

# Court denies appeal over victim impact evidence

## The Associated Press

WASHINGTON -- The Supreme Court has turned down appeals from death row inmates seeking to limit videos and similar material prepared by murder victims' families for juries.

The order Monday comes in two California cases in which jurors were shown video montages of the victims' lives, in one instance set to music by Enya.

The defendants' claimed that the videos prejudiced the juries against them and violated their right to a fair trial.

Three justices, Stephen Breyer, David Souter and John Paul Stevens, took exception Monday to the court's decision

"The videos added nothing relevant to the jury's deliberations and invited a verdict based on sentiment, rather than reasoned judgment," Stevens said.

The court has previously held that juries can hear victim impact testimony in the penalty phase of capital cases, but it has not said whether certain testimony should be barred as prejudicial.

The California Supreme Court earlier upheld both death sentences.

One defendant, Douglas Kelly, was convicted of raping and murdering 19-year-old Sara Weir in California in 1993. After Kelly's conviction, but before he was sentenced, Weir's family presented the jury with a video of the woman's life accompanied by music.

Kelly met Weir at a local gym. A 10-year-old boy found Weir's badly decomposed body under his bed wrapped in a blanket. Kelly had lived with the family for a time. Weir had been stabbed 29 times with a pair of scissors.

Weir's adoptive mother made the video, filled with images of Weir from infancy through her high school graduation and set to music by Enya.

In the other case, Samuel Zamudio was convicted of robbing and murdering Elmer and Gladys Benson. The prosecution played a video containing 118 photographs of the couple, including the last three showing the couple's graves.

The cases are Kelly v. California, 07-11073, and Zamudio v. California, 07-11425.