



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

CAPITAL PUNISHMENT , COURTS AND SENTENCING

A good day for justice

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This was a good day for the criminal justice system. A federal judge set aside the death sentence given confessed serial killer Gary Lee Sampson upon proof that one of the jurors who had recommended death had concealed information that would have disqualified her from service.

Despite the fact that justice prevailed, this turn of events will undoubtedly upset many people -- and for very different reasons.

There will be those who see this as one more example of a ruthless criminal getting off on some legal technicality. Of course, Sampson is hardly getting away with anything as a result of the decision. There will likely be a new jury and a new sentencing proceeding to determine whether Sampson deserves life in prison or death for murdering Philip McCloskey and Jonathan Rizzo of Massachusetts and Robert Whitney of New Hampshire. The additional cost of retrial is a necessary price we pay to ensure fairness. We must follow the rules (even when criminals don't).

There will be those, like me, who see this as evidence of a fundamental flaw in our jury system. How reasonable is the assumption that jurors can and do make weighty decisions impartially and without prejudice? Of course, many, if not most, jurors rise to the occasion and successfully put aside their emotions and personal points of view in the service of justice. Yet, the expectation that all twelve members of a jury indeed act responsibly, especially when confronted with a defendant accused of an extremely heinous crime, is wishful thinking.

Sampson's death sentence was vacated because one of the jurors lied about experiences in her past that would arguably make her unfit to decide the man's fate. Through the process known as "death qualification," juries are stacked against the capital defendant. This is because all prospective jurors who are fundamentally opposed to capital punishment (which by the latest [poll](#) is over one-third of the population) are automatically excused. Given the already uneven playing field, the least that we can demand is to have capital jurors who are unassailably honest and forthright.