

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	CRIMINAL NO.: 01-10384-MLW
)	
)	
v.)	VIOLATIONS:
)	18 U.S.C. § 2119(3) -
)	Carjacking Resulting in
GARY LEE SAMPSON)	Death

DOCKETED

SECOND SUPERSEDING INDICTMENT

COUNT ONE: 18 U.S.C. § 2119(3) - CARJACKING RESULTING IN DEATH

The Grand Jury charges that:

On or about July 24, 2001, in the District of Massachusetts,

GARY LEE SAMPSON,

defendant herein, with the intent to cause death and serious bodily harm, did take and attempt to take from the person and presence of Philip A. McCloskey, by force and violence, and by intimidation, a motor vehicle that had been transported, shipped, and received in interstate and foreign commerce, that is, a 1994 Mazda MPV minivan, bearing Massachusetts license plate 845RNW, VIN JM3LV5222R0622131, resulting in the death of Philip A. McCloskey.

All in violation of Title 18, United States Code, Section 2119(3).

COUNT TWO: 18 U.S.C. § 2119(3) - CARJACKING RESULTING IN DEATH

The Grand Jury further charges that:

On or about July 27, 2001, in the District of Massachusetts, and elsewhere,

GARY LEE SAMPSON,

defendant herein, with the intent to cause death and serious bodily harm, did take from the person and presence of Jonathan M. Rizzo, by force and violence, and by intimidation, a motor vehicle that had been transported, shipped, and received in interstate and foreign commerce, that is, a 1994 Volkswagon Jetta, bearing Massachusetts license plate number 2941DF, VIN 3VWRB21H0RM011699, resulting in the death of Jonathan M. Rizzo.

All in violation of Title 18, United States Code, Section 2119(3).

NOTICE OF SPECIAL FINDINGS

1. The allegations of Counts One and Two of this Second Superseding Indictment are hereby realleged as if fully set forth herein and incorporated by reference.

2. At the time he committed the offenses alleged in Counts One and Two, the defendant, GARY LEE SAMPSON, was more than 18 years of age.

3. As to Count One:

Factors Enumerated Under 18 U.S.C. § 3591(a) (2)

a. The defendant, GARY LEE SAMPSON, intentionally killed Philip A. McCloskey (18 U.S.C. § 3591(a) (2) (A)).

b. The defendant, GARY LEE SAMPSON, intentionally inflicted serious bodily injury that resulted in the death of Philip A. McCloskey (18 U.S.C. § 3591(a) (2) (B)).

c. The defendant, GARY LEE SAMPSON, intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than a participant in the offense, and Philip A. McCloskey died as a direct result of the act (18 U.S.C. § 3591(a) (2) (C)).

d. The defendant, GARY LEE SAMPSON, 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 act, such that participation in the act

constituted a reckless disregard for human life, and Philip A. McCloskey died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D)).

Factors Enumerated Under 18 U.S.C. § 3592(c)(1) Through (16)

a. The defendant, GARY LEE SAMPSON, committed the offense charged in Count One in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to the victim. (18 U.S.C. §3592(c)(6)).

b. The defendant, GARY LEE SAMPSON, committed the offense charged in Count One, after substantial planning and premeditation to cause the death of a person. (18 U.S.C. §3592(c)(9)).

c. The victim, Philip A. McCloskey, was particularly vulnerable due to old age and infirmity. (18 U.S.C. §3592(c)(11)).

d. The defendant, GARY LEE SAMPSON, intentionally killed and attempted to kill more than one person in a single criminal episode. (18 U.S.C. §3592(c)(16)).

4. As to Count Two:

Factors Enumerated Under 18 U.S.C. § 3591(a)(2)

a. The defendant, GARY LEE SAMPSON, intentionally killed Jonathan M. Rizzo (18 U.S.C. § 3591(a)(2)(A)).

b. The defendant, GARY LEE SAMPSON, intentionally

inflicted serious bodily injury that resulted in the death of Jonathan M. Rizzo (18 U.S.C. § 3591(a)(2)(B)).

c. The defendant, GARY LEE SAMPSON, intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than a participant in the offense, and Jonathan M. Rizzo died as a direct result of the act (18 U.S.C. § 3591(a)(2)(C)).

d. The defendant, GARY LEE SAMPSON, 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 Jonathan M. Rizzo died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D)).

Factors Enumerated Under 18 U.S.C. § 3592(c)(1) Through (16)

a. The defendant, GARY LEE SAMPSON, committed the offense charged in Count Two in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to the victim. (18 U.S.C. §3592(c)(6)).

b. The defendant, GARY LEE SAMPSON, committed the offense charged in Count Two, after substantial planning and premeditation to cause the death of a person. (18 U.S.C. §3592(c)(9)).

c. The defendant, GARY LEE SAMPSON, intentionally killed and attempted to kill more than one person in a single criminal episode. (18 U.S.C. §3592(c)(16)).

A TRUE BILL

John L. Quinn 8/8/02
FOREPERSON OF THE GRAND JURY

Frank M. De...
ASSISTANT U.S. ATTORNEY

DISTRICT OF MASSACHUSETTS: August 8, 2002, at 12:35

Returned into the District Court by Grand Jurors and filed. p.m.

Alleluia. Hays
DEPUTY CLERK