

Regional

Ruling might put off execution

SALEM (AP) — The Oregon Supreme Court's new ruling on the state's death penalty clarifies the law but also apparently further delays the first execution under the voter-approved statute.

The law passed as an initiative measure in 1984. So far, 23 people have been sentenced to die by lethal injection.

The Supreme Court last week said at least four of those cases have to return to trial courts for new sentencing proceedings but that the basic law is sound once the jury is given an added factor to weigh.

Attorney General Dave Frohnmayer said the decision provided needed definition of the law.

"These cases are always moving targets because the U.S. Supreme Court has the final word," he said.

"The target has become a little bit more stationary, and now we know Oregon is judged to have a constitutional state statute. That's a big plus," Frohnmayer said.

The cases sent back include that of Jeffrey Scott Wagner, the first person sentenced to death under the law.

It's been nearly four years since Wagner's sentencing hearing in Linn County Circuit Court. His appeal reached the U.S. Supreme Court, and his case that was the basis for the Oregon high court's decision last week.

The case returned to Oregon for reconsideration because of the U.S. Supreme Court's ruling that the Texas death penalty law didn't leave enough room for sentencing juries to consider mitigating circumstances such as a defendant's personal background.

The Oregon measure, largely copied from the Texas statute, always has had a three-part provision.

It says in order to impose a death sentence, a jury must find a defendant killed deliberately, acted unreasonably to any provocation and is likely to commit future dangerous acts.

The 1989 Legislature quickly amended the law following the U.S. Supreme Court ruling to provide a fourth question for juries. The Oregon court approved that concept as a way to make the state law constitutional in view of the U.S. Supreme Court decision.

To allow for all mitigating evidence to be considered, the Oregon court suggested a jury instruction that jurors should vote against a death sentence "if there is any aspect of defendant's character or background, or any circumstances of the offense, that you believe would justify a sentence less than death."

The court also said the four men whose cases were involved in last week's ruling are due new sentencing proceedings because they were sentenced under the old law.

That indicates some or all of the other 19 capital cases now on appeal could end up back in circuit courts for new sentencing.

Those given new death sentences again would be entitled to automatic appeals to the state Supreme Court.

On a scale of 10, the decision probably set those cases back to square 5 but not to square one.

"It was a good balance, given the choices available to the court," said Marion County District Attorney Dale Penn, president of the Oregon District Attorneys Association.

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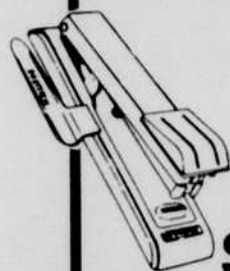
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