

## Juror tells how death penalty recommended for Lake Elsinore man

08:02 AM PST on Friday, February 15, 2008

By TAMMY McCOY  
The Press-Enterprise

A juror said she recommended the death penalty for a Lake Elsinore Gypsy after seeing no signs of regret or remorse from the man convicted of the 2002 bludgeoning death of a father.

"I kept looking for remorse. I didn't see remorse and I needed to," said a juror who insisted on remaining anonymous because she fears retaliation. "You have to have evil in you to do this," she said of the slaying.

Jurors voted three times on their third day of deliberations before all 12 agreed on Feb. 1 that Tony Ricky Yonko, 45, should get the death penalty, the juror said.

The first vote was 9-3 for the death penalty, the juror said.

"The 9-3 vote means you can predict the outcome," said Kathy Kellermann, president of a trial consulting firm based in Marina Del Rey. "The research shows 95 percent of the time the final verdict is what the majority wanted."

The juror said she found Paul Ngo's Oct. 22, 2002, slaying especially horrifying because Yonko stole a safe from Ngo's house after hitting the 41-year-old in the head with a ball-peen hammer. Ngo's bloodied body was discovered that afternoon by his young sons when they came home from school.

"Part of my reasoning was the heinousness of the crime," she said. "He didn't stop after he killed Mr. Ngo. He completed the robbery, like he didn't even care," the juror said.

Kellermann said it is common for jurors to factor this into their decision.

"I would say the heinousness of the crime matters," Kellermann said. "It will always have an effect on the jury. Its hard for it not to."

The jurors' death-penalty recommendation came six weeks after they convicted Yonko of first-degree murder, robbery and burglary. Two days of talking about the case resulted in the jury's first vote in the penalty phase of the trial.

Jurors politely and intelligently discussed the merits of life in prison and the death penalty, the juror said. There was talk about how many people on California's death row die while awaiting execution, she said.

The jury also talked about whether Yonko or the Ngo family would be better off if the sentence was life instead of death.

The jury's second vote was 11-1 in favor of death for Yonko, the juror said.

In situations where there is one juror opposing the majority, Kellermann said, it is unlikely the result will be a hung jury.

Most juries want to reach a unanimous verdict. They see it as a failure if they do not, Kellermann said.

One male juror who voted against death for Yonko changed his mind, the female juror said, after thinking about what it would be like if his family had been victimized by Yonko and about the kind of life Yonko would have in prison..

During the trial, jurors learned Yonko was convicted of three residential burglaries and the victims were elderly.

"It just breaks my heart," the juror said. "My dad is going to be 95; that could be my dad."

Kellermann said the death penalty results more often when the victim is elderly, disabled or very young. People question whether a defendant who picks on the elderly can be remorseful, Kellermann said.

The third vote of the jury was 12-0 for death.

After hearing all the evidence and watching Yonko in court, the juror said she believed Yonko was not capable of being rehabilitated and would likely reoffend if given the chance.

"We made out a timeline of his crimes and you could see that it was never going to end," the juror said.

The juror said the jury did not believe Yonko was mentally disabled or that his Gypsy culture played a role in his decision to commit crimes.

"He was trying to make us feel sorry for him," the juror said. "Maybe we did a little bit because he didn't have a chance because of the way he was brought up."

Kellermann said Yonko's culture likely made him seem less sympathetic to a jury composed mostly of white people who are not from his ethnic group.

"Being a Gypsy matters," Kellermann said. "People have a negative view of Gypsies. It makes them less sympathetic."

The research shows that overall minority groups get the death penalty more often than white people, Kellermann said.

The jury also talked about how Yonko's actions have affected Ngo's wife and three sons.

"Destroyed, he destroyed their family," the juror said. "Those poor boys. ... All that for a stupid safe."

While the jurors all favored the death penalty, she said it was a difficult decision that she frequently thinks about.

"This is taking someone's life in your hands," the juror said. "I still think about it a lot."

She wonders if jurors covered everything during deliberations, if they talked long enough and if someone will seek revenge.

The juror said she did not learn until after the trial ended that another jury will be selected to determine if Yonko is mentally disabled or not. The issue of mental ability was officially raised with the court during the guilt phase .

If another jury finds Yonko mentally disabled, it would be unconstitutional to execute him.

"We deliberated on whether or not he was mentally retarded and the answer was no," the juror said. "We believed he was exaggerating. We decided that didn't justify the violence either."

Reach Tammy McCoy at 951-375-3729 or [tmccoy@PE.com](mailto:tmccoy@PE.com)