

# The Abolitionist

Coloradans Against the Death Penalty

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## Colorado's Shrinking Death Row

by Randy Canney

**T**hanks to some significant court victories, Colorado's death row is substantially smaller than it recently was.

Just in the past few months, three of the six inmates on Colorado's death row have had their death sentences vacated. A fourth reversal is expected.

Death sentences of two inmates, Francisco Martinez and George Woldt, were vacated in February by the Colorado Supreme Court, following the US Supreme Court's decision in *Ring v. Arizona*.

Last summer, the US Supreme Court declared in *Ring* that death penalty defendants were entitled to sentencing by a jury. This decision effectively invalidated Colorado's death sentencing scheme, in which a three-judge panel decided the sentence following a jury's guilty verdict.

Colorado's three-judge sentencing scheme emerged in

1995 after the Legislature and various District Attorneys became dissatisfied that Colorado juries were not returning enough death sentences. However, after even three-judge panels refused to return death verdicts in certain cases, some legislators further pressed for single-judge sentencing, but were unsuccessful in their efforts.

Three Colorado death row inmates received death sentences from three judge panels. Mr. Martinez and Mr. Woldt were convicted by juries and then sentenced by the three-judge panel.

A third man, William "Cody" Neal, proceeded *pro se*, pled guilty, and was then sentenced to death by a panel of three judges. Mr. Neal's death sentence will likely be vacated as well, since although he did plead guilty, he also filed motions attacking the three-judge sentencing scheme.

Although Colorado's Attorney General, Ken Salazar, has sought review by the US Supreme Court of the Martinez and Woldt decisions, it is extremely unlikely that Colorado's Supreme Court will be reversed, since the Colorado court

was following precedent set in *Ring*.

In another recent victory, Adams County District Court Judge Jess Vigil vacated the death sentence of Robert Harlan because certain jurors brought a Bible into the jury room and had used it in their deliberations and attempts to convince other jurors to impose death. It is a clear rule of law that jurors are not allowed to bring such materials into the jury room, and previous cases have held that convictions were invalid when jurors brought items such as dictionaries into deliberations. This victory remains subject to appeal by the prosecution.

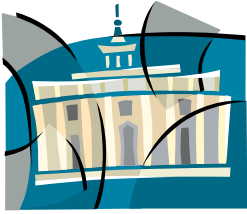
In addition to William Neal, Nathan Dunlap and Edward Montour remain on Colorado's death row. Post-conviction review proceedings are ongoing in Mr. Dunlap's case in the Arapahoe County District Court.

Mr. Montour is the most recent addition to death row. After proceeding *pro se*, he pled guilty to murdering a prison guard and received a death sentence in Douglas County. He presented no mitigation at his sentencing hearing, and was sentenced to death by Douglas County District Court Judge Paul King.

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State Legislative Session

## New Aggravators Added to Death Penalty Statutes

**N**either the bill we had hoped for (a moratorium bill) nor the bill we had feared (a "super-majority" bill) materialized this legislative session. What did pass were two bills adding new aggravating factors in death penalty cases:

**HB 1297 "Concerning Death Penalty Aggravating Factors"** – adds as an aggravator the use of "a chemical, biological, or radiological weapon" or "the defendant intentionally killed more than one person in more than one criminal episode." Takes effect immediately and applies to offenses committed on or after the effective date.

**HB 1138 "Concerning Offenses Against Pregnant Women that Affect Their Unborn Children"** – adds as an aggravating factor that "the victim was a pregnant woman, and the defendant intentionally killed the victim, knowing she was pregnant." Takes effect July 1 and applies to offenses committed on or after that date.

## CADP Screens Death Penalty Film at National Prison Ministry Conference

**O**n June 7-11, the National Convocation of Jail and Prison Ministers was held at Regis University in Denver. Coloradans Against the Death Penalty was invited to make a presentation, and presented a short film, *12 Minutes*, followed by a talk by Colorado State Representative Terrance Carroll (District 11).

*12 Minutes*, a movie by Chicago filmmaker Raymond Thomas, details a fictional death row inmate's last request to meet with his son prior to his execution. Mr. Thomas generously allowed us to screen the film for the Convocation.

Rep. Carroll is a new legislator who is very receptive to our concerns and will provide a voice of reason in the Colorado Legislature in years to come. He is also an ordained American Baptist Minister and worked for

several years as a minister in the Lookout Mountain Youth Correctional Facility.

Both the film and Rep. Carroll were well received by the prison ministers, who had come to the Convocation from all across the country.

### CO Death Row, continued . . .

Although Mr. Montour would have been entitled to jury sentencing under Colorado's newest statutory scheme had he proceeded to trial, the statute provides for only single judge sentencing for an individual who pleads guilty. Mr. Montour's case will now be reviewed by the Colorado Supreme Court. Although he continues to represent himself, it appears that he will challenge Colorado's latest death penalty statutory scheme.

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# Two Honored for their Work Opposing the Death Penalty at CADP Dinner

Story and Photo by Laurie Dunklee

**I**t was a good day for the opposition. The annual dinner of Coloradans Against the Death Penalty on Feb. 25 became a celebration of an important victory, following the announcement that day of a Colorado Supreme Court ruling sparing the lives of two of Colorado's death row inmates.

Approximately 150 CADP members and friends met at Montview Presbyterian Church to celebrate their successes and support one another in the work still to be done.

"Let's direct our applause and appreciation to those here who were instrumental in saving the lives of George Woldt and Francisco Martinez," said Randy Canney, president of CADP.

The Colorado Supreme Court ruled on Feb. 24 to spare the lives of Martinez and Woldt because they had been sentenced by a three-judge panel instead of a jury. The three-judge sentencing system was thrown out by the U.S. Supreme Court in June.

The honorees at this year's dinner were two death penalty opponents whose work has been effective and inspirational.

A memorial achievement award acknowledged the work of Terri Brake, a public defender who died last May. Brake and her colleagues in Colorado's public defender office established the Colorado defense bar as leaders in the country against the death penalty.

Brake was one of the attorneys who worked on the George Woldt case.

"She would have been so proud and happy today," said colleague David Wymore, who

accepted a plaque in her honor. "She was an inspiration, an icon for us."

The Abolitionist of the Year Award was given to Greta Lindecrantz, an investigator and mitigation expert who has worked on behalf of death row inmates since 1982.

"Greta brings humanity to the courtroom with her ability to show real people and their real pain," said Canney. "She lets them know that the people they are trying to kill are real."

Lindecrantz said she remains committed to her work because she believes all human life is valuable. "We're all valuable. Too often it's the minimized people in our society who get the death penalty, but they are valuable, too," she said.

The keynote speaker for the evening was Steven Hawkins, executive director of the National Coalition to Abolish the Death Penalty. He said that things have changed for the better in the fight to abolish the death penalty.

"Ten years ago about 80 percent of people surveyed were in favor of capital punishment," he said. "Now that number is closer to 65 percent."

He said there is more public critique regarding the death penalty since there have been more known cases of innocent



Father Jim Sunderland congratulates CADP award recipient Greta Lindecrantz, as Steve Hawkins looks on. Hawkins, Executive Director of the NCADP, was keynote speaker at this year's dinner.

people on death row. "Juries don't vote for it as often anymore," he said. "Average people feel a responsibility, like 'I don't want to send an innocent person to die.'"

Hawkins said the changes in public sentiment are partly attributable to "activism through popular culture," including movies, plays and television shows. "*Dead Man Walking* made a powerful statement," he said.

But there's much work to be done, according to Hawkins. His organization is currently concentrating on introducing legislation in several states that would ban the executions of juveniles under 18. The NCADP won a court ruling that they hope will be the basis for ending the executions of mentally retarded people. In addition, they are developing international affiliations that they hope will aid the fight.

"We've come a long way, but we still have a long way to go," Hawkins said.

Laurie Dunklee is a staff writer for the *Denver Catholic Register*.

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## Join the CADP!

The CADP has recently changed its structure to a membership-based organization. Your membership dues will help pay for the CADP's work in this critical time and help expand our base of contacts for future work. All members will receive:

- a membership card indicating that the holder does not wish someone executed in their name if they are murdered;
- CADP's quarterly newsletter;
- email action alerts.

**Yes, I'd like to become an official "card-carrying" member of the CADP!**

\_\_\_\_\_ \$15 Senior/Low Income  
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\_\_\_\_\_ \$250 Corporate Member/LawFirm\*

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\*Benefactor level includes an additional three free memberships and Corporate an additional five. Please submit the names and addresses of those whom you would like included in the membership.

*Please send checks, payable to CADP, to: Randy Canney, 1733 High Street, Denver, CO 80218*