



## *Newport News: Juror selection in capital cases can be more difficult*

By Ashley K. Speed, [akspeed@dailypress.com](mailto:akspeed@dailypress.com)  
9:32 PM EST, March 6, 2014

NEWPORT NEWS — A prospective juror in the John Moses Ragin trial had reached her verdict before hearing one word of evidence in the death penalty case.

She responded in a questionnaire that she had "already formed an opinion about Ragin and that opinion was that he was guilty," Ragin's attorney, Larry Woodward, read in court this week.

The woman was struck from the jury pool.

Attorneys have spent the first week of the capital murder case trying to find 16 jurors (12 jurors and four alternates) out of a pool of about 120 candidates. Finding the right juror can be tough. Attorneys must delve into the minds of prospective jurors in search of any biases that might prejudice them against the defendant, or capital punishment.

"You're trying to get into people's beliefs and how they feel about the human race itself," said Tyrone Johnson, a defense attorney.

Ragin, 38, of Newport News, is charged in the stabbing deaths of his wife, Crystal Ragin, a 32-year-old Army sergeant at Fort Eustis, and her three children — Sierra, 15; La'Kwan, 10; and Rasheed, 6. Ragin is charged with three counts of capital murder, one count of first-degree murder, four counts of unlawful stabbing in the commission of a felony and arson. The capital murder charges — each punishable by execution — pertain to the deaths of the children.

Police say they were killed overnight between Aug. 18 and 19, 2011, before their apartment on Old Courthouse Way was set on fire. Their bodies were found Aug. 19, all with multiple stab wounds. Sierra was set on fire — her body was burned beyond recognition.

"To be a capital murder juror, the person has to be capable of actually imposing the death penalty," said Adam Gershowitz, a professor at the College of William and Mary's law school. "Someone who would never impose the death penalty would not be picked. The problem is that they can't consider the full range of punishment."

Attorneys also have to weed out the segment of the community who would automatically impose the death penalty. Either of those two groups could open the door for the case to be reversed, Gershowitz said.

In the Ragin case, a woman was struck for just that. She wrote in her questionnaire that she "would always impose the death penalty."

In Virginia, people who don't believe in the death penalty are automatically disqualified from the pool. It's a rule that defense attorneys find problematic, saying it narrows the selection process from the start.

"One thing that is unfair is that the pool is limited to only those capable of imposing death, so we are excluding a large portion of the community who would not impose death under any circumstance," said

Tim Clancy, a defense attorney. "I think it's really hard to find a jury in Virginia, because you are starting from a pool that is not a normal cross section of the community."

Clancy said it can be difficult to find jurors who can look past the sometimes brutal evidence presented in a capital case and choose life in prison instead of the ultimate punishment.

"My job is to find those jurors that even if they think this particular defendant may pose a continued threat to society and even if they find the offense so outrageously vile would say, 'I would still consider mitigating factors and come to a conclusion other than death,'" Clancy said.

Mitigating evidence is presented by the defense during the sentencing phase of a death penalty trial and can include issues such as mental illness or how the person was raised as a child.

In the Ragin trial, potential jurors who had children were asked if they thought they could view the graphic photos of the Ragin children. Attorneys from the prosecution and the defense warned prospective jurors about their brutal deaths. Each victim was stabbed. Sierra Ragin was set on fire — burned beyond recognition.

"It's alleged that he killed his stepchildren — seeing that type of evidence I submit might be horrific," said Robert Morecock, one of Ragin's defense attorneys.

Each potential juror who was asked Wednesday said they wouldn't have a problem.

Regent University School of Law professor James Duane said the jurors in a capital case are not too different than jurors selected in most criminal cases.

"The jurors most likely to vote guilty in a non-capital case are generally the same people most likely to side with the prosecution in a capital case..." Duane said. "There is a little twist. The twist is that certain people who because of their religious beliefs make it impossible for them to ever impose the death penalty. Those people are a problem for the prosecutor. Some people find the idea of executing anybody just out of the question."

Duane said the best jurors for the defense, as is the same in other types of cases, are people who can somehow relate to the offender. They are people who have been accused of a crime themselves or had family or friends charged with an offense.

"During jury selection all around the country the number one item is to find out if the juror will be willing but not too willing to impose the death penalty," Duane said.

A jury is expected to be seated by Tuesday. Opening statements in the trial could be heard the same day.

*Speed can be reached by phone at 757-247-4778.*

Copyright © 2014, [Newport News, Va., Daily Press](#)