

1 in 5 death penalty cases led to death row 'The death penalty is a luxury. It's not a necessity.'
By Robert Behre
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The Lowcountry has watched five death penalty cases unfold during the past year, but only one defendant now sits on death row.

Those accused in the four other cases all received sentences of life in prison without the possibility of parole -- for different reasons.

In two cases, including the trial of Anthony Sanders that ended this past week, the victims' families urged prosecutors to take the death penalty off the table.

The family of Sanders' victims, like family members of slain state Constable Robert Bailey, felt they could get closure quicker without a drawn-out trial and years of mandatory appeals should the convicted killer be sentenced to death.

The past year's spate of capital cases was unusual. Typically, the tri-county area sees only one death penalty case every few years. No other death penalty case is pending here.

William O. Dickerson, who tortured and killed Gerard Roper in a Fleming Road apartment in 2006, was the sole defendant sentenced to death this last year --the first such sentence in Charleston County in 13 years.

Colin James Broughton, who was convicted of the September 2006 murder and robbery of his aunt in a Cainhoy mobile home, received a life sentence. The judge stopped the death penalty phase of Broughton's trial after the judge learned that Berkeley County sheriff's deputy Franklin "Butch" Rivers had talked to detention center guards about their upcoming testimony on Broughton's behalf.

Ninth Circuit Solicitor Scarlett Wilson, who prosecuted three of the cases, said she regrets that happened, mostly because the victim's family wanted a jury to decide Broughton's fate. "They really wanted some validation from a jury," she said.

A State Law Enforcement Division investigation into possible witness tampering concluded that Rivers had no criminal intent and no charges were filed, Berkeley County Sheriff's Department public information officer Dan Moon said. Rivers has been reassigned and lowered in rank to sergeant.

Last November, Delronezy Washington, one of two people accused of killing pizza delivery man Wilson James near Summerville during a 2007 robbery, pleaded guilty to murder and armed robbery a few days into his death penalty trial in Dorchester County.

The plea came after Washington's co-defendant testified and prosecutors and defense attorneys wondered how it would affect the jury. Washington ended up with a 40-year sentence.

Last month, Wilson agreed to let the constable's killer, Walter Fayall III, plead guilty in exchange for a life sentence partly at the family's request.

Wilson said her decision to pursue the death penalty isn't based so much on a family's wishes, though she will consider them, or on the notion that the penalty helps deter crime.

"It's not so much for me about sending a message to would-be criminals but to those who put on the uniform every day," she said. "They need to know we're standing there behind them. That is important to me."

Death penalty cases are costly and time-consuming affairs. Last week, Sanders' defense team estimated the state saved \$250,000 in defense costs alone because Sanders agreed to forego a jury trial in exchange for prosecutors dropping the death penalty.

The cases also can take two weeks or more of court time, as both sides go to great pains to select jurors, establish the chain of evidence and provide expert testimony.

Charleston County Public Defender Ashley Pennington said the death penalty should be rethought if only because, in these difficult budget times, it costs so much more to execute an inmate than to imprison him or her for life.

"One capital case absorbs the resources of another 200 cases. I don't think I'm exaggerating," he said. "The truth is, I can spend an 18-month period working out 50 major cases or one capital case. The death penalty is a luxury. It's not a necessity."

Pennington said the death penalty likely survives because some crimes are so shocking that execution satisfies some desire for vengeance or retribution, but he is encouraged that fewer leaders seem to be trumpeting it.

"Often, I see capital punishment as a cynical tool that can be used by politicians to get their name out in the public," he said. "That's something I thankfully see less and less of."

The national frequency of death penalty cases has declined because of its high costs to moral concerns and Supreme Court rulings prohibiting capital punishment for minors and the mentally challenged.

Fifty-two inmates were executed across the country last year. The vast majority were in southern states from Virginia to Texas, according to the Death Penalty Information Center. South Carolina executed two inmates last year.

In South Carolina, solicitors can decide to seek the death penalty if the murder was done with aggravating circumstances, such as in the course of rape or burglary, or in the killing of a police officer or a child.

There are 63 inmates on South Carolina's Death Row, which is in the Lieber Correctional Institution in Ridgeville.

Even with a strong case, a death sentence can get overturned on appeal.

Most sentenced to death in North Carolina eventually received lesser sentences after their appeals ran their course, according to a recent University of North Carolina study. Many received a new trial because their first one was seriously flawed, and most of them were sentenced to a punishment less than death, typically a life sentence.

Only about one in five of the original death penalty convicts were executed, according to the study, which reviewed records from 1977 through 2009. Of the 388 people sentenced to death, 43 were executed and 158 remained on death row. Of those who received new trials, 140 were given a lesser sentence.

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