

## Murder beyond the Reef

*by Gilbert M. Pieper (1967-1998)*

"Hell of a price to pay for \$150," Kona gun victim, Russell Scott, told reporters, "That's what they said they did it for." Russell was referring to the three conspirators who had taken him and his brother, James, out to sea, shot them, and left them to die. James died, but Russell lived to tell the tale.

On Wednesday, January 30, 1985, Wayne Kaiwi, 18, Kealoaha Crash Spinney, 25, and James Kaneallii Muller, 20, were arrested and taken into custody by me and several other Agents at the Honolulu International Airport. The subjects were arraigned in U.S. District Court and charged with murder, conspiracy to commit murder, kidnapping, conspiracy to kidnap and assault with intent to commit murder. On Friday, February 1, 1985, the subjects appeared before U.S. Magistrate Bert Tokarin, U.S. District Court. They were afforded a preliminary and detention hearing and remanded to the custody of the Attorney General with no bail, to be held for trial.

Because of the violence involved in this crime, the fact that the subjects were local, and that the crime occurred in Kona, HI, considered one of the most frequented areas by tourists, this particular case was generating a tremendous amount of press and public interest. The case was considered a top priority by the U.S. Attorney's Office, Honolulu, and became a priority case in the FBI Honolulu Division. It was alleged that the subjects abducted the two brothers, who were both from the state of Arizona, took them four miles out to sea off the island of Hawaii, in a thirty-five foot fishing boat called the "Medusa" and shot them.

Describing the quarrel that apparently sparked the murder, Russell said, "My brother James slapped her (Gerry Peters) on the butt and she slapped him." Gerry Peters shared rent with the Scotts in a house in Kailua View Estates in Kona, HI, a quiet fishing village and tourist attraction. Although Gerry and James maintained separate quarters in the house, Gerry could no longer afford the rent. James suggested that if she would sleep with him, the rent would not be a problem. They argued over the rent and when Gerry refused James' proposition, he allegedly hit her. Gerry then decided to move out of the Scotts' residence.

Gerry knew Spinney's girlfriend, Lynette, who offered to help Gerry move. Spinney became involved because he owned a truck and Gerry was afraid to go back into the Scotts' house alone. Spinney later alleged that he was also concerned that because Gerry had moved in with his

girlfriend, James might seek revenge on both of them. The move occurred without incident, except as Spinney left the house, he told Russell that if James ever hit Gerry again there would be "trouble."

The next day, Spinney related Gerry's story to Wayne Kaiwi as they fished in the waters off Kona. Spinney and Kaiwi decided that James needed to be taught a lesson and they should "slap him around a little." They decided, however, that because James was a big man, they needed someone else to help, and they enlisted the aid of James Muller. The Scotts were reputed to be marijuana dealers and as a result Spinney decided they should take weapons. Spinney was the captain of a charter vessel known as the "Medusa," owned by Steve Kaiser, a Kona businessman who was vacationing in New Zealand. The three boarded the "Medusa," where Spinney removed and loaded a .45 which he gave to Muller, and a shotgun which he gave to Kaiwi. They went to Spinney's house to get a .22 rifle which Spinney would carry himself, and then the trio set off to Scott's house.

When the trio arrived at the Scotts, an argument ensued. There was an alleged plan to kidnap James, take him out to sea on the Medusa, and "scare him to death," but bring him back alive. James and Russell left their house as Muller and Kaiwi approached. There was a scuffle when Muller ripped the shirt off Russell. Russell got mad and lunged at Muller, at which time Muller fired the .45 grazing Russell's nose.

The brothers were taken to a secluded pier and loaded onboard the Medusa and taken an estimated five to six miles out to sea from Kona, off the coast of the island of Hawaii. Allegedly, Spinney wanted to kill the Scotts, but the three argued as to who would perform the execution. Finally, Muller took the .45, and ordered the Scotts on the deck to the stern of the boat. James pleaded with Muller not to kill him, and in return he would give him his TV and truck. Muller responded "you are a liar," and fired two rounds into James' stomach which caused him to fall overboard. As this grisly tale unfolded and being horrified by the sight of his brother being shot, Russell, as he jumped overboard, was hit with four rounds, one in the arm, leg, groin, and nose. When James attempted to climb back on board, Muller threatened to shoot him in the head.

James fell back into the water and the Medusa left the Scott brothers there to die. Russell held James for several hours until his brother died. As he attempted to swim, the cold water would slow the bleeding, and he was able to use his pants as a flotation. For a long time, he was surrounded

by a school of dolphins, man's best friend in the sea. Apparently, the dolphins helped to save his life by keeping the sharks at bay. He had been bobbing in the ocean off Napoopoo for an estimated sixteen hours when he was picked up by a Kona fishing boat, and taken to Queens Hospital on Oahu. A search by Coast Guard and Hawaii County Rescue Squad helicopters failed to find the body of James Scott.

ASAC John Howard assigned me the case, which was opened as 45A-1134 crime on the high seas murder. The case was initially referred to us from the Honolulu Police Department after realizing they had no jurisdiction. The subjects had been arrested by Big Island Police but were turned over to me after the prosecutor's office determined that the shooting had taken place outside the three-mile limit of county jurisdiction. There was no question that the incident occurred within federal jurisdiction.

The trial would be complicated and take a great deal of time. It would necessitate obtaining the only bullet recovered, maintaining chain of custody evidence, and submitting all the evidence to FBIHQ personnel for laboratory examinations. Doctors and nurses would have to be interviewed and served subpoenas. Assistant U.S. Attorney Mark Bennett, requested that I rent a boat, go out at night, five to six miles off the coast of Kona, and film what it was like at night to show the jury. It was dark.

Each defendant said he did not have enough money to hire his own lawyer and was given court-ordered public defenders. Spinney was a member of a well-known, Kona charter fishing family. Wayne Kaiwi was a high school drop out with no arrest record. At the time of the murder, the shotgun carried by Wayne Kaiwi was empty. Muller was described by his attorney as mentally disabled with an IQ of 75. Muller's defense was that he was so full of drugs and alcohol when he emptied the .45 caliber handgun that he should not be convicted of first degree murder. According to a psychiatric report prepared for Muller's defense, it was determined that on January 27, 1985, the day of the murder, Muller had throughout the day consumed seventy two cans of beer. In addition he consumed 10 doses of LSD, marijuana, three Quaaludes and three lines of cocaine.

All three subjects were charged in a ten-count indictment that included conspiracy to murder, felony murder, kidnaping and illegal use of firearms. After the trial, Judge Martin Pence, District of Hawaii received the jury's verdict. Kaiwi plea bargained for an eight-and-a-half to twenty-five year sentence. Muller was found guilty of felony

murder, kidnaping and illegal use of firearms. He received a life sentence, and was remanded to Fort Leavenworth. The jury found Spinney guilty on only two counts of conspiracy to commit simple assault. He received two ninety-day sentences, of which he had served all but eight days. The district judge also imposed fines of \$15,000 and restitution of \$20,337.59.

Crimes on the high seas cases are few and far between. Usually they are minor thefts, quite common on cruise ships and stowaways. Murder is unusual. In any case which goes to trial, juries are known to do strange things and this was no different. Spinney took the stand, told the jury he was forced to do what he did, and they bought it, to the dismay of Attorney Mark Bennett.

Apparently, the jury believed that Spinney wanted to withdraw from the conspiracy and events simply "got out of hand." Spinney claimed that when the shot was fired outside the Scotts' house, he got scared and fled the scene. Spinney stated that he went back to his house for a while, but then left again because he knew Muller and Kaiwi would look for him there. When Muller and Kaiwi intercepted him on the road, Spinney said that they threatened to shoot him if he did not continue to cooperate. Spinney then suggested an alternative pier in order to buy some time hoping that this would "cool out" the situation. When Muller and Kaiwi insisted on shooting the Scotts, Spinney went down below in the cabin and only came back up when he heard a "lot of gunfire."

When the trial was over, Spinney returned to his home in Kona. Kona is a very close-knit community, and Spinney would not be well received. He was harassed by the locals, his peers, because he got off, and Kaiwi and Muller did not. Spinney's father sent him to California before he got hurt, but Spinney was not done, as he would be arrested in California on child sex-abuse charges of girls nine- and eleven-years-old. During February 1986, Spinney began to serve a year in the Marin County, CA jail after pleading guilty to three felony counts of child molestation, and was on three years' probation. The district attorney's office in Las Vegas later filed more charges against Spinney involving the same girls. He pleaded guilty to two counts of lewdness with minors and spent 69 days in jail. He was on five years' probation in the Las Vegas case.

The parents of Russell and James Scott, Harry and Phyllis Scott, sued the subject's for \$60 million claiming the incident caused them "serious emotional distress." In addition, it caused "serious physical and psychological injuries" to his brother, Russell.

In my tenure with the FBI, I had many cases regarding crimes on a government reservation, involving murder. This was the one and only crime on the high seas case I had that involved murder. This case was bizarre, and in my opinion, justice regarding Spinney was never served.

**If you have any ideas for an upcoming history article, or have an interest in writing one, please contact the Society's Historian Ray Batvinis at [rbatvinis@aol.com](mailto:rbatvinis@aol.com).**