

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 04-60216-CR-COHN/SNOW(s)(s)

UNITED STATES OF AMERICA,
Plaintiff,

vs.

KENNETH PAUL WILK
a/k/a "Wolfpackeines,"
Defendant.

SPECIAL VERDICT

We, the jury, make the following findings, relevant to a sentence of death or life imprisonment without the possibility of release:

A. Age

1. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that Defendant Kenneth Paul Wilk was eighteen (18) years of age or older at the time of the offense.

Yes

No

If you answered "yes" in Subpart "A" then proceed to answer Subpart "B." If you answered "no" in Subpart "A," then your verdict is for life imprisonment without the possibility of release as to Counts One and Two and either life imprisonment without the possibility of release or a term of imprisonment to be determined by the Court as to Count Four. Do not answer the questions in Subparts "B" thru "F". You should proceed directly to Subpart "G" and then sign and date the verdict form.

B. Intent

1. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant:

a. intentionally killed Todd M. Fatta.

Yes No

If your answer is "yes" you should proceed to Subpart "C" regarding determination of necessary aggravating factors. If your answer is "no" you should proceed to determine whether the Government has proven intent factor "b."

b. intentionally inflicted serious bodily injury that resulted in the death of Todd M. Fatta.

Yes No

If your answer is "yes" you should proceed to Subpart "C" regarding determination of necessary aggravating factors. If your answer is "no" you should proceed to determine whether the Government has proven intent factor "c."

c. intentionally participated in an act, contemplating that a life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Todd M. Fatta died as a direct result of the act.

Yes No

If your answer is "yes" you should proceed to Subpart "C" regarding determination of necessary aggravating factors. If your answer is "no" you should proceed to determine whether the Government has proven intent factor "d."

d. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life, and Todd M. Fatta died as a direct result of the act.

Yes No

If your answer is "yes" you should proceed to Subpart "C" regarding determination of necessary aggravating factors.

If you answered "no" to all 4 intent factors in Subpart "A," then your verdict is for life imprisonment without the possibility of release as to Counts One and Two and either life imprisonment without the possibility of release or a term of imprisonment to be determined by the Court as to Count Four. Do not answer the questions in Subparts "C" thru "F". You should proceed directly to Subpart "G" and then sign and date the verdict form.

C. Necessary Aggravating Factors (Answer all questions in this section)

1. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant Kenneth Paul Wilk, killed or attempted to kill more than one person, that is, Todd M. Fatta and Angelo Cedenno, in the same criminal episode.

Yes _____ No _____

2. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant committed the offense after substantial planning and premeditation to cause the death of Todd M. Fatta.

Yes _____ No _____

3. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to Todd M. Fatta and Angelo Cedenno.

Yes _____ No _____

If you answered "yes" to any one of the three questions "C.1", "C.2," or "C.3" then proceed to answer the remaining questions on this verdict form. If you answered "no" to all three questions "C.1"; "C.2"; and "C.3" then your verdict is for life imprisonment without the possibility of release as to Counts One and Two and either life imprisonment without the possibility of release or a term of imprisonment to be determined by the Court as to Count Four. Do not answer

the questions in Subparts "D" thru "F". You should proceed directly to Subpart "G" and then sign and date the verdict form.

D. Additional Aggravating Factors (Answer all questions in this section)

1. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant killed Todd M. Fatta in an effort by the Defendant to obstruct justice or tamper with a witness as described in Count Seven of the Superseding Indictment.

Yes _____ No

2. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant has been convicted of, in addition to the capital offenses, an endeavor to obstruct justice through threats or force as charged in Count Five of the Superseding Indictment.

Yes No _____

3. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that in the context of a life in prison setting, the Defendant poses a continuing danger to the lives and safety of other persons, alleged to be evidenced by specific threats of violence to law enforcement officers, a continuing pattern of violence toward law enforcement officers, specific admissions of violence, low rehabilitative potential and lack of remorse for his criminal activities.

Yes _____ No

4. All jurors unanimously agree that the Government has proved beyond a reasonable doubt that the Defendant caused injury, harm, and loss to the family of Todd M. Fatta because of Todd M. Fatta's personal characteristics as an individual human being and the impact of his death upon those persons.

