

*People v. Williams (Bob Russell)* (Automatic Appeal) (S056391)

The defendant in this case is appealing his death penalty conviction. Unlike most appeals, death penalty appeals go directly to the Supreme Court, bypassing the Court of Appeal. A death penalty trial is divided into a guilt phase and a penalty phase. The present case is unusual because defendant pleaded guilty to first degree murder with various “special circumstances.” He therefore skipped the first phase of the death penalty trial and went directly into the penalty phase.

During the penalty phase, the jury must decide whether the defendant should be sentenced to life imprisonment without possibility of parole or to death. The jury arrives at that decision by weighing evidence of various aggravating and mitigating circumstances presented by the prosecutor and the defense attorney. The fact that defendant tortured his victim, or that he has a prior record of convictions for serious crimes, are examples of aggravating factors. The fact that a defendant was young when he committed the murder, or that he was abused as a child, or that he was under duress at the time he committed the murders, are examples of mitigating factors.

During the trial, the District Attorney of Kern County presented evidence of the details of the murder. Defendant admitted in earlier statements to a police detective to burglarizing the home of Mary Breck, a wife, mother, and business owner. He also admitted raping and murdering her in her home, and to stealing her car and several other possessions. Defendant was 18 years old at the time. The prosecutor also put on evidence of other burglaries defendant had committed, and presented testimony of members of the victim’s family regarding the impact her death had on them. Defense counsel put on evidence that the defendant had been abused by his stepmother and neglected by his natural parents, and that the murder was an impulsive reaction to his earlier abuse. The prosecution sought to counter with evidence and argument that the murder was calculated.

The defendant and his counsel in a death penalty appeal typically raise numerous issues, and this case is no exception, with over 20 issues presented. Defense counsel has indicated in a letter to the court that he will be focusing on one issue: jury misconduct.

The jury misconduct issue is based on the circumstance that one juror brought photocopies of biblical verses into the jury room and read them to other jurors while the jury was attempting to reach a verdict. Jurors are not supposed to use outside sources like the Bible, but are instead required by law to stay focused on the facts of the case and the law as explained by the trial judge. Because some parts of the Bible contain views about the death penalty that differ from California law, the reading of the Bible during jury deliberations could interfere with the jury

playing its proper role. The Attorney General admits there was juror misconduct but argues it was not prejudicial. For the misconduct to be prejudicial, it must be serious enough to make the court doubt that the jury would have come to the same result without the misconduct. The death penalty judgment will not be reversed unless the misconduct is prejudicial. In determining prejudice, a court can look to what was said and done in the jury room, but not to testimony from jurors regarding their own mental processes.