

LESSONS OF THE FRED TOKARS MURDER TRIAL

Published in *Athens Human Rights Festival*, p. 5 (May 3-4, 1997).

Author: Donald E. Wilkes, Jr., Professor of Law, University of Georgia School of Law.

In the 1980's and early 1990's Fred Tokars was a crooked lawyer in Atlanta. He engaged in numerous criminal activities, including money laundering. On November 29, 1992 Fred Tokars' beautiful young wife Sara was kidnaped and shotgunned to death by Eddie Lawrence and Curtis Rower. In 1993 Tokars, Lawrence, and Rower were all charged with her murder by a Cobb County grand jury.

In 1994 Fred Tokars was convicted of racketeering and other federal felonies in federal court and was given four sentences of life without parole in a federal prison. After his federal sentences were upheld on appeal, Tokars was put on trial before a jury in a Georgia superior court last January for the murder of Sara. The trial was televised live on Court TV. On Saturday, March 8, 1997 the jury found Fred Tokars guilty of her murder. Four days later the same jury found that the state had proved beyond a reasonable doubt several aggravating circumstances permitting a death sentence, but nonetheless exercised its discretion to impose a life sentence on Tokars.

The horrible murder of Sara Tokars, which cannot be sufficiently condemned, must not blot out our eternal vigilance for liberty and justice. There are important civil liberties lessons to be learned as a result of the Fred Tokars murder trial.

First, the "necessity" exception to the hearsay rule was ballooned to allow the jury to hear a vast mass of hearsay and double hearsay testimony, highly damaging to the defendant, concerning the marriage of Fred and Sara Tokars. Grieving relatives or angry friends of Sara were the sources of most of this evidence. The Tokars trial proves there is increasing danger that Americans will be prosecuted and punished on the basis of tittle-tattle. We had better be careful about any further relaxing of the rules of evidence.

Second, the death penalty is a very expensive and a very arbitrary procedure. Prosecutors use it for political purposes. Death penalty cases are now tried on the basis of prosecution testimony coming from jailhouse informers, prostitutes, drug dealers, and murderers, all claiming that the defendant made breathless confessions of guilt to them. Sometimes the family members of a victim may hijack a public prosecution and transform it into a private vendetta. Under the guise of victim's rights, the prosecution is now allowed to produce a scripted film to be shown to the jury prior to deciding sentence. Victim's rights are now used to mask vindictiveness; victim's rights are becoming a smoke screen to advance the agenda of the law and order elements.

Third, every day prosecutors do more to help criminals than all the liberals and defense lawyers could ever dream of doing. In the Tokars case Cobb County D.A. Tom Charron showered the fiendish murderer, liar, and habitual criminal Eddie Lawrence, a hands-on killer of Sara, with sweetheart deals that will permit him to be released from prison and live in the witness protection program. How many other prosecution witness-criminals received leniency in exchange for giving testimony incriminating Tokars? Some limits need to be placed on the unlimited, discretionary power of prosecutors to grant favors to government witnesses or

informers.

Fourth, the Tokars case reminds of the role that race plays in death penalty cases. The victim was white and from an affluent white family that wanted a death sentence. It is inconceivable that a black family, or a poor white family, would have had the input into prosecutorial decision-making that Sara's family had.

Finally, the jury verdict giving Tokars a life sentence was an enormous defeat for Tom Charron. He gambled a massive expenditure in taxpayer monies on the jackpot of a death sentence, and he lost. It was Charron's Folly, Charron's Fiasco, Charron's Flop. Despite his prodigious efforts Charron could not even convince a panel of 12 death penalty supporters to vote to kill Tokars. Perhaps as much as \$1 million of taxpayers' funds was wasted even though, as Charron knew, the defendant was already serving four life sentences without parole, and even though Charron had extended excessive leniency to one of Sara's actual killers, and had been unable to convict the other actual killer. However, Charron will suffer no adverse political consequences. To thunderous applause, he will simply remind people that at least he tried to obtain a death sentence. In this state, no prosecutor or politician ever lost an election by supporting capital punishment.