

Attorney Files Motion to Have Charges Against Fotis Dulos Dismissed

Fotis Dulos is facing murder charges in connection with the disappearance of his estranged wife, Jennifer Dulos.



Mr. Dulos wants to clear his name.

— Norm Pattis



Attorney Norm Pattis has filed a motion to dismiss all the charges against his client Fotis Dulos.

Dulos is facing murder charges in connection with the disappearance of his estranged wife, Jennifer Dulos. Jennifer has been missing since May 24.

The motion claims the charges against Dulos – murder, felony murder, kidnapping, tampering with physical evidence and hindering prosecution – should be dismissed because he was not indicted by a grand jury, which Pattis argues is a constitutional right.

Dulos was first arrested on June 1 on tampering with evidence and hindering prosecution charges. On

September 4, he was arrested on additional hindering prosecution and tampering with evidence charges. He was arrested on the murder and kidnapping charges on Tuesday and is now free on bond, restricted to house arrest. Pattis said Dulos denies all the charges against him.

Dulos' girlfriend, Michelle Troconis, and his friend and civil attorney, Kent Mawhinney, are also facing murder-related charges in the case.

Jennifer and Fotis' five children have been living with Jennifer's mother, Gloria Farber, since their mother disappeared and Fotis has been trying to get custody. On Wednesday, the judge issued a protective order for the Dulos children and Jennifer's

trial. In doing so, the State failed to assemble adequate evidence to charge Mr. Dulos with the crimes it has – a failure that a grand jury would remedy.

In the face of the State's hostility and attempt to intimidate him, Mr. Dulos turns to where he always has turned: his constitutional rights. Mr. Dulos has a Fifth Amendment right to only confront charges brought against him by the indictment of a grand jury. This right is deeply rooted in our nation's history and tradition and is fundamental in our scheme of ordered liberty. Mr. Dulos requests its protection.

B. The Crimes That The State Has Charged Mr. Dulos With Fall Within The Meaning Of The Term "Infamous" In The Fifth Amendment.

All of the crimes with which the State has charged Mr. Dulos are infamous crimes. The U.S. Supreme Court clearly defined what attached infamy to a crime in *Mackin v. United States*, 117 U.S. 348. 354 (1886): "'Infamous crimes' are thus, in the most explicit words, defined to be those 'punishable by imprisonment in the penitentiary.'" The Supreme Court reaffirmed this interpretation in 1958 in *Green v. U.S.*, 356 U.S. 165, 183 (1958) ("Since an 'infamous crime' within the meaning of the Amendment is one punishable by imprisonment in a penitentiary..."). Consequently, the incorporated Fifth Amendment's Grand Jury Indictment Clause requires a grand jury indictment for every criminal charge that carries the risk of prison time.

The five felonies that Mr. Dulos was charged with all carry the prospect of prison time if he is convicted. Thus, they clearly fall within the meaning of the term "infamous" in the Fifth Amendment. Consequently, all of the charges against Mr. Dulos should be dismissed unconstitutional because they were brought by information instead of a grand jury indictment.

family. Fotis was also ordered not to have contact with the children's nanny.

FOTIS DULOS ARREST WARRANT

The warrants released on Tuesday includes the case police are laying out, including detailed lists of the physical evidence that investigators have collected at Jennifer's New Canaan home and from garbage bags recovered from Albany Avenue in Hartford. That evidence, according to the warrant, includes bloodstains that match Jennifer's DNA at her home, in her car and on clothing found in the trash in Hartford, and zip ties with Jennifer's DNA on them.

JENNIFER DULOS REPORTED MISSING

Jennifer Dulos was living at 69 Welles Lane in New Canaan when she disappeared on May 24, 2019. The last report of anyone seeing her was when she dropped her children off at school that morning.

The missing person report came in just before 7 p.m. that day.

Friends and family members told police that they hadn't been able to reach her, and she'd missed several doctor's appointments in New York City.

While officers were in Jennifer's home, they found no

sign of her, but they did find bloodstains on the garage floor and on a vehicle located in the garage, according to the arrest warrant.

That led police to believe the home was a crime scene and they said there was evidence of attempts to clean it up.

The arrest warrant for Fotis Dulos says the office of the chief medical examiner, based on lab results and information presented about the case, indicated that due to the degree of blood loss and other factors, "he was prepared to state that Jennifer Dulos had sustained injury (or multiple injuries) which he would consider 'non-survivable' without medical intervention."

THE JENNIFER DULOS CASE

Police have a dedicated website on the search for Jennifer Dulos. They have set up a tipline at 203-594-3544 as well as a dedicated email address, findjenniferdulos@newcanaanct.gov. ■