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## **Man who killed S. Fla. woman can be executed**

### **The state's top court threw out an appeal by a Death Row inmate convicted of a 1983 murder in Broward.**

TALLAHASSEE -- (AP) -- Florida can go ahead with John Richard Marek's execution for the strangulation of a woman he picked up after she had car trouble 26 years ago, the Florida Supreme Court ruled Thursday.

A new execution date was not immediately set.

Marek, 47, was supposed to die by lethal injection on May 13 for the 1983 kidnapping, rape and murder of Adella Marie Simmons, whose body was found in a lifeguard shack on a Broward County beach.

The court put the execution on hold May 11, allowing Marek time to argue that his accomplice, Raymond Wigley, was the actual killer.

In the appeal, Marek's lawyer, Martin McClain, cited new testimony obtained from six witnesses who had been in prison with Wigley. They said Wigley, who was killed by another inmate in 2000, had confessed.

The justices ordered a trial judge to review the appeal, and he denied it.

The high court agreed with that decision in an unsigned, 7-0 opinion. Justice R. Fred Lewis agreed only with the result but not the reasoning of the decision, but did not explain why.

'Given the inconsistencies in Wigley's statements and the strong inference that the statements constituted prison `tough talk' and were calculated by Wigley to obtain some advantage for himself, the probative value of the testimony recounting Wigley's statements is negligible," the justices wrote.

The ruling caught McClain by surprise because it came during the first week of the high court's summer break. McClain had not expected a decision for at least five more weeks.

"I have no idea what I'm doing next," McClain said. His options include appealing to the U.S. Supreme Court or a lower federal court.

Wigley and Marek drove to Florida from Texas. They offered the victim, a 45-year-old administrator at Barry University, a ride to a service station after her car broke down on Florida's Turnpike. Another woman in the car stayed behind and was unharmed.

Marek and Wigley accused each other of killing Simmons. Both were separately convicted of first-degree murder but Wigley received a life sentence while Marek was condemned to death.