

"It's an issue that they should have avoided, but they didn't," said Columbus attorney Bradley Davis Barbin, who handled Speer's appeal. "It's a case that defines how important jurors are in criminal cases."

Ottawa County Prosecutor Mark Mulligan plans to appeal to the Ohio Supreme Court, saying the issue has statewide importance and that

"She demonstrated a remarkable ability to apprehend what was going on in the courtroom," he said. "It would be my contention that she was one of the most, if not the most, attentive of the jurors I've seen in my career."

Mulligan said he has seen jurors nod off and daydream, but she "had to concentrate fully on the speakers in the courtroom."

The juror, who is identified by name in the defense appeal, could not be located for comment.

Neither Speer nor Barnett family members could be reached for comment.

It's unclear whether Speer will remain in prison or not. Barbin said Speer will be returned immediately to Ottawa County for a new trial. Speer plans to ask to be released on bond in the meantime.

Barbin said he believes a deal will be worked out with prosecutors, making a new trial unnecessary.

Mulligan, however, said there's "no need to discuss resolving the case" because of the upcoming Supreme Court appeal.

The jury's decision had to be unanimous for the conviction, so it is unfair to overturn it based on the question surrounding the hearing-impaired juror, Mulligan said.

When picking the jury, defense attorneys didn't dismiss the juror with one of their four peremptory challenges --- the ability by the defense or prosecution to dismiss a juror without giving any reason. After excusing four other jurors, the defense asked the judge to dismiss the hearing-impaired juror.

Markus denied that request.

"It's sort of a hollow protest when they have four chances to bump the person off the jury and they didn't do it," Mulligan said.

Barbin disagreed.

"Everybody gets a fair trial and this one was flawed," he said.

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