

VENTURA COUNTY

STAR

GRASP AN OPPORTUNITY

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75 cents

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Judge grants Luster reprieve

Quick Read

Makeup heir to have new sentencing hearing

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Convicted rapist Andrew Luster will get a new sentencing hearing but was denied a request that his conviction be set aside on some or all of his criminal charges.

Retired Judge Kathryne Ann Stoltz issued the ruling Monday. A new hearing means Luster could get his 124-year sentence reduced.

Stoltz wrote that she was granting a new hearing because "the court failed to state specific reasons for imposing full

consecutive sentences" as required by law.

A tentative date of April 4 was set for the hearing.

Luster, 49, an heir to the Max Factor cosmetics fortune, was convicted in 2003 of drugging and raping three women at his Mussel Shoals home north of Ventura. He fled to Mexico before his trial ended and was convicted and sentenced to 124 years in absentia. He was captured



Luster, a convicted rapist, could get his 124-year sentence reduced in new hearing.

six months later.

His attorneys last year were granted a writ of habeas corpus, and a week-long hearing was held in February.

Stoltz denied defense attorneys' request that

she enforce a 10-year-old plea offer by the district attorney's office of eight to 12 years. Stoltz also listed reasons she declined to set aside Luster's conviction and grant him a new trial.

Prosecutor Michelle Contois said she was happy with the decision.

"In the totality of it, I am pleased with the ruling," she said. "Overall, I am pleased."

See LUSTER, 2A



MAN INJURED IN COLLISION

FROM THE COVER

LUSTER

from 1A

She said the ruling denied Luster's request to enforce the plea offer, which prosecutors have said was never made.

"That was the good news," Contois said.

Defense attorney Jay Leiderman said he was delighted there will be a new sentence.

"But more than that we cannot say," Leiderman said. "We'll look forward to answering questions when this matter is concluded."

Stoltz rejected Luster's argument that fleeing to Mexico was involuntary. During the hearing, Luster said a former attorney encouraged him to flee because his life would be in danger if he went to prison.

"General fears of being harmed in prison do not render a defendant's flight voluntary," Stoltz wrote.

Luster was often described as "childlike" during the hearing.

"Although several witnesses did describe Luster as 'childlike,' it appears that this was primarily because he did not have to work a regular job due to the fact that he had a trust fund, and he lived the life of a carefree 'beach bum,'" Stoltz wrote.

Contois had indicated to Stoltz that she plans to put the victims on the stand during the sentencing hearing. Luster's attorneys have told Stoltz they will introduce mitigating

evidence, including that he saved six surfers from drowning at the beach.

Another issue is how long Luster, who has been behind bars for a decade, will have to serve before he is eligible for parole.

Leiderman and defense attorney David Nick say Luster will have to serve 50 percent of the sentence because the crimes weren't violent. Contois said she thinks Luster will have to serve 85 percent of the sentence.

Stoltz agreed with prosecutors and said evidence indicated the district attorney had never made a plea offer.

In a statement entered at the hearing, former District Attorney Michael Bradbury said that if called upon to testify, he would have said he didn't recall looking at a memo on a plea bargain deal that was written by then-prosecutor John Blair.

Blair testified that Luster's attorneys made the offer and, as with any plea offer at that time, he wrote a memo to his superiors, in June 2001, saying Luster was willing to plead guilty to two counts of rape and serve eight to 12 years.

"No formal offer was ever forthcoming," Stoltz wrote.

Luster has argued that he was denied effective counsel during his trial. In her ruling, Stoltz noted that Luster had several attorneys.

"He got good legal advice explained in detail from more than one source. However, that

advice wasn't what Luster wanted to hear," she wrote. "Luster fired attorneys who gave him negative information and sought attorneys who told him what he wanted to hear."

Luster testified at his hearing that one of his former attorneys, Richard Sherman, advised him to flee. Luster's attorneys argued that Sherman, who dropped out of the case shortly before the trial and has since died, was doing so for his own financial gain.

But Stoltz said Luster made the story up to explain why he fled to Mexico.

"This court does not find Luster's testimony in this regard to be credible," Stoltz wrote.

Luster knew "perfectly well" that Sherman was advising him to commit a crime, she wrote, saying that Luster's financial adviser, Albert Gersh, testified that he had told Luster that fleeing was "the stupidest thing I have ever heard."

Stoltz disagreed with Luster's argument that his right to privacy includes the right to "sexual perversions such as having sex with an unconscious person or sex with a person as long as all parties consent."

"This court finds that by giving the victims GHB, either with or without their consent, Luster seriously endangered their lives," Stoltz said. "The people's expert at trial testified that one can easily die from an overdose of GHB."