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Life in Prison for Moussaoui – the Right Decision

By Rachel King, May 4, 2006



On July 2, 2006, our country will mark the 30th anniversary of the reinstatement of the death penalty in the United States. In the 1976 case of *Gregg v. Georgia*, the U.S. Supreme Court upheld newly drafted death penalty statutes that allowed the narrowly tailored application of death sentences. These statutes would do away with the arbitrary and unfair use of the death penalty, which had caused the Court to strike it down in 1972. The new death penalty statutes were intended to ensure that only the worst-of-the-worst offenders received the punishment of death.

The case of Zacharias Moussaoui is probably the most challenging case a jury has had to consider in the last three decades. The crime had more than 3,000 victims. Some died instantly in a plane crash, their last moments filled with terror and fear; others jumped to their deaths to escape being burned alive. In fact, the terrorist attacks of 9/11 were so severe that our country has gone to war against two countries to avenge them.

Given the magnitude of the crimes, most would agree that those responsible for the 9/11 attacks would qualify as “the worst-of-the worst offenders.” So why is it that a jury in Virginia, a state known for its liberal use of the death penalty, deliberated for over a week and then returned a verdict of life in prison for Moussaoui?

I suggest that there are several reasons why the jury made this decision and that it was the right one to make.

First of all, Zacharias Moussaoui wanted to die. Instead of perceiving a death sentence as a severe punishment, Moussaoui saw execution as a way to become a martyr and go to heaven. In fact, Moussaoui did everything in his power to try to get the government to give him the death penalty. He pleaded guilty to his role in the 9/11 plot, even though it would have been very difficult for the government to establish his guilt had he gone to trial. He “confessed” to the crime, likely exaggerating his role in the events to make himself appear more important than he was. He did not cooperate with his attorneys and, in fact, did everything in his power to interfere in their efforts to assist him.

The jury was right not to give in to Moussaoui’s desire for martyrdom. It makes very little sense to “punish” someone with a death sentence if that person is trying to get himself killed. Moussaoui will now be forced to spend his life in a high-security federal prison and will not have the glory of being executed by his enemy.

Further, the jury was right not to convict Moussaoui because he is obviously mentally ill. Under Supreme Court precedent, “insane” people are not supposed to be executed. Under the worst-of-the-worst rationale, it is hard to find that a mentally ill person who is not acting rationally and is, therefore, less culpable than a “normal” person, would qualify as a worst-of-the-worst offender. The problem is that many mentally ill people do not qualify under the Court’s limited definition of “insanity,” and many people on death row suffer from some type of mental disorder. Common examples of disorders that people on death row suffer from are bipolar disorder, borderline personality disorder, post-traumatic-stress disorder, schizoaffective disorder, depression and schizophrenia.

There are literally dozens of instances where paranoid schizophrenics and others suffering some form of mental debilitation have been executed. In 2004, the State of Texas executed Kelsey Patterson, who had a long and established history of mental illness, including paranoid schizophrenia. Patterson believed that electronic devices had been implanted in him and they were making him do things that he didn’t want to do. Patterson was so ill that he did not attend most of his trial because the judge kept ordering him out of the courtroom for continuously talking nonsense to himself during the trial. He testified on his own behalf and told the jury, “They have proceeded, misrepresenting me, these two men, and if I would be allowed a chance to tell, that’s what I need because they got some electronic devices in me which works like a remote control that has - can alter your body make your mind body react beyond your control conscious awareness. And there’s people that they have shown this and I have documented this for over a year and a half.”

Like Kelsey Patterson, Moussaoui suffers from paranoid schizophrenia. He has delusional beliefs that George Bush will free him from prison and that his attorneys are conspiring to kill him. Schizophrenics are prone to grandiosity. Moussaoui stated in his confession that he and Richard Reid (the unsuccessful shoe bomber) were slated to fly a fifth airplane into the White House on September 11. However, the FBI has admitted that there was no evidence that Reid knew about the 9/11 attacks beforehand or that he had been assigned by al-Qaeda to work with Moussaoui.

Lastly, the jury’s decision may serve as a deterrent to other would-be terrorists. There is very little evidence to suggest that the death penalty is more of a deterrent to homicide than a long-term prison sentence. However, to the extent that terrorists are likely to be deterred, which is a bit of a stretch to begin with, they are more likely to be deterred by the threat of life imprisonment in a federal maximum security prison. Moussaoui will likely be housed in a so-called Supermax facility. These facilities are typically built underground, where the prisoners have no access to natural light and live completely isolated from other prisoners. They rarely leave their cells, with the exception of a couple of times a week to shower or exercise. This harsh sentence does not in any way approximate the nirvana that terrorists believe they will achieve if they become martyrs for their cause.

I applaud the jurors for their verdict, which some may find difficult to understand. I, for one, think they made the right decision.

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