified, that these very questions would ordinarily be considered the terra firma of reasonable doubt. **B**