Yes No _____

E. Mitigating Factors (Answer all questions in this section)

For each of the following factors indicate the number of jurors, if any, who have found the existence of the mitigating factor by a preponderance of the evidence:

1. For the first 40 years of Mr. Wilk's life, he was never arrested for any crime.

Yes _____ If "yes", number of jurors 12

No _____

2. For the first 40 years of Mr. Wilk's life, he was a productive, contributing member of society.

Yes _____ If "yes", number of jurors 12

No _____

3. If not sentenced to death, Mr. Wilk will spend the rest of his life in prison without the possibility of release.

Yes _____ If "yes", number of jurors 12

No _____

4. Even though not sufficient to constitute a defense to the charges, Mr. Wilk's capacity to fully appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was impaired.

Yes _____ If "yes", number of jurors 2

No _____

5. Mr. Wilk was under duress, even though not to such a degree as to constitute a defense to the charges.

Yes _____ If "yes", number of jurors 12

No _____

6. Mr. Wilk has obeyed all rules and regulations of the jail, and has had no disciplinary problems, during his pre-trial detention at the Federal Detention Center from August 19, 2004 to the present.

Yes If "yes", number of jurors 12

No

7. Even though not sufficient to constitute a defense to the charges, Mr. Wilk committed the offense under some degree of mental or emotional disturbance.

Yes If "yes", number of jurors 12

No

8. Mr. Wilk is not likely to commit future acts of violence if sentenced to life in prison without release.

Yes If "yes", number of jurors 9

No

9. From late 2000 through 2001, following the deterioration of Mr. Wilk's health and Kelly Jones' arrests, Mr. Wilk's life entered a downward spiral.

Yes If "yes", number of jurors 12

No

10. Mr. Wilk showed respect and decorum in this courtroom, even under the significant stress of a capital trial.

Yes If "yes", number of jurors 12

No

11. After the brief, initial exchange of shots had stopped, Mr. Wilk did not fire any remaining rounds and voluntarily walked out of his home.

Yes If "yes", number of jurors 12

No

12. Evidence you have heard of planning and premeditation may have been partially attributable to Mr. Wilk's mental or emotional disturbance.

Yes If "yes", number of jurors 12

No

13. Although not sufficient to establish self defense, the following factors may have contributed to Mr. Wilk's reaction when the police forcibly entered his home:

a. Mr. Wilk suffered from hearing loss.

Yes If "yes", number of jurors 4

No

b. Mr. Wilk suffered prior acts of vandalism and harassment at his home.

Yes If "yes", number of jurors 5

No

c. The entry team was not in full police uniform.

Yes If "yes", number of jurors 3

No

d. Visibility inside Mr. Wilk's home may have been impaired.

Yes If "yes", number of jurors 2

No

e. Dep. Fatta may have been in a crouched position with his firearm pointed at Mr. Wilk when Mr. Wilk fired.

Yes If "yes", number of jurors 2

No

f. Mr. Wilk was lawfully in his home when the officers made the forced entry into his home.

Yes _____ If "yes", number of jurors 7

No _____

g. Mr. Wilk had no advance knowledge that the police would forcibly enter his home on the morning of August 19, 2004.

Yes _____ If "yes", number of jurors 4

No _____

14. Mr. Wilk's mental and/or emotional decline was at least partially attributable to matters beyond his control, including but not limited to the following:

a. Kelly Jones' conduct, criminal behavior and controlling nature.

Yes _____ If "yes", number of jurors 12

No _____

b. Mr. Wilk's personal stressors led him to drugs/alcohol.

Yes _____ If "yes", number of jurors 9

No _____

c. Mr. Wilk suffered from depression.

Yes _____ If "yes", number of jurors 12

No _____

d. Mr. Wilk suffered from some degree of dementia.

Yes _____ If "yes", number of jurors 2

No _____

e. Mr. Wilk had some degree of organic brain damage.

Yes If "yes", number of jurors 2

No

f. Mr. Wilk knew he had the fatal disease of AIDS.

Yes If "yes", number of jurors 10

No

15. Mr. Wilk was subjected to a series of significant stressors between 2001 and 2004, which had an effect on his mental and emotional well-being.

Yes If "yes", number of jurors 12

No

16. Mr. Wilk was ill-equipped to cope with the combination of stress factors that led to his mental and/or emotional decline.

Yes If "yes", number of jurors

No

17. During his life, Mr. Wilk has showed acts of generosity, kindness and charity to others.

Yes If "yes", number of jurors 12

No

18. In light of the fact that Mr. Wilk has full blown AIDS, imprisonment until his death will be a particularly severe punishment for him.

