

New trial upheld in Toppenish murder case

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The state Supreme Court has upheld a lower court's ruling that a murder defendant deserves a new trial because the jury that convicted him did not receive proper instructions.

The state's high court released the ruling today in the case of Joel Condon, who was sentenced to life in prison after being convicted of aggravated first-degree murder in the death of Carmelo Ramirez.

Condon was convicted in February 2011 for forcefully entering Ramirez's home near Toppenish and shooting and killing him in his living room in January 2009.

Condon had argued that the jury should have been instructed to consider a lesser charge of second-degree murder under the theory that the fatal shooting was intentional, instead of premeditated as required for the first-degree murder charge.

The trial court denied that request on the basis that the evidence supported the premeditation element and that second-degree murder was not a proper alternative to felony murder. Felony murder — which involves a death occurring during the course of a felony crime, such as burglary or robbery — had been offered to the jury as an alternative to the first-degree murder charge.

Prosecutors asked the Supreme Court to review the earlier decision by the Court of Appeals, arguing that the trial judge had been right to exclude the second-degree murder charge from consideration.

The high court acknowledged that a rational jury could determine Condon's actions were premeditated.

=Detectives said Condon and his accomplice, Jesus Padilla Lozano, had