

Colorado Judge Throws Out Death Sentence

By JENNIFER HAMILTON May 22, 2003

A judge threw out a convicted killer's death sentence Friday, saying the jury improperly relied on the "eye for an eye" teachings of the Bible to reach its decision.

Judge John Vigil ordered a new sentencing hearing for Robert Harlan, who was convicted in 1995 of kidnapping, raping and murdering Rhonda Maloney, 25. He also shot a passer-by who tried to help, leaving her paralyzed.

"If any case merits the death penalty, there cannot be serious debate about this case being that case," Vigil wrote. "The death penalty, however, must be imposed in a constitutional manner ... Jury resort to biblical code has no place in a constitutional death penalty proceeding."

Harlan had appealed, arguing that the Bible is not part of Colorado law.

Prosecutors, who plan to appeal, said the use of biblical passages could not have influenced the verdict and that passages were only read for comfort and inspiration.

"We disagree with the ruling," Adams County Assistant District Attorney Steve Bernard said. "It is unclear from the evidence what role the Bible played in deliberations."

All 12 jurors testified at a hearing earlier this year. Several jurors, including Lana Eaton-Ochoa, said they wrote down references from the Bible on note cards, brought the cards into the deliberation room and read them aloud.

Among the Bible citations was Leviticus 24:20, which reads, "fracture for fracture, eye for eye, tooth for tooth, as he has caused disfigurement of a man, so shall it be done to him."

Vigil said the sequestered jury discussed the biblical passages in the deliberation room "for the purpose of guiding and directing certain jurors to a particular verdict."

"This and other passages the jurors considered do more than simply encourage jurors to follow the instructions of the court," he said. "The passages mandate that death be the penalty for murder."

Defense attorney Kathleen Lord expressed satisfaction with the judge's ruling.

"The eye for an eye. That's just not the law in Colorado or in any state," Lord said. "Bible passages that were used by the jury in this case were Bible passages contradictory to Colorado law."

The judge criticized court officials for failing to make sure jurors were not exposed to outside influences. "The jury supervision performed in this case was extremely negligent and appallingly lax," he wrote.