Yes If "yes", number of jurors 4

No

19. Mr. Wilk saved the life of a woman at a Miami Subs restaurant in Hollywood by performing the Heimlich Maneuver on her when she was choking.

Yes _____ If "yes", number of jurors 5

No _____

20. Mr. Wilk counseled and helped Jim Sipowicz when Jim Sipowicz revealed to him that he had been abused as a child.

Yes _____ If "yes", number of jurors 4

No _____

21. Defendant Kenneth P. Wilk has been a good and loyal friend to Jim Sipowicz, Richard Murphy and Donn Crothers.

Yes _____ If "yes", number of jurors 6

No _____

F. Additional Mitigating Factors

Describe and identify any other factors that mitigate against the imposition of a sentence of death and identify the number of jurors, if any, who find such factor to have been established by a preponderance of the evidence:

Kelly Ray Jones presence, intimidation and corrupt influence on Mr. Wilk
Number of jurors 12

The manner in which the search & arrest warrants were planned & carried out.

Number of jurors 10

Number of jurors _____

Number of jurors _____

Number of jurors _____

Number of jurors _____

G. Determination of Sentence

1. As to **Count One**, the Intentional Killing of Deputy Sheriff Todd M. Fatta, as a State or Local Law Enforcement Officer engaged in the performance of his duties, we the jury unanimously find:

a. that the aggravating factor(s) to which we have provided a unanimous "yes" answer above sufficiently outweigh(s) the mitigating factor(s) to justify a sentence of death, or in the absence of a mitigating factor, that the aggravating factor(s) alone is (are) sufficient to justify a sentence of death, and that the Defendant should be sentenced to death.

Yes _____ No

b. that the Defendant should be sentenced to life imprisonment without the possibility of release.

Yes No _____

2. As to **Count Two**, the murder of Todd M. Fatta, a person assisting a Federal Law Enforcement Officer engaged in the performance of that officer's duties, we the jury unanimously find:

a. that the aggravating factor(s) to which we have provided a unanimous "yes" answer above sufficiently outweigh(s) the mitigating factor(s) to justify a sentence of death, or in the absence of a mitigating factor, that the aggravating factor(s) alone is (are) sufficient to justify a sentence of death, and that the Defendant should be sentenced to death.

Yes _____ No

b. that the Defendant should be sentenced to life imprisonment without the possibility of release.

Yes No

3. As to **Count Four**, the Using, Carrying, or Possessing a firearm which crime caused the murder of Todd M. Fatta, as defined in Counts 1 and 2, we the jury unanimously find:

a. that the aggravating factor(s) to which we have provided a unanimous "yes" answer above sufficiently outweigh(s) the mitigating factor(s) to justify a sentence of death, or in the absence of a mitigating factor, that the aggravating factor(s) alone is (are) sufficient to justify a sentence of death, and that the Defendant should be sentenced to death.

Yes No

b. that the Defendant should be sentenced to life imprisonment without the possibility of release.

Yes No

c. that the Defendant should be sentenced to a lesser sentence to be determined by the Court.

