

Wagner freed; no retrial planned - Herald-Mail, The (Hagerstown, MD) - November 22, 1996

November 22, 1996 | Herald-Mail, The (Hagerstown, MD)

By CLYDE FORD

Staff Writer

Russell Wagner was released from jail Thursday after a prosecutor decided not to retry him on first-degree murder charges.

The charges will be formally dropped on Monday in Garrett County, said Washington County State's Attorney M. Kenneth Long Jr. on Friday.

Wagner was accused of killing **Wilda Davis**, 80, and **Daniel Davis**, 84, on Feb. 14, 1994, at their home at 109 W. Wilson Blvd. Their bodies were found the next day, stabbed repeatedly as they sat tied up to chairs with pillow cases placed over their heads.

His trial ended on Oct. 1 with a hung jury in Garrett County Circuit Court, where the case had been moved after prosecutors initially planned to seek the death penalty. The case remained there due to the pretrial publicity.

Wagner had remained at the Washington County Detention Center while Long considered a new trial.

Long called it "a very difficult decision to make."

Long said that the decision comes after extensive review of the evidence and consultation with the **Davis** family, the prosecution team and Hagerstown City Police detectives and Chief Dale Jones.

"The Office of the State's Attorney has determined that it would not be in the best interest of justice to proceed with the prosecution of Russell Wagner at this time," Long said in a statement he released Friday. "Having reviewed the manner in which the evidence unfolded at the initial trial, the state's attorney's office has concluded that retrial at this time would not increase the likelihood of conviction beyond a reasonable doubt by all 12 jurors."

Long said that detectives are continuing to investigate the slayings.

During the trial, prosecutors attempted to link Wagner to the slayings, saying Wagner was pressured into the crime by his landlord and the couple's son-in-law, Ted Monger.

Wagner was indicted on two counts of first-degree murder and one count of burglary. Monger has never been charged in the deaths.

Defense attorneys argued that Monger and his friend, Charles Harmon, set Wagner up as the "fall guy" for the slayings, committed either by them or by someone working for them.

Wagner could not be reached for comment on Friday. He had been in jail for nearly two years awaiting trial and his whereabouts were unknown Friday.

Vernon **Davis**, the couple's son-in-law, said that he understands Long's decision, but it is still hard for the family to take.

"We've got two people that's gone and there is nobody being held accountable for it," **Davis** said.

The prosecutors told the family they were concerned that if a jury found Wagner not guilty, the case could never be brought back again if new evidence surfaced.

"Ken Long is obeying the law and he's doing what he has to do," **Davis** said. "As far as Ken Long and the state's attorney's office they've been beautiful. But it's just the way the laws are written."

Davis said that after meeting with the prosecutors on Wednesday, he went to his parents' graves and explained it to them while lighting a candle on their markers.

"It's awful hard to go up to Mom and Dad and tell them that. I just explained it to them that they are going to have to release him," **Davis** said. "Maybe some day we'll find out who did it."

© Copyright 1996 The Herald-Mail. All rights reserved.