



Steven Avery's new lawyer is confident his conviction will be vacated.

Avery lawyer says there is new evidence, but Gimbel sees long road ahead

by **Dave Begel**

Published Jan. 11, 2016 at 12:56 p.m.

Frank Gimbel is one of Milwaukee's best and most experienced criminal defense attorneys, and he thinks Steve Avery's new lawyer is going to have a difficult time in any appeal of Avery's conviction.

Avery, of course, is the subject of the Netflix documentary "Making a Murderer," which has captured the attention of much of the nation.

His case has been taken up by Kathleen Zellner, a Chicago lawyer well known for obtaining reversals for those convicted of crimes. Tricia Bushnell of the Midwest Innocence Project, headquartered in Kansas City, is assisting Zellner.

Zellner is avoiding the press but released the following statement Monday:

"Ms. Zellner will not be doing any interviews about the Steven Avery case at this time. We are continuing to examine every aspect of Mr. Avery's case and all of his legal options. We are confident Mr. Avery's conviction will be vacated when we present the new evidence and results of our work to the appropriate court."

"Avery has exhausted his appeals," Gimbel said Monday. "I think this is going to be very difficult for her.

"What needs to happen, I think, is that they need to find some sort of juror misconduct in that jury room."

OnMilwaukee's Jessica McBride [revealed \(http://onmilwaukee.com/movies/articles/makingamurdererjurorvolunteer.html\)](http://onmilwaukee.com/movies/articles/makingamurdererjurorvolunteer.html) last week that one juror, Carl Wardman, had been a regular volunteer for the Manitowoc Sheriff's Department and that his son, Chris, was a supervisor for the department in the county jail. This information, however, was made known to the Avery's defense during the juror selection process.

"I don't think that is enough, by itself, to get a writ," Gimbel said. "But if they can show that along with some evidence that the verdict was not really unanimous, that is that there might have been some vote trading on different counts, then there is a chance.

"On the issue of the Dassey confession playing a role in Avery's conviction, it all depends on how much of it, if any, got into Avery's trial," he continued. "I can't imagine much of it got in. Avery had very good representation, and I would have fought like hell to keep that confession from being introduced."

Dassey is being represented by Laura Nirider of the Center for the Wrongful Conviction of Youth at the Northwestern School of Law. There is currently a writ of habeas corpus before U.S. Magistrate Judge William Duffin.

That writ, if granted, could either free Dassey or earn him a new trial.

While these two cases are inextricably tied together, legally they are separate actions and whatever happens in one of them will have little, if any bearing, on the other.

Web address: <http://onmilwaukee.com/articles/gimbelavery.html>