

Court: Neb. Electric Chair Not Legal

By NATE JENKINS | Associated Press Writer

LINCOLN, Neb. - The Nebraska Supreme Court ruled Friday that electrocution is cruel and unusual punishment, outlawing the electric chair in the only state that still used it as its sole means of execution.

In the landmark ruling, the court said the Legislature may vote to have a death penalty, just not one that offends rights under the state constitution.

The high court made the ruling in the case of Raymond Mata Jr., convicted for the 1999 kidnapping and killing of 3-year-old Adam Gomez of Scottsbluff.

In its 6-1 ruling, the high court said the evidence shows that electrocution inflicts "intense pain and agonizing suffering" and that "(electrocution) has proven itself to be a dinosaur more befitting the laboratory of Baron Frankenstein than the death chamber" of state prisons.

"Contrary to the State's argument, there is abundant evidence that prisoners sometimes will retain enough brain functioning to consciously suffer the torture high voltage electric current inflicts on a human body," Judge William Connolly wrote in the opinion.

Chief Justice Mike Heavican wrote a dissent, saying that he did not think electrocution was "cruel and unusual."

Nebraska Solicitor General J. Kirk Brown had argued for the state that the legal standard a method of execution must meet is to minimize the risk of unnecessary pain, violence and mutilation, not eliminate it. He said electrocution meets that test.

In its opinion Friday, the high court stressed repeatedly that its ruling did not strike down the death penalty -- just electrocution as the method. In fact, Mata's death sentence was affirmed by the high court.

That could leave lawmakers scrambling to approve another means of execution during the current legislative session.

Attorney General Jon Bruning was not immediately available to comment.