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A big White Sox win on Tuesday night

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As the Chicago Cubs finished off the National League Division Series a few miles to the north, eight former White Sox players got their own win Tuesday when they scored their second not-guilty verdict in 94 years during a simulated retrial in the Black Sox Scandal.

In 1919, the White Sox faced the Cincinnati Reds in the World Series with arguably two of the best pitchers in baseball. Beating the Reds seemed an easy task, but those eight players — dubbed the “Black Sox” — took probability into their own hands.

They let gamblers get into their minds and into their pockets. Allegedly, they fixed the games and threw the World Series.

But during a time when betting on games ran rampant and no law specifically prohibited such acts, were the players technically engaging in illegal activity?

Jurors deliberated that question in a 1921 trial held at the old Cook County Criminal Court Building at 54 W. Hubbard St.

In the same building — since renamed Courthouse Place — the mock jurors on Tuesday reached the same conclusion under the exact same instructions. But this time around, they had extra help from 21st century technology to shape their decision.

The mock trial was a part of Chicago Ideas Week, an annual event that brings industry leaders to town to collaborate on new business and cultural concepts.

Although Tuesday's trial brought jurors back in time instead of trying the case under today's laws, Adam L. Hoefflich — a partner at Bartlit, Beck, Herman, Palenchar & Scott LLP — said the event fit that description because it showed how the use of technology would have shaped how the players' case was tried.

“When you're talking about the legal practice, that's part of what we tried to do was show people how we would use best practices in technology today to take a different view of something that happened a

century ago,” said Hoefflich, who played the mock-prosecutor.

While listening to the case, mock jurors watched as Hoefflich quickly flipped through original grand jury investigation excerpts. They followed along smoothly as he and fellow partner Philip S. Beck, who played the role of the players' defense attorney, supported their arguments by magnifying and highlighting more statistics than the standard batting average and on-base percentage to support their arguments.

And with video as a visual aid, Hoefflich demonstrated the difference between a baseball player giving his all and one who might only be playing at 95 percent — a difference that he argued would be unrecognizable to fans observing the game from ballpark stands.

And while the mock jury's experience was largely digital, trying a case was much more tactile in the early 20th century.

“People would hand out transcripts to jurors. They would have things that were blacked out,” Hoefflich said. “If we actually were in today's world and had all of the film from the games, we'd be looking at actually how fast did (Sox pitcher Eddie) Cicotte throw the ball, and people would be using that. We'd be showing how Cicotte handled the same exact plays in other games, and I do think you would try the case very differently using today's technology.”

Despite society's digital advances, the mock jury returned the same verdict as was delivered in 1921. That, Hoefflich and Beck said, came from the jury's instructions upon deliberation.

Back then, laws had not yet been passed that directly declared fraternizing with gamblers and throwing baseball games illegal — those came shortly after the Black Sox players' acquittal.

Since proving the players “agreed merely to throw the games” wasn't enough, according to the instructions, both juries were tasked to find that the players specifically conspired to defraud Sox catcher Raymond Schalk, the team's front office or the public.

Bradley Bergman, a retired



Bartlit, Beck, Herman, Palenchar & Scott LLP partner Philip S. Beck defends eight former White Sox players accused of throwing the 1919 World Series during a mock retrial of the Black Sox Scandal on Tuesday afternoon at his firm's office. While the jury received the same instructions as its 1921 counterparts did, Tuesday's simulation used modern technology to present the case. Michael R. Schmidt

banker from Chicago who sat on the mock jury, said he would have found the players who admitted to taking gamblers' money guilty for defrauding the club and the public.

“They did not go out and take physical dollars, but by changing the odds, they in fact changed the payout, which in fact changed who got paid what,” he said.

Bergman said his reasoning behind a guilty verdict was centered on preserving the integrity of the sport.

“They knew they were doing something wrong. By doing something wrong, they knew that they were impacting the character of the game,” he said.

Bergman said his biggest challenge came when he stacked the players' postseason statistics against grand jury evidence but then focused on the definition of intent.

“How specific does the intent have to be?” he asked. “In other words, regarding taking money from the public, did they have to actually take money from the public and from the league and the player, or was their intent to defraud enough to convict?”

Such a conflict was fairly representative of the types of issues modern-day jurors can grapple with, Beck said.

“When you're charged with something like conspiracy to defraud and there are hard

questions about intent and even if you don't defraud somebody — if you agreed with others to attempt to do so — where do you draw the line on that sort of thing?” Beck said. “I thought that reaction was a typical one and an understandable one.”

Beck said although he held no expectations regarding the mock jury's finding, the charge “really is what stated the outcome.”

“I think it was that jury charge back in 1921 that resulted in the acquittal, and I think it was that same jury charge that 100 years later people listened to, followed the instructions and voted accordingly.”

The retrial came after several months of scouring libraries and city archives to find authentic trial documents and secondary sources for proper context into what happened. Christopher R. Hagale, a Yale history major and an associate at the firm who conducted that legwork and played the judge, said he enjoyed being able to do what he loved to provide attendees an enjoyable experience.

“Obviously a trial is much more complicated than this and all the procedures that would be going on, but it was a lot of fun to see people have serious interest and to ask good questions about how everything was working and to show them a part of what we do,” he said.

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