



Holiday Jury Verdicts: 'Tis the Season "ForGiving"

by Amit Patel

The holiday season is traditionally celebrated under the auspices of thankfulness and generosity. Spirits generally run high, and the air is filled with essences of warmth, altruism and giving, culminating with the exchange of gifts on Christmas Day. Can this holiday spirit visit juries, and affect the way holiday criminal and civil jury trials are decided? Anecdotally, the answer may be "yes."

The notion that jurors in criminal cases may exhibit greater magnanimity towards assessments of defendants' guilt and/or their punishment, and with civil cases, more munificent with damage awards, has garnered support from seasoned prosecutors and defense attorneys alike. To quote Florida defense attorney Fred Haddad: "I love Christmas juries. They don't want to put anybody in jail. They're too full of good cheer and happiness." Retired Circuit Court Judge John Contini echoes the sentiment: "Any veteran defense attorney shoots for a Christmas verdict. All month long, Christians are hearing sermons about forgiveness. When they get in the courtroom, they can relate that to the case and the fact Christ was the ultimate defense attorney, pleading for the forgiveness of our sins."

What factors play a role in seemingly transforming jurors out of a Scrooge McDuck frame of mind in the weeks surrounding Thanksgiving and Christmas? For criminal cases, a conflation of three circumstances increase the likelihood: a nonviolent crime, a sympathetic defendant with no prior record, and a trial that ends during the holiday season. However, with violent crimes, especially those involving harm to a family or loved one, the

phenomenon could work in reverse. With the heightened salience of family and togetherness surrounding the holidays, jurors could actually be more punitive knowing that a family is facing the holidays without a beloved member. Moreover, during the holiday season, jurors, like everyone else, are busy with last minute shopping, prepping for the visiting family members, and wrapping presents. Fort Lauderdale attorney Elinor Wilcov thinks jurors "would be annoyed that they have to sit in a trial when they've got a million other things to be doing. They could get mad at the defendant for taking up their time."

Even so, sometimes the pervasive resolve of the holiday spirit is too strong. Former Dallas County District Attorney Craig Watkins recounted the trial of a man who admitted attacking his newborn son and killing him. The man claimed to be half awake at the time. At trial, which took place around Thanksgiving, he was found guilty of murder, rather than capital murder, the latter of which would have meant an automatic sentence of life without parole. Instead, he will be eligible for parole after serving half his sentence, despite the heinous nature of the crime.

In this example, we cannot truly know whether the spirit of holiday generosity resounded in the minds of jurors, whether consciously or not. Nevertheless even without the backing of hard science, there is the strong perception of a "holiday effect" upon jurors, and attorneys would be wise to contemplate it during this time of the year, lest they be left with a "Bah humbug!" of a verdict.

The Dallas Morning News. (2011, December 23).

Holiday good will can affect jury deliberations.

<https://www.dallasnews.com/news/crime/2011/12/24/holiday-good-will-can-affect-jury-deliberations/>

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