

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

SUPERIOR COURT
CRIMINAL ACTION
NO. 06-2069

COMMONWEALTH

vs.

KATHIE DEFELICE

Lowy J 7/28/08
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FILED IN COURT
ASST. CLERK
James E. Clam

SENTENCING INSTRUCTION

The jury found that Kathie DeFelice killed William Olsen unlawfully but without malice. The Court will sentence the defendant in accordance with that verdict. Only Ms. DeFelice knows what happened in that room on October 30, 2006, but we know that the jury did not find beyond a reasonable doubt an absence of excessive force in self defense, heat of passion, or sudden combat.

It is important and necessary for the Court to explain its sentence to emphasize a number of points:

1. William Olsen is not on trial for either the life he lived or for what he did or did not do the night he was killed;
2. There is never an excuse for domestic violence. When a husband or boyfriend strikes his partner it does not make him a man; it makes him a criminal and manifests his weakness, not his strength;
3. Women who stay in abusive relationships do so for a multiplicity of complex reasons. Fear, manipulation, intimidation, violence, children, shelter, and financial dependence are but a fraction of those complex reasons;
4. Over the course of the past two decades, police, prosecutors, and social service

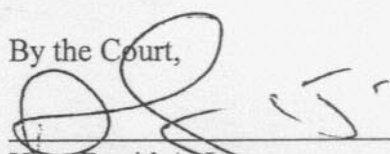
providers have dramatically improved their approach and support for victims of domestic violence and those seeking to escape their batterers.

How then, does the Court impose a just sentence in the circumstances as found by the jury? The Court has no more omniscience than those of you participating or observing this sentencing hearing in making this decision. Yet, it is my obligation to do so without passion, sympathy, mercy, or favor.

Ms. DeFelice needs to be punished. Our social compact and the concept of ordered liberty cannot long endure if a victim's response to domestic violence is with the blade of a knife to the heart of her batterer. This is not to say that victims of domestic violence should not defend themselves, but this jury found beyond a reasonable doubt that the defendant was not defending herself in lawful self-defense. We are a nation of laws. If individuals take the law into their own hands through either retaliation, revenge or their own sense of justice, our social compact will fray at the seams. On the other hand, if we as individuals and as a nation, do not remain vigilant in attacking the scourge of domestic violence, the greatest foundation of our social compact - a loving and supportive family unit - will remain at risk.

Based upon the jury's verdict, the seriousness of the crime, the defendant's lack of any prior record, and the imperfect nature of the Court's duty to sentence on these unknowable facts, the Court sentences Ms. DeFelice to eight to thirteen years in state prison.

By the Court,


Hon. David A. Lowy