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# Jury Gives Graf Life

By CAMELIA FOSTER 294

Calling the guilty verdict of Ed Graf, Jr., "the greatest travesty of justice this courthouse has ever seen," Defense Attorney Lynn Malone, argued for the jury to give him a life sentence instead of death by lethal injection Friday, as the three week trial came to an end in 54th State District Court.

Graf was found guilty by the jury of 10 men and two women after 5 p.m. Thursday.

District Attorney Vic Feazell called Rick Smith President of Community State Bank as the only witness for the sentencing portion of the trial.

Smith testified, Graf had taken money from the bank since 1980, under a variety of schemes that dealt with savings accounts, refunds on returned check charges, through running debits on accounts.

Smith said the funds taken amounted to \$72,822, which has since been paid back to the bank plus \$2,178 in attorneys fees.

In 1980, Graf took \$743; 1981, \$4,540; 1982, \$12,790; 1983, \$11,280; 1984, \$22,030, and for the first nine months of 1985, \$21,439.

Smith said Graf admitted taking the money during a meeting at an attorneys office in 1985. "He did not show any emotion at the time," Smith added.

Malone objected to the testimony, saying he had asked for the records in discovery prior to the trial and he had never received them.

Under cross-examination by Charles McDonald, who also represented Graf, Smith admitted the bank wanted no publicity about the funds, but the FBI was notified although no charges were filed.

The agreement between Graf and the bank called for the funds to be paid back, and to tell the officers what methods he had used to extract the funds and in return the bank would not prosecute him.

Smith said he had no knowledge of the relationship between Graf and his wife and children.

Mrs. Graf, the mother of Ed, was

the only witness called by the defense during the sentencing phase.

"He paid back every penny of those funds," she told the jury.

"I know you made up your mind that he did it, but he didn't do it," she told the jury. "He was never cruel, he is kind and loving and there is no way, my son did that."

Mrs. Graf broke down on the stand and had to be helped to her seat by family members.

Judge George Allen, read the charge to the jury and told them the two special issues must be unanimous.

The first special issue was that the jury must find Graf guilty beyond a reasonable doubt in the death of Jason and Joby.

On special issue #2 the jury had to determine if Graf would be continuing threat to the community.

Feazell argued that the murder was a deliberate act, that Graf used gasoline to start the fire and tied the gates shut with a rope. He said Graf sees other people as objects and things and that he is comfortable with depersonalizing people when he wants to get his own way. Feazell noted the progression of his theft of funds at the bank as steadily growing as he got away with the scheme.

"In the animal world, some are marked certain ways, for detection, such as the rattlesnake, but Graf crawls and walks among us without any identification, and the boys were so trusting."

"It is difficult for the lawyer to get up here today before you, the 12 people who have found Graf guilty," McDonald told the jury.

"You have found an innocent man guilty, I asked you to look at the evidence," he stated.

"Mr. Graf was the only one there, write us sometime and tell us how you arrived at your decision, the New York expert could be wrong and you 12 people in your hearts can be wrong."

"The baby with the cloth in his hand, had not been rendered unconscious." (Testimony revealed a

small piece of cloth in Joby's hand had to be pried from the palm of his hand.)

"I don't know what happened, but if you give him life and it is a mistake then it can be corrected in years to come, but if you give him death, then there is no chance," McDonald told the jury.

Malone, visibly shaken from the guilty verdict of the jury on Thursday, said, "I am prepared for you to give him death, which you will probably do."

"You were out such a short time for a three-week trial," Malone said. "Weigh this as carefully as you can."

Feazell countered that he did not have to prove how he did it, because only "God, Jason and Joby and Ed Graf know that."

"Justice is what we are talking about," Feazell said.

Rick Williams, a resident of Hewitt and an insurance salesman, served as foreman of the jury which deliberated less than three hours.

Jury members agreed among themselves not to talk with the media after the sentence of life was read to the court. Several of the jurors were escorted to their cars by deputies and the remainder left through the annex to avoid talking to the press.

Malone and McDonald said they would file a motion for a new trial as soon as possible.

Neither would comment on a polygraph test taken by Graf, that indicated he did not commit the crime.

"I am relieved they gave the man his life at least, because with life there is hope and hope is something to live for."

Malone would comment on how long Graf might spend in jail.

"The parole laws are so complicated, I can't say," he told the media.

Others in law enforcement have said he could spend as little as 12 years in jail.