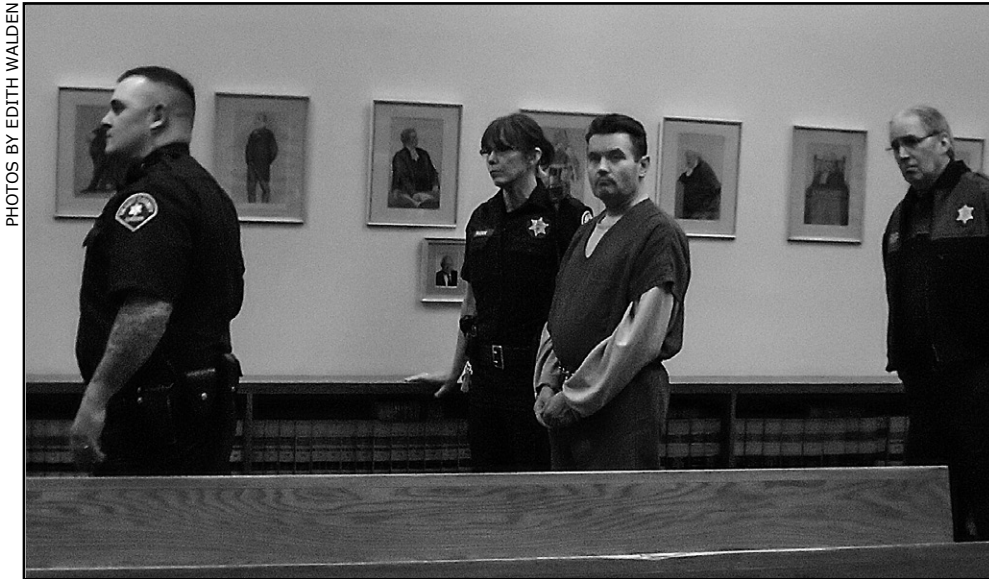


# Guilty on All Counts

## Ex-Islander Charles Feld Will Spend Life in Prison



PHOTOS BY EDITH WALDEN

Charles Feld leaves the courtroom on April 20 after being convicted on all counts.

By Edith Walden

A jury of six men and six women listened to five and a half days of testimony in Skagit County Superior Court beginning April 12 on charges against former Guemes Island resident Charles Feld, 55.

After nearly seven and a half hours of deliberation on April 20, the jury returned guilty verdicts on two counts of attempted premeditated murder of Stephen Callero, 48, and Tim Hanby, 60; four counts of premeditated assault on Callero, Hanby, and sheriff's deputies Steven Gonzales and Jess Brannon; one count of premeditated arson at Callero's residence; and one count of felony harassment with threats to kill sheriff's deputies.

The jury returned firearm enhancement charges on four of the counts, which will add up to 10 years to the sentencing range for each count. Sentences for the attempted murder charges and assault charges must run consecutively; the minimum sentence for each attempted murder charge is 20 years without opportunity for early release. Feld's prior felony conviction will add additional time. Official estimates of his sentence range from 80 to 112 years.

Listening in the hushed courtroom as the court clerk read the verdicts were numerous sheriff's deputies and investigators involved in the case. Also present was Phyllis Feld, the defendant's wife. Feld's face paled as the verdicts were read, but he showed no other sign of emotion.

On March 30, Skagit County Deputy Prosecuting Attorney Russ Brown had written to defense attorney Wes Richards offering Feld a plea bargain that would result in only 13.33 years of confinement in exchange for guilty pleas to one count each of first-degree assault, first-degree arson, and felony harassment. Feld had rejected the offer and stated in court (out

of the jury's presence) that he believed "plea bargaining is extortion. There is no way I would accept even if they told me I could go home tomorrow."

Following Feld's conviction, Superior Court Judge Michael Rickert increased his bail from \$1 million to \$1.5 million, based in part on his recorded threats to escape. At press time, a sentencing date had not been set.