Yes No

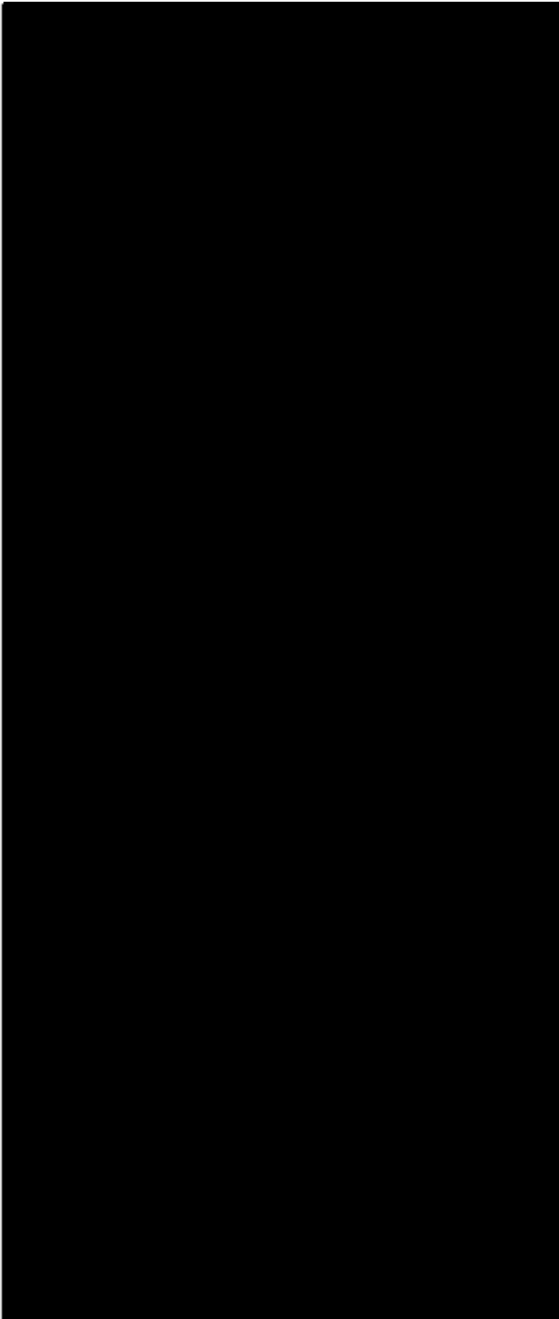
SO SAY WE ALL,



Foreperson

6/13/07
Date

Each juror must sign below, indicating that the above sentence reflects the jury's unanimous decision:



6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

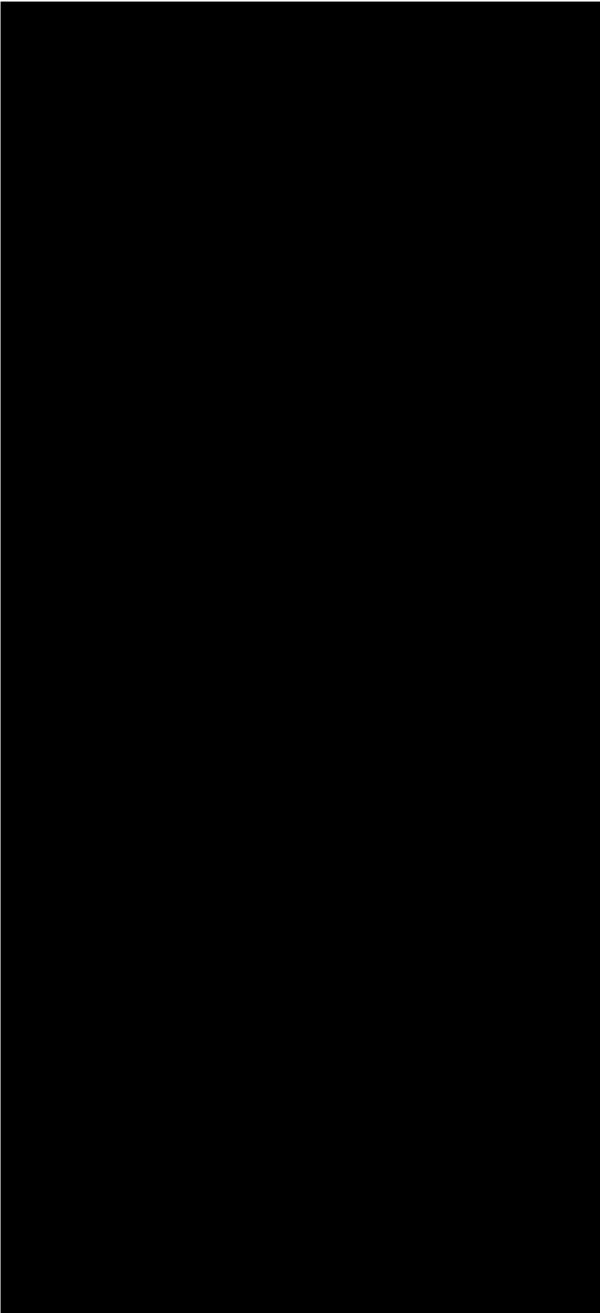
6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

By signing below, each of us, individually, hereby certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant Kenneth Paul Wilk or the victim Todd M. Fatta was not involved in reaching our individual decisions. Each of us, individually, further certifies that the same decision regarding a sentence for the crime in question would have been made no matter what the race, color, religious belief, national origin, or sex of Kenneth Paul Wilk or Todd M. Fatta may have been.



6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date

6/13/07
Date