

# Death sentence out in Pennsylvania case

PHILADELPHIA (AP) — A former prison guard convicted of killing his five children and eight other people has been given a chance to escape his death sentence, under a federal court ruling. Nearly 20 years after the shooting rampage, the 3rd U.S. Circuit Court of Appeals ordered prosecutors Wednesday to give George Banks a new sentencing hearing within 120 days, or sentence him to life in prison. The court ruled that the jury in his trial had been given confusing instructions. The ruling will spare Banks' life for at least a few years, defense attorney William Ruzzo said.

"As a practical matter, a new penalty phase is like a new trial," Ruzzo said. "We could raise every issue we raised at trial, including his sanity and his competency. We have to bring witnesses back in to testify."

The three-judge appeals panel upheld Banks' conviction but ruled that the jury instructions at sentencing wrongly implied that all jurors had to agree on mitigating circumstances in order to spare Banks from death. Under Pennsylvania law, if even one juror finds a mitigating circumstance, the jury cannot give a death sentence.

Banks was convicted of shooting 14 people in Wilkes-Barre, Pa., on Sept. 25, 1982. His first victims were his children, ages 1 to 6. Four other victims were the mothers of his children. The rest were bystanders. Defense lawyers have argued that Banks was insane when he went on the shooting spree. After his arrest, Banks, who is biracial, claimed he had killed his children to save them from a racist society. Luzerne County District Attorney David Lupas said prosecutors will appeal Wednesday's ruling. He said the office had not decided yet whether to schedule a resentencing hearing.

"It would obviously be a very large undertaking; it is not something we are ruling out right now," Lupas said.

The appeals court ruling may offer a new avenue of appeal for other death-row inmates. Attorney Matthew Lawry of the Defender Association of Philadelphia said the jury instructions given in the Banks case were standard for the time and probably used in the cases of 20 other death-row prisoners.

# Feds: Criminals get guns from friends, kin

WASHINGTON (AP) - More gun-carrying criminals are turning to friends and family for their weapons rather than buying them at stores, gun shows or flea markets, the Justice Department reported Sunday.

Nearly 40 percent of state prison inmates in 1997 who used or possessed a firearm during their crime got the weapon from a friend or relative, compared with 34 percent in 1991.

Over the same period, the percentage of those inmates who bought or traded for their gun at a pawn shop, flea market, or retail outlet fell from 21 percent to 14 percent.

That shift is due in part to the passage of tougher gun control laws during the 1990s, including the 1993 Brady Bill that imposed na-

tionwide background checks on buyers, said the report's author, Caroline Wolf Harlow.

The Bureau of Justice Statistics survey also showed the number of state prisoners who used guns to commit their crimes rose from 16 percent to 18 percent between 1991 and 1997. Federal prisoners followed the same trend, increasing their gun possession from 12 percent to 15 percent over the same period.

Researchers on both sides of the gun control issue interpreted the statistics differently.

"What this shows is that making it harder for stores to sell guns does nothing to deter criminals from getting weapons," said Jeffrey Wendell, a criminal justice professor at the University of Texas.

"They just turn to other sources. No one is walking into a store, finding they can't buy a gun and then deciding not to commit a crime."

Paul Stevens, a lawyer and professor at the University of Pennsylvania, says tougher laws are needed on all fronts.

"We need less guns in society in general," Stevens said. "The problem is that there are so many guns and they are so easy to get that it is impossible to keep the wrong people from getting a hold of them."

The data came from interviews of 18,000 state and federal prisoners.

The survey found that about 10 percent of federal and state prisoners carried a military-style, semiautomatic weapon when committing a crime.

These weapons included

the Uzi, Tec-9, AK-47 rifle and several varieties of shotgun. The firearm most favored by inmates was the handgun, carried by more than 80 percent of the inmates who said they used a gun.

Of the prisoners convicted of a violent crime - murder, rape, robbery and assault - 30 percent of state inmates and 35 percent of federal inmates said they had a gun when they committed their crime.

Young, minority men were the most likely to have been carrying a firearm.

The use or possession of weapons resulted in tougher sentences for many inmates - 40 percent of state inmates and 56 percent of federal inmates reported getting longer sentences because they were armed.

## Shootings

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a third term in the racially mixed city of 41,000 people. He is accused of handing out bullets and encouraging whites to kill blacks before Allen was slain. He admitted attending a rally and yelling "White power!"

The other defendants in the Allen case are all accused of shooting at Allen's vehicle; four have been offered lighter sentences in exchange for cooperating with the prosecution.

In Schaad's case, talk focused on a group of armed black

men gathered on the corner near a bridge where he was shot.

The arrests were made when people finally came forward with information. "You can't underestimate the power of the grand jury," said prosecutor William Graff. "When you're sitting in front of 30 people who want to know the truth," it's tough to hide it, he said.

A police affidavit filed last week quoted witnesses who said they saw Freeland fire at Schaad's car and heard him boast about using the type of rifle that hit the vehicle.



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