

NC Judge: Racial Bias Influenced Death Penalty Sentencing

Written by Trice Edney Wire
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Judge Gregory A. Weeks

In an historic decision, a North Carolina judge has reduced an inmate's death sentence to life without the possibility of parole because the prosecutor deliberately excluded Black potential jurors during the jury-selection phase of the inmate's trial.

Judge Gregory A. Weeks, of Cumberland County Superior Court, said in his April 20 decision that race played a "persistent, pervasive and distorting role" in the selection of the jury that in 1994 convicted Marcus Robinson, who is African-American, of murder and that it was clear "prosecutors have intentionally discriminated" against defendants in capital murder trials across the state by purposely limiting the number of blacks chosen to serve on juries.

The judge heard the case without a jury.

The decision in the closely-watched case, which prosecutors said will be appealed, is the first under the state's controversial Racial Justice Act.

That law, passed by the state legislature in 2009, allows death-row inmates or defendants facing a sentence of death to contest their sentence by using statistics and other evidence to show that racism influenced prosecutorial actions in selecting the jury or deciding to seek the death penalty.

More than 150 other inmates on North Carolina's death row have declared their intent to

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challenge their sentences as well.

Robinson was convicted at age 18 of the murder of a 17-year-old white youth he knew from high school. The jury in his trial was made up of nine whites, two African Americans and one American Indian. His attorneys asserted that prosecutors excluded half of the qualified black jurors compared to just 15 percent of those who were not black.

John Dickson, now a judge on the North Carolina District Court, was the lead prosecutor in the Robinson trial. During the hearings on the case in February and March he sharply denied that racial bias played any role in his conduct of the case.

The state's prosecutors have bitterly opposed the racial justice law from its inception, claiming that most often there are a complex combination of reasons why prosecutors exclude prospective jurors.

Judge Weeks' ruling was grounded in a study of prosecutorial actions in the death-penalty proceedings of all 160 of the state's death-row inmates that was released in December. The study, done by two members of the Michigan State University law school, found that over the last two decades North Carolina state prosecutors have excluded black potential jurors from capital murder juries more than twice as often as they did non-blacks. Prosecutors excluded nearly 53 percent of the black potential jurors they questioned compared to about 26 percent of the non-black ones.

The disparities persist, the report states, even when other factors that might lead to a potential juror not being considered - such as being ambivalent about the death penalty, or having been previously accused of a crime - are taken into account. Further, the disparities "were even greater in cases involving black defendants."

The NC Racial Justice Act was passed in August 2009 along party lines, An attempt by Republican legislators earlier this year to repeal it failed to overcome Gov. Beverly Perdue's veto.

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Kentucky is the only other state with such a law, but it apparently has been used only one, during the jury selection stage of a 2003 murder trial. The defendant in that case was convicted and sentenced to life in prison without the possibility of parole.

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