

High court upholds cop killer's death sentence

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By DAVID ANGIER / News Herald Writer

PANAMA CITY — It took little time for the Florida Supreme Court to conclude Robert Bailey's conviction and death sentence for killing Panama City Police Sgt. Kevin Kight were justified.

Bailey, 26, of Wisconsin, shot Kight during a traffic stop on Front Beach Road on March 26, 2005. He was convicted Feb. 15, 2007, of first-degree murder with a firearm and resisting arrest with violence. Jurors recommended 11-1 that he be put to death, and Circuit Judge Michael Overstreet imposed that sentence.

All seven justices agreed with Overstreet's decision.

The state justices heard the argument of Bailey's appeals lawyer Nov. 5 and issued an opinion Thursday, finding the conviction to be substantiated by the facts and the penalty appropriate considering the circumstances. This was Bailey's automatic and direct appeal and is the first round of a lengthy appeal process. Ordinarily, the next appeal will be Bailey's argument that his attorneys were ineffective in representing him at trial.

Attorney W.L. McLain argued Bailey's sentence was disproportionate to his crime because the mitigating circumstances surrounding the killing outweighed the aggravating circumstances.

Overstreet found that two legal aggravators had been proved during the trial: Bailey was on probation at the time of the crime and the killing was committed to avoid a lawful arrest. A startling piece of trial evidence to support that last claim was a picture of Kight's handcuffs on the roadway next to a pool of his blood. Kight was preparing to arrest Bailey for having an expired license when Bailey shot him in the torso twice. Both bullets were fatal, and Kight lived long enough to radio for help.

Overstreet also found that several mitigating factors had been established but were outweighed by aggravators. He found Bailey had a low IQ, a history of mental health problems for which he had been prescribed numerous medications, spent time in a juvenile facility, was intoxicated at the time of the crime, came from a broken home and performed poorly in school. Overstreet questioned one mitigator, that Bailey had shown remorse for Kight, and gave it very little weight in considering whether to impose the death sentence.

"Much of the mitigation that Bailey presented in this case was questionable, particularly in light of Bailey's own statements that he would play all his cards in an attempt to avoid being convicted of murder and sentenced to death," according to the opinion. Bailey had a phone conversation that authorities recorded while at the Bay County Jail in which he said he was "playing the crazy card."

McLain also questioned various statements State Attorney Steve Meadows made to the jury during his opening and closing statements. But the high court found no fundamental error in the statements that would warrant a new trial.

The court also reviewed the evidence against Bailey.

"We find that competent, substantial evidence supports Bailey's first-degree murder conviction," according to the opinion.