### A tale of two defendants

The prosecutors and the defense presented dramatically different versions of the events that occurred on Guemes Island April 2 and 3, 2010.

"This is a case about a man who took the law into his own hands," Deputy Prosecutor Brown told the jury in his opening statement. The

rapt jurors listened as Brown read the text of several obscene and threatening phone messages Feld left on Stephen Callero's phone days before the events of April 2. In them, Feld first promises to pay the money (\$150) he owed for renting a rototiller, then taunts Callero to come to Feld's house to talk.

Brown related how Callero had called the sheriff's office requesting assistance in collecting the debt. Deputy Brian Lehr later testified that he advised Callero that the matter was a civil issue, but that if he was going to make contact to "take a neutral party with him to help keep the peace" and a cell phone, adding that he may have said, "There is strength in numbers."

Here's a summary of Brown's account of the increasingly violent chain of events when Callero brought two witnesses with him (Tim Hanby and son Aaron Callero) to the Feld residence on Edens Road to collect the money:

*Around 6 p.m. Callero leaves the parked truck and approaches the house unarmed. Charles and Phyllis Feld come out on the porch. Callero requests payment. An argument ensues. Feld becomes heated and agitated. Hanby approaches the house and joins the argument. Feld goes into the house and brings out a prepared bucket of gas, bleach, ammonia, and dish soap and throws it on Hanby, partially blinding him, and then tries to light him on fire. Hanby becomes agitated. Callero calls 911. Feld throws a flowerpot to knock the cell phone out of Callero's hand. Feld goes back in the house. Callero and Hanby begin to retreat to Hanby's truck. Feld comes out with a .38 semiautomatic pistol and fires in the men's direction at least twice. He follows the two to the truck, reaches in, points the gun at Callero's head, and pulls the trigger. The gun jams. Callero manages to pull the truck door shut. Feld breaks the window with the butt of the gun and tries to pull Callero out. Hanby hits Feld's arm with a fish club. Hanby and*

Callero (and Aaron, who has stayed inside his own truck parked many yards away) leave. The 911 dispatcher, who has been recording the entire event, instructs the two to go to the Fire Hall for medical assistance and safety.

At 9 p.m. Feld calls 911 and threatens to kill all the officers on his property if they don't leave in 30 minutes. At some point Feld goes to Callero's Holiday Hideaway residence, breaks into his fifth-wheel trailer home, turns on the gas stove and lights it, throws gasoline and lawn furniture in the trailer, and it burns to the ground. Callero's dump truck also burns.

Feld returns to the perimeter of his own property. At around 11, Phyllis lures Deputy Gonzales from his post across the street, lying to him that Feld is in Anacortes, and thereby revealing the deputy's position to Feld. Around midnight all the lights go out at the Feld house. A few minutes later, a rifle shot is fired from near the Feld house at two officers across the road at the Shoultz property. An officer wearing night-vision goggles sees a figure behind a woodpile near the Feld house. The county's high-risk team executes a warranted search of the Feld home. Inside they find a number of Molotov cocktails, a packed survival bag with a box of ammunition in it, and other ammunition. Around 6 a.m. Feld is discovered locked inside a patrol car. He surrenders.

Brown listed Callero's losses from the fires: family heirlooms (including his mother's hope chest that her father had made for her), his children's artwork, family photographs, a coin collection, his business computers and all his business records, all his personal possessions, and the dump truck that he relied on to run his business.

Feld was "trying to break Stephen Callero physically, financially, and emotionally," Prosecutor Weyrich asserted. "He lays a trap for him and tries to kill him. He burns his house down for the fun of it." Weyrich summarized, "That's evil."

### The defense's case: a frightened citizen defending himself

While the defense agreed with many of the details of the case, they argued that Feld was within his federally mandated rights to defend himself, his wife, and his property, pointing out that in the state of Washington there is no legal requirement to retreat.

The defense maintained that:

- Feld was expecting Callero and had prepared the gasoline mixture to defend himself.
- He was not expecting the other men.
- When Hanby, who Feld did not know, approached from the truck, he was carrying a fish club at his side.
- Callero and Hanby refused repeated orders to leave the property.
- Hanby threatened Feld: "I'll beat the money out of you, m\*\*\*f\*\*\*."
- Feld was scared and thought there were two more men waiting in the second truck.
- He threw the gasoline mixture at Hanby and the flowerpot at Callero in defense.

Although neither man ever got on the porch where Feld was, defense attorney Richards argued that this was armed

robbery. He suggested that Feld chased after the two retreating men with his gun, firing "warning shots," because he thought they might be going to their vehicle to get more weapons.

Richards conceded that "the evidence is clear that Feld is responsible for the fire," and that there was no doubt about the harassment call. While admitting that Hanby's fish club was an "odd weapon" and that Feld was "an odd kind of guy," he insisted that Feld did not have a premeditated intent to kill, and reminded jurors that Feld received a sharpshooter



Defense attorney Wes Richards (left) asks Tim Hanby to identify a fish club.

rifle award while he served in the army.

In closing arguments, Richards pointed out the lack of physical evidence and the inconsistencies in the alleged victims' descriptions of the incident, claiming, "I wouldn't buy a used car from these folks."

### Recorded confessions key to case

In a masterful interrogation by then Chief Criminal Deputy Will Reichardt (who is now Skagit County sheriff), conducted an hour after Feld was taken into custody, Feld was invited to "tell your side of the story." In the hour-long video that was played to the jury, Feld calmly and rationally tells of the encounter. He claims Callero had rented the rototiller for him as a favor and was going to trade him for some rabbits.

He asserts that the "four" men who came are known bullies on the island and that he dreamed they were coming two nights before it happened. He had prepared the gasoline concoction several days in advance. He says the men got up on the porch and knocked on the door.

He admits throwing the gas on Hanby and taking out his lighter and threatening to light him. He says he took the stick from Hanby and broke the truck window with the stick. Twelve times he denies using any firearms, adding, "I don't believe in guns. I don't have any weapons." He denies having anything to do with the fire 13 times, initially insisting he didn't even know where Callero lived.

He explains that after the incident he took Phyllis's truck down to the beach to calm down, and then went to "Recycle Mike's" (Michael Grennell's). He says he then returned the

(continued on page 13)

## FELD TRIAL

(continued from page 10)

truck to Banjo Eddie Miklosh's, walked to his own house, and snuck in to say goodbye to Phyllis.

"I did nothing wrong, I broke no laws," he maintains. "I expected Steve. I was hoping he would come. When the devil's coming at you, you've got to take as many with you as you can. That was my mental state of mind when I saw them coming in my driveway."

He admits calling 911 and leaving an ultimatum that he doesn't remember, wanting the officers to leave his property. He describes his two-hour wait in the trees on the west side of his residence, about 100 feet from the deputies.

Reichardt encourages him to tell the *whole* story and to "be an honorable man." He pauses, and Feld quietly states, "I burned the trailer down," and details his method. With more encouragement to be "a man," Feld admits to firing two warning shots with a .38 semiautomatic pistol that he later threw in the water at the beach. He insists there were three rounds left in his clip.

A recording of the 911 threat Feld made to kill all the officers was played for the jury. In addition, numerous taped jail phone conversations between the Felds were entered into evidence. In them, Feld proclaims his religious/political philosophy about how "all authorities will be put to death" in a bloodbath, he reiterates many of the details of his crimes, and threatens to escape if he gets a chance. "I did him a favor by burning his house down," he brags. "I want a percentage of his insurance." Callero was not insured.

## Faulty memories

Eyewitness accounts are known to be not always reliable, and the testimony of the four witnesses, two years after the event, demonstrated the point. As in the parable of the blind men describing an elephant, each had a different story to tell.

Stephen Callero stated he saw Feld try to light Hanby on fire. Hanby, temporarily blinded by the gas mixture, denied seeing any such attempt. He insisted he never talked to the 911 dispatcher, but after his testimony jurors listened to him speak to the dispatcher on a recording of the call. Aaron Callero's estimate of how far away from the house he had parked varied from statements he had made earlier, and both estimates conflicted with the actual measurements of the driveway.

Phyllis Feld, who was the only witness to testify for the defense, appeared to have a very selective memory of the events. On the stand she said she never saw Feld with a handgun, and "couldn't recall" making a statement to an officer five days after the event that Feld had gone into the house and gotten a handgun. She denied seeing a lighter or hearing a threat to light Hanby.

## Selective remorse

In his taped interview, Feld tells Reichardt, "I wanted to send a message to that boy that he'd remember the rest of his life. He's fortunate to be alive. And I have no remorse. I'm not

sorry for what I did. As far as I'm concerned, I'm one of God's sons. He was Lucifer. When someone's coming at me there are no rules."

When Feld was taken into custody, he talked all the way back to Mount Vernon, Deputy Jason Moses testified. According to Moses, Feld detailed some of his actions: "You should have seen his eyes!" Feld remarked when he described taking out his lighter after pouring the gas cocktail on Hanby. He assured Moses that the charges against him would be dropped because the courts think he is mentally unstable. He apologized to Moses for keeping the sheriffs up all night.

At a break during the trial, Feld spoke to his sister-in-law Carol Deach, stating, "I want to tell Alice and Marvin [Shoultz] that I'm sorry for causing this whole thing." Then he turned to a guard and said, "I had no idea what I'd get myself into when I moved to Guemes Island."

## "An abundance of caution"

Throughout the two-year process of bringing the case to trial, Prosecutor Weyrich has been careful to avoid mistakes that could result in an overturned decision upon a defense appeal. Defense attorney Richards made several attempts to have a mistrial declared that were denied by Judge Rickert, and he has indicated he will file appeals on some of the grounds that were denied.

In requesting that the plea bargain letter be admitted into the court file, Weyrich cited the need for "an abundance of caution."

Major delays were caused when Richards, a public defender, insisted his client was incompetent to stand trial because Feld refused to cooperate in his defense. Feld repeatedly refused to meet with Richards or come to court hearings, called for his public execution and suicide, fired him, and then hired another attorney, who withdrew several months later. Richards was then reassigned to the case. Richards continued to claim that Feld could not rationally assist in his defense.

Four evaluations of Feld by mental-health experts at Western State Hospital were ordered by the court—several lasting up to 90 days in residence at the hospital. Each time the experts stated their opinion that Feld was competent to stand trial. In a competency hearing that concluded on March 13 of this year, Judge Rickert concurred.

Because Feld had become known for his profane outbursts in court, a special room had been prepared with a video feed in case he was disruptive. However, Feld remained calm and engaged throughout the trial, with only one outburst in front of the jury, chastising the high-risk team leader for "what you did to my wife and my home."

The first three days of the trial, Feld appeared in his red jail suit, shackled at the ankles, wearing a full beard and medium-length hair. Both his defense attorney and the judge had urged him to wear civilian clothes.

On the fourth day, Feld looked startlingly different, appearing in a sport coat and slacks with shirt and tie, clean shaven, with a short, well-groomed haircut, and unshackled.

He frequently put on reading glasses to examine docu-

ments, and had numerous discussions with his attorneys, some obviously cooperative. Judge Rickert noted that “Mr. Feld’s responses are clear and concise,” and that he seemed to be a “very intelligent man” who is tracking everything. He observed that Feld holds beliefs that the system is corrupt, noting that he respected Feld’s opinions and beliefs.

### A remarkable lack of physical evidence

The state called 19 witnesses to the stand—the 3 eyewitnesses, 13 law enforcement officers, 2 fire officials, and a forensic specialist. However, the prosecutor’s case was not buttressed by much physical evidence. There were 202 exhibits of evidence admitted in the case, but most were photographs.

After the search warrant was executed on April 3, resulting in numerous photographs of the contents of the house, including the bucket with residue of gas mixture, both crime scenes were left unsecured until April 7, when another search



Stephen Callero (right) is cross-examined by defense attorney Nancy Neal while Judge Michael Rickert listens.

warrant was obtained. It was only then that a police dog and metal detector were used to hunt for bullet casings and fragments outside the Feld property, and it wasn’t until April

9 that the Shoultz property was searched for evidence of the bullet shot at the two deputies.

Five days after the incident, samples of the gasoline mixture were collected, along with the Molotov cocktail jars, some of Feld’s clothing, his cell phone, and military records.

The defense was quick to point out the lack of evidence: only one .22 shell casing was found at the scene.

Fire Warden Fred Wefer examined the fire scene on April 3. He was not able to detect any accelerant, in part because he ran out of calibration gas and could not use his calibration instrument. He did conclude that he had never seen two vehicles burn in two places at the same time without assistance.

On April 5, then Deputy Fire Marshall Kelly Blaine tested Hanby’s clothes, which registered positive for toxic and combustible gases. On April 7, he assisted collecting evidence at the Feld home and also collected evidence at the fire scene.

Under cross-examination, he agreed that the scenes had not been secured and that the chain of evidence had been broken.

Skagit County Sheriff Chief of Field Services Tom Molitor told the *Tide* he is proud of the initial investigation, including the strength of the witness statements and the taped confession. In retrospect, he observed, “we learned a lot from this case.” One lesson is to “tie up ends initially,” he said.

### A juror’s perspective

In the end, even with the conflicting testimony and missing evidence, the jury concluded that Stephen Callero, supported by his recorded 911 call and the recorded confessions by Feld, was the most credible witness, according to statements made to the *Tide* by Juror #7, who wished to be identified only as “Eric.”

According to Eric, the jury listened again to Callero’s 911 call and to Feld’s taped interview, Feld’s 911 call, and the Feld jail phone calls. The jury concluded that Callero’s manner during testimony matched the description Hanby attributed to him of a man who was “gentle, mild-mannered, passive, soft-spoken, not aggressive at all” rather than the bully that Feld tried to portray. Additionally, Callero’s story matched what the jury could hear on the 911 call.

Eric revealed that the most significant information in reaching the verdicts was the legal definitions that came with the record-breaking set of 53 jury instructions. He particularly noted that a “premeditated” action is one that takes “more than a moment” to carry out. He reported that the jury had no trouble coming to unanimous decisions of guilty on all the charges. There was only one holdout on one of the firearm enhancement charges, so they made no decision on it.

Eric had served on two prior juries, one that resulted in a mistrial and one in a hung jury. He praised this experience of bringing a diverse group of people together to make such an important decision. “I’m glad to have done something that made a difference,” he said.

### Grateful for support

Stephen Callero expressed some relief after learning of the verdicts. Still suffering from the many impacts of that night, he told the *Tide*, “It’s been a long ordeal.” He hopes not to be blamed for what happened and “is grateful for the overwhelming support from islanders.” Above all, he wants “to move past it and get on with life.”

That night was unforgettable to all involved. The volunteer fire department took charge of the incident until law enforcement arrived, and were then locked down at the Fire Hall and not allowed to do what they were trained to do: put out a fire.

More than 30 officers from all over the county responded to the island, acutely aware that an officer and other victims had died in a seemingly similar incident in the county less than a year before.

Islanders were confused and frightened by news of a shooter on the loose and an uncontrolled fire on a very windy night. Friends and neighbors risked their lives to contain the fire with garden hoses. The ferry crew ran all night. The CERT team got a workout.

There are more than a few people who are satisfied that justice has finally been reached; more than a few who are ready to move on.

*Editors’ note: For a detailed description of the incident and the largest police action in the history of Guemes Island, see pages 6–7 in the archived May 2010 issue of the Tide on our website, guemestide.org. ☺*