

A code of the streets that's thicker than blood

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Of all the questions put to Lance Felder during his three hours on the witness stand, two managed to stump the 34-year-old lifer.

"Do you think your brother loved you?" asked Philadelphia Common Pleas Court Judge Rose Marie DeFino-Nastasi.

"I think he did," replied Felder, a prisoner since 1998 for the robbery and murder of Thomas Keal, owner of a North Philadelphia seafood shop and bar.

Then the judge's follow-up: "Do you think your brother would kill you?"

That one took longer to answer. Felder started, stopped, started, then stopped again. "Well," he finally replied, "I'm here now. . . ."

Here was in court one day last month, trying to convince a veteran homicide judge that he and his friend Eugene Gilyard were doing life for a crime they didn't commit.

If Felder, Gilyard, and a half-dozen witnesses from 17th and Erie are to be believed, the man who put them in prison - who kept them there for 15 years through promises and threats - is Felder's oldest brother, Robert.

With her questions, the judge seemed to be trying to understand how a man serving life in prison could put his fate in the hands of a sibling who is alleged to have driven the getaway car for the real killers.

Robert Felder, now 38, had promised lawyers from the Pennsylvania Innocence Project he'd tell that to the judge at his brother's hearing. He never showed. And now he's disappeared.

"Aren't you mad at your brother? Aren't you furious?" DeFino-Nastasi asked, her voice rising.

Felder insisted he was. But he didn't sound it.

Gilyard and Felder's appeal is about more than evidence and law. It illustrates a street credo that values silence and loyalty over all else - a credo that's thicker than blood.

Over four days of hearings last month, one witness after another testified they knew Lance Felder and Gilyard weren't the gunmen who killed Keal. Robert Felder, then leader of a local drug gang, had warned them about talking.

Most have come forward now only because a convicted killer, Ricky Welborn, known on the street as "Rolex," has signed a confession saying he was one of the gunmen in the botched Aug. 31, 1995, robbery that left Keal dead.

Robert Felder's hold over his brother is understandable: He was his world. According to Kenyatta Felder, youngest of three Felder brothers, their mother died in 1993 when he was 12 and Lance 14. Their father was absent, so at 18, Robert Felder became head of household at 36th and North Gratz.

"He was our sole provider," Kenyatta Felder said.

As surrogate parent, Robert Felder was not above using the rod to keep his brothers in line.

"He split my head open with a concrete flower pot," Kenyatta Felder said.

Lance testified that Robert once broke his fingers for stealing drugs.

Drugs were Robert's livelihood and his brothers said he prospered.

Felder's main emporium was the sidewalk outside a Chinese takeout at 17th and Atlantic Streets, which is why Kenyatta and Lance Felder happened to be there at 2 a.m. on Aug. 31, 1995.

Lance was selling crack cocaine. Kenyatta said he was a runner.

"Everyone hung out at the Chinese store," testified Donita Miceals. Then 16, she said she was sitting on her front porch that night on Venango Street when she heard gunshots and saw three men running down 16th Street. One she knew as "Rolex"; she said the one who carried a handgun was "Tizz." The third man she did not know.

What Kenyatta Felder and others at the takeout testified was that between 1:30 and 2 a.m., a blue-and-white car driven by Robert Felder pulled up and out stepped Rolex and Tizz.

The duo were from West Philadelphia - enforcers who sometimes worked for Felder.

Rolex and Tizz told the group in front of the takeout they planned to rob the bar across the street, witnesses testified at trial.

Michael Griddle, then 17, testified that he told them to find another target; the bar was too close.

"I told them, 'Don't be drawing' " - meaning don't attract the attention of police. Griddle, serving two to four years for a drug conviction, said Rolex and Tizz got back in the car with Felder and drove off. Minutes later, Griddle testified, he heard gunshots and the group - including Gilyard and Lance Felder - ran to the noise.

"I saw Mr. Keal lying on the ground," Griddle said.

The next day, Griddle testified, Robert Felder told him and others gathered that "whatever happened, it stays between us. Keep your mouth shut."

"What did Rob tell you would happen?" asked Assistant District Attorney Laurie Williamson.

"Those words didn't have to be spoken," Griddle said.

In 1998, Felder and Gilyard were charged with murder after the victim's daughter tentatively picked the latter out from police photos.

Tonya Keal said she saw her father killed from the apartment above his seafood business at 17th and Erie. After hearing a blast, Keal testified, she looked out the window and saw a man with a sawed-off shotgun standing over her father, who was lying on the sidewalk. A second man pressed a revolver to her father's head and fired.

At trial, Keal's uncertainty evaporated. She said she was "100 percent sure" Gilyard was the man holding the shotgun.

Her identification was the only evidence against Gilyard and Felder; there was no physical evidence.

Keal has since signed a letter for the Pennsylvania Innocence Project, asking the District Attorney's Office to review the case.

None of the group in front of the Chinese store testified for Gilyard and Felder. Kenyatta Felder said his brother Robert advised him to keep quiet and "he would take care of things."

After "Rolex" Welborn signed a confession for the Pennsylvania Innocence Project in 2011, Kenyatta Felder began rounding up the gang, urging cooperation. "I couldn't handle the burden no more, knowing my brother is in jail for something he didn't do and my other brother is out free," Felder said on the stand, weeping.

DeFino-Nastasi has set oral arguments for Aug. 12 and could rule anytime thereafter.

Post-conviction appeals are tough to win and prosecutors have fought the petition on procedural and factual grounds.

They contend that Kenyatta Felder and his brother and Gilyard's legal advocates were not diligent enough in filing after learning that Welborn was willing to confess.

Welborn's signed statement is legally valid, though he has refused to testify, saying he'd invoke his right against self-incrimination pending other appeals.

And on the final day of testimony on July 25, Williamson undercut Welborn's signed statement with testimony from Daniel H. Greene, the retired lawyer who represented him in 2006.

Welborn's confession to the Innocence Project says he told Greene in 2006 he was involved in a murder for which two others were serving life.

"He never told me something like that," Greene, 86, testified. "That's something I would have remembered."

Williamson maintains Welborn is just toying with the system, trying to do favors for inmates.

David Rudovsky, Gilyard's attorney, and Jules Epstein, representing Felder, argued that it made no sense for Welborn to implicate himself in another murder with appeals still open.

They have developed their own corroboration of Welborn's confession.

Ballistics tests, for example, show the same sawed-off shotgun used to shoot Keal about 2 a.m. on Aug. 31, 1995, was used the previous afternoon to shoot Anthony Stokes in West Philadelphia - and he has testified that it was "Rolex" who shot him.

DeFino-Nastasi, 50, a judge since 2001 who hears only homicide trials, is no stranger to the reflexive flood of post-conviction pleadings.

Still, the judge said at a July 25 hearing, "we wouldn't even be in this situation here today if there wasn't such a paucity of evidence in this trial."

"You really could try Ricky Welborn," DeFino-Nastasi told Williamson and Assistant District Attorney Robin Godfrey.

"If you're looking for evidence," she added, "there is more evidence against Ricky Welborn at this point than there was against [Gilyard and Felder] at the trial."