

Convicted Killer Scott Peterson's Death Penalty Reversed (2)

By Joyce E. Cutler

Aug. 24, 2020, 12:39 PM; Updated: Aug. 24, 2020, 4:10 PM

- Trial court error in jury selection cited
 - Case returns to trial court for penalty phase
-

Convicted wife and child killer Scott Peterson had his death penalty sentence reversed Monday by a unanimous California Supreme Court, which cited errors in jury selection.

Justices in a 7-0 ruling upheld Peterson's conviction for first-degree murder in the death of Laci Peterson, who was eight months pregnant when she disappeared just before Christmas 2002. Peterson's conviction for second-degree murder in the death of their son, who a doctor testified would have survived outside the womb, also was upheld.

The trial court erroneously dismissed many prospective jurors because of written questionnaire responses expressing opposition to the death penalty, "even though the jurors gave no indication that their views would prevent them from following the law—and, indeed, specifically attested in their questionnaire responses that they would have no such difficulty," Justice Leondra R. Kruger wrote for the unanimous court.

Under U.S. Supreme Court precedent, the errors require reversing the death sentence, the court said. The state may retry the penalty case on remand, it said.

"While a court may dismiss a prospective juror as unqualified to sit on a capital case if the juror's views on capital punishment would substantially impair his or her ability to follow the law, a juror may not be dismissed merely because he or she has expressed opposition to the death penalty as a general matter," the court said.

More Appeals Coming?

What happens next depends in part on how the California Supreme Court handles a pending appeal involving new forensic and eyewitness evidence, said Cliff Gardner a Berkeley, Calif., attorney appointed to handle Peterson's appeal. And the state can appeal the ruling to the U.S. Supreme Court, as can Peterson.

“The prosecutor now has a decision to make” about whether to seek the death penalty at the sentencing hearing, Gardner said in an interview. Peterson will remain incarcerated unless the verdict itself is overturned.

Lara Yeretsian, a Southern California attorney who was part of Peterson’s defense team at trial, praised the court’s order. “Even though there’s a moratorium on the death penalty in California, it could be reversed by a new governor, so this is a good decision for Scott.”

The California Attorney General’s office, which handled the appeal, declined to comment. “We’ll let the attached decision speak for itself,” it said.

The district attorney’s office in Stanislaus County, which tried the case, is still reading the decision, spokesman John Goold said.

“We’re going to read the opinion, discuss it, and talk to the victim’s family about it,” Goold said. “There’s just a lot to review on this.”

High-Profile Case

The story of the missing Modesto school teacher attracted heavy media attention. Dogs trailing the woman’s scent led police to the Berkeley Marina, where Scott Peterson said he launched his boat to go fishing on Christmas Eve. The badly decomposed body of the child the couple had named Connor was found in April 2003 on the shores of San Francisco Bay.

Laci Peterson’s body was recovered a day later south of where the child’s body was found, the court noted. Autopsies concluded Laci Peterson had died while pregnant, was in the water for three to six months, and that the child, who was found with his umbilical cord still attached, died before birth. Post-mortem measurements of the child’s bone growth led to expert testimony that he had died between Dec. 21 and 24.

When arrested in San Diego on April 18, 2003, Peterson had nearly \$15,000 in cash, foreign currency, two drivers’ licenses—his own and his brother’s—a family member’s credit card, camping gear, considerable extra clothing, and multiple mobile phones, the court noted.

Peterson contends his trial was flawed for multiple reasons, beginning with the unusual amount of pretrial publicity that surrounded the case, Kruger wrote.

Venue Argument Fails

Justices upheld the trial judge’s rejection of Peterson’s second request to change the trial location based on publicity. The case ultimately was heard in San Mateo County instead of in Stanislaus County, where Modesto is located.

“There is no rational reason to think coverage would have been any less in Los Angeles County—one of the media capitals of the world—if Peterson’s motion had been granted,” the high court said.

Peterson also objected to jurors standing in his boat to test its stability, which justices said amounted to nothing more than an attempt to “manipulate a physical exhibit admitted into evidence at trial.” Nor was it error to dismiss a juror for discussing the case with others during the guilt phase of the trial, the court said.

The case is People v. Peterson, Cal., No. S132449, 8/24/20.

(Add Lara Yeretsian quote in eighth paragraph.)

To contact the reporter on this story: Joyce E. Cutler in San Francisco at jcutler@bloomberglaw.com

To contact the editors responsible for this story: Rob Tricchinelli at rtricchinelli@bloomberglaw.com; Nicholas Datlowe at ndatlowe@bloomberglaw.com

© 2020 The Bureau of National Affairs, Inc. All Rights Reserved