

Carpenter case not affected by ruling

11-2-84
SAN FRANCISCO — A state Supreme Court ruling which could force rehearings in as many as 25 death-penalty trials will not affect the case of David Joseph Carpenter, the so-called Trailside Slayer.

The high court Thursday struck down the Briggs instruction in which jurors are told the governor may commute a life-without-parole sentence to life with the possibility of parole. They are not told that the governor could also commute a death sentence.

The court's 6-1 ruling striking down the instruction given to jurors in death penalty cases means more penalty phase retrials — as many as 25, by a state attorney general's estimate — and more delay in deciding the fate of condemned prisoners.

It will not affect Carpenter's case, however, said Danner.

A jury in October condemned Carpenter to death for the two slayings in local state

Trailside Murders
parks. He was found guilty in the fatal shooting of Ellen Marie Hansen and the shooting of her boyfriend, Stephen Haertle, and the killing of Heather Scaggs. He was also convicted of the attempted rape of Hansen and the rape of Scaggs.

"The handwriting was on the wall," said Danner, and so he did not ask the judge in that case to give the jury the Briggs instruction.

The ruling was not surprising, as the court had reached similar conclusions in January 1982, only to be reversed on federal constitutional issues by the U.S. Supreme Court.

But an angry Gov. George Deukmejian blasted the court anyway.

"It has been 12 years since Californians first voted to implement the death penalty and to this day the Cal Supreme Court continues to search for every conceivable loophole to thwart the will of the people,"

he said.

"Californians have every right to be tremendously frustrated, even angry, that under the transparent cover of a quest for perfect procedural justice, the state's highest court holds in contempt the people's overwhelming desire for implementation of the death penalty," he added.

Thursday's ruling was further evidence to support claims by opponents of the November 1978 initiative, sponsored by then-state Sen. John Briggs, R-Fullerton, that the measure had serious legal flaws.

Besides Thursday's ruling, the other legal setbacks were:

- A 1982 ruling that a provision extending the death penalty to murders that were "especially heinous, atrocious or cruel" was unconstitutionally vague.

- A ruling last December that required proof of an intent to kill to justify a

sentence of death or life without parole for a killing in the course of a robbery, rape or other serious felony. That decision could require more than 150 retrials.

Of the 168 men on Death Row as of Thursday, 143 had been sentenced under the Briggs initiative. But the only three death sentences upheld by the court were under the prior law, sponsored by then-state Sen. Deukmejian and passed by the Legislature in 1977 over Gov. Edmund Brown Jr.'s veto.

Of the remaining constitutional challenges to the Briggs initiative, perhaps the most important involves a requirement that the jury recommend a death sentence if it decides the "aggravating" factors, such as viciousness of the crime, outweigh the "mitigating" factors, such as the defendant's age.

If that requirement is struck down, most of the remaining death sentences under the Briggs initiative probably will go with it and will have to be retried.

The Associated Press and Sentinel Staff Writer John McNicholas contributed to this report