

# Jury lacks direction in giving sentence

- No guidelines offered for length of prison term if death penalty rejected

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CANTON: Jurors in the David Thorne murder-for-hire case decided in less than an hour last week that Thorne shouldn't die for his crime.

That was the easy part.

Choosing among the three remaining sentences — life without parole or life with a chance of parole after 25 years or 30 years — proved much more difficult.

"We were floundering without guidelines," one juror said.

The state legislature never established criteria for choosing one life option over another, leaving that decision to jurors.

Most juries eventually settle on one.

But after 12 hours of deliberation and three letters sent to the judge asking for help, the Thorne jurors trudged back into the Stark County Common Pleas courtroom late Friday afternoon without a decision.

Some crossed their arms; others shoved their fists into their pockets. The jury foreman told Judge Richard D. Reinbold Jr. they couldn't agree.

Reinbold declared the sentencing portion a mistrial, excused the jury and sentenced the 27-year-old Atwater man to life without parole.

The hung jury revealed a gap in the state's sentencing laws, which provide clear instructions for choosing death but are silent on the options for choosing life.

The Thorne trial may be the first in the state to expose the lack

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# JURY

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of sentencing guidelines.

"I hadn't heard of it coming up before," said David Diroll, executive director of the Ohio Criminal Sentencing Commission. "It would help if the statute gave (juries) a little more guidance. . . . We now have evidence that it's confusing and there's a gap."

Jurors took less than a day last week to convict Thorne of complicity to aggravated murder for the March 31 death of his 26-year-old ex-girlfriend, Yvonne Layne.

The jury found Thorne guilty of hiring Joseph Wilkes, 19, to slash the Alliance woman's throat so

Thorne could gain custody of his 2-year-old son and stop paying child support.

Wilkes, who avoided a death-penalty trial by agreeing to testify against Thorne, will serve at least 30 years in prison without chance of parole.

Most of the jurors believed that because the killer wasn't sentenced to death, Thorne shouldn't be, either.

"We didn't even consider that very long," one juror said.

Most of the jurors wanted to give Thorne life with no parole, but two held out for a lesser sentence, insisting Thorne might one day be rehabilitated.

"To most of us, it was clear," said a juror, who asked not to be identified. "Not everybody saw it that way. The (other two jurors) felt like 30 years was enough."

Attorneys on both sides sympathized with the jury's struggle.

"I was hoping that as a body of

12 they would reach an agreement and stand by it," said Thorne's attorney, Jeffrey Haupt.

But he and Assistant Stark County Prosecutor Jonathan Baumel acknowledged the difficulty of distinguishing the points of one life sentence over another without any criteria.

"I'm surprised (a hung jury) doesn't happen a little more often," Baumel said. "You've got 12 people who have to agree on a sentence with no guidelines."

The Ohio Criminal Sentencing Commission does not usually handle death-penalty statutes because they're so emotional, Diroll said.

"If this goes to the legislature as an issue, it won't be easy," Diroll said. "We are talking about splitting hairs in ways that are kind of difficult. You need to give (juries) more than they have, but how much more? It's tough."