



The 1994 San Antonio Trial of the Branch Davidians

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Twelve of the surviving Branch Davidians were prosecuted for murder and other charges arising from the death of the four ATF agents on February 28, 1993. None were tried for the original charges listed on the warrant that was never served.

... five were convicted of voluntary manslaughter and weapons charges and three were convicted on weapons charges. A 12th Davidian pleaded guilty to a lesser charge and testified against the others; she was sentenced to three years and was released in 1996. ([Fox News, April 19, 2006, cached](#))

Though the government alleged the Davidians started the fire and killed each other, none were charged with arson or murdering each other or the children. For example:

A surviving Davidian, Clive Doyle, had accelerants on his coat sleeves as well as burn wounds on his hands that the forensic pathologist retained by the Office of Special Counsel believes to be consistent with wounds that could have occurred when his accelerant-soaked hands came in contact with a flame. ([Final Report to the Deputy Attorney General Concerning the 1993 Confrontation at the Mt. Carmel Complex](#), pg. 15 ([cached](#)))

The trial was held in San Antonio, Texas, in January and February 1994. All those charged with murder were acquitted of the charge.

Self Defense and Judge's Instructions

The Texas Penal Code, Subchapter C, Article 9.31, entitled "Self Defense" states:

"The use of force to resist an arrest or search is justified (1) if, before the actor officers any resistance, the peace officer uses, or attempts to use, greater force than necessary to make the arrest or search and, (2) when and to the degree the actor reasonably believes the force is immediately necessary to protect himself against the peace officer's use of or attempted use of greater force than necessary."

After hearing the evidence in the case, the judge gave his instructions to the jury. In part, he said:

"If a Defendant had reasonable grounds to believe and actually did believe that he was in imminent danger of death or serious bodily harm and that deadly force was necessary to repel such danger, he would be justified in using deadly force in self defense ...

"If a Defendant had reasonable grounds to believe and actually did believe that he was in imminent danger of death or serious bodily harm and that deadly force was necessary to repel such danger, he was not required to retreat or to consider whether he could safely retreat. He was entitled to stand his ground and use such force as was reasonably necessary under the circumstances to save his life or protect himself from serious bodily harm." ([Blind Justice](#), pg. 89.)

Jury Foreman, Sarah Bain, Speaks

After the acquittal, the jury foreman, Sarah Bain, issued a statement saying:

"We jurors said from the beginning that we had the wrong people on trial. The ones who should have been on trial were the ones who planned the raid and insisted on going on with it even though they knew that the element of surprise had been lost." (quoted in a press release issued by Mt. Carmel Independent Investigation Advocates, PO Box 9050, Waco, Texas 76714).

The inherent right to self defense, encoded in Texas law, protected the Branch Davidians' right to self defense, even if it meant the death of their attackers.

End Note

Despite their acquittal for murder, a number of the Branch Davidians were convicted of lesser charges; some were sentenced to as much as 40 years in jail. On August 5, 1996, the 5th Circuit Court of Appeals upheld the Draconian sentences.

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