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Monday, November 10, 2008

**DENVERPOST.com**

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**The Denver Post**

## Tuthill killer spared death penalty Judges weigh childhood abuse, nature of crime

March 3, 2001

Section: A

Page: A-01

Howard Pankratz Denver Post Legal Affairs Writer

**Caption:** PHOTOS:AP Steve and Pat Tuthill, parents of murder victim Peyton Tuthill, leave the courtroom after Friday's decision. Donta Page is escorted back to jail after the three-judge panel handed down its decision. PHOTO: Tuthill

A 24-year-old Maryland felon was spared death by lethal injection Friday and will spend the rest of his life in prison for the 1999 rape and killing of a Denver woman. A unanimous three-judge panel called Donta Page's attack on Peyton Tuthill, 24, a heinous crime, but they said Page's upbringing in the inner city of Washington, D.C., where he was beaten by his mother and raped by a neighbor, weighed against execution.

Two of the judges, Leland Anderson and Joseph Meyer III, said the rape and murder didn't reach the ghastly levels of other crimes that brought death sentences. Sentencing Page to death would "lower the bar," they said.

Page, deemed a habitual criminal by the courts, will be sentenced to life without parole Thursday. Denver District Attorney Bill Ritter said prosecutors also will seek to add another 224 years to the sentence for sexual assault, robbery and burglary.

**Jim Castle**, one of Page's lawyers, said the defense team's "thoughts and prayers are with the Tuthill family." He declined to comment further.

Ritter said death would have been an appropriate sentence. "We disagree with the sentence, but we accept it."

Pat Tuthill, the victim's mother, said she wasn't sure how she felt.

"I wanted Donta Page to have a fair trial and to have justice served," she said. "I believe he had a fair trial, but I am not certain how I feel about the sentence."

Anderson and Meyer said the death penalty should be imposed in only the severest cases.

"The Supreme Court has recognized that the death penalty should be imposed with infrequency and reserved for the most extreme cases," they wrote in their ruling. "The court emphasized that a capital sentencing scheme must provide a meaningful basis for distinguishing the few cases in which the penalty is imposed from the many cases in which it is not."

Six men are currently on death row in Colorado.

Three of Tuthill's closest friends were in the courtroom Friday for the sentencing announcement: boyfriend Cory Chyr, sorority sister and Denver roommate Heather Nelson, and Leah Bartley.

"I'm not surprised," said Nelson, who was a Chi Omega sorority sister of Tuthill's at the College of Charleston in South Carolina. "I think, in the end, it's God's choice. I think it is a bigger hell for him to live in prison the rest of his life. I hope he hears her screams every night."

"Either way, it's not going to bring her back," Bartley said. "But he won't be on the streets to commit this evil again."

Page's Feb. 24, 1999, rape and murder of Tuthill, although horrifying, did not involve the "diabolical frenzy or hellish subhuman behaviors" seen in the "gratuitously violent killings" committed by some murderers, said Judges Meyer and Anderson.

The two judges stressed that they don't minimize what happened to Tuthill.

"The panel unanimously concludes that no amount of horror from (Page's) childhood, even when combined with other mitigating factors, can outweigh the horror of what (Page) did to Peyton Tuthill and those who loved her.

"He did not just rob and kill her in the sanctity of her own home. He violently raped her, thus degrading and dehumanizing her in the vilest way.

"Then he cut her throat and stabbed her repeatedly and left her to die. Her family is not only deprived of her presence in life but is left to contemplate the horror and suffering that led up to her death, which is more than any loved one should ever have to bear."

Judge Brooke Jackson, in his own written decision, said he was much more inclined to sentence Page to death than his two colleagues but joined them in their ruling because of "some doubt whether the death penalty should be imposed."

"I am utterly repulsed by this crime and this man," Jackson said. "I have felt since the conclusion of the evidence that Page deserves the death penalty.

"(But) I cannot exclude the possibility, even the probability, that prolonged child neglect and abuse, head injuries, unavailability of supportive parents ... contributed to the explosion that occurred in Ms. Tuthill's bedroom."

A Denver District Court jury convicted Page in November of first-degree murder and sexual assault. A weeklong sentencing hearing before the three-judge panel ended Tuesday.

The day before he killed Tuthill, Page had been kicked out of the Stout Street Foundation's drug- and alcohol-rehabilitation program.

He had been allowed to enroll in the program as part of an early release agreement from Maryland, where he was serving time for armed robbery.

The Stout Street halfway house was two doors down from Tuthill's duplex in the 1500 block of Gaylord Street. Tuthill surprised Page after he had broken into her duplex.

The killing outraged citizens and officials across Denver, and resulted in new city and state laws regarding when and how out-of-state felons come here for treatment or to complete their prison sentences.

Tuthill's family also has filed a wrongful-death lawsuit against Maryland, accusing officials of improperly allowing Page to come to Colorado.

Denver Post staff writer Sheba R. Wheeler contributed to this report.

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