

# Fla. death row inmate gets new sentencing hearing

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TALLAHASSEE, Fla. (AP) — A death row inmate won a new sentencing hearing Thursday from the Florida Supreme Court in the murder of a teenage girl eight years ago after she and her boyfriend had been abducted while taking a stroll on South Beach.

In a 5-2 opinion, the majority justices vacated Victor Caraballo's death sentence.

They said Circuit Judge William Lewis Thomas erred by letting a [mental health](#) expert testify against Caraballo, 42, of Orlando, during the penalty phase of his 2007 trial because the doctor had been appointed, instead, to help determine if he was competent to stand trial.

The high court, though, unanimously upheld Caraballo's convictions for murder, attempted murder, kidnapping, armed robbery and sexual battery in the abduction of Ana Maria Angel and her boyfriend, Nelson Portobanco, both 18.

The high school sweethearts had been out for stroll when four men and a teenage boy allegedly forced them into the rear cab of a pickup truck at gunpoint and stole their belongings, including cell phones and Angel's ATM card.

Portobanco then was stabbed and left for dead along Interstate 95, but he survived. Angel was repeatedly raped and taken to a retaining wall beside I-95 in Palm Beach County where she was forced to her knees and killed with a single gunshot to the back of her head.

The high court ruled that permitting Dr. Lazaro Garcia to tell the jury he suspected Caraballo lied about having hallucinations and had given incorrect answers on a malingering test violated a court rule protecting the confidentiality of competency examinations.

"There is little question that if the jury believed Dr. Garcia's testimony, it would have discounted other evidence that the defense introduced as mental health mitigation," the majority wrote in an unsigned opinion.

Justices Ricky Polston and Charles Canady dissented. Polston cited a prior Supreme Court ruling permitting similar testimony. In that case, though, jurors had not been told an expert also had evaluated a defendant's competency.

Caraballo's jury voted 9-3 to recommend the death sentence Thomas subsequently imposed.

A native of [Puerto Rico](#), Caraballo confessed to taking part in the crime but said he was forced into it because co-defendant Joel Lebron had threatened him. He also said Lebron stabbed Portobanco and shot Angel.

Lebron, 31, and Caraballo's younger brother, Hector Caraballo, 37, are still awaiting trial. The other two defendants, Cesar Mena, 31, and Jesus Torres Roman, 24, were convicted and sentenced to life in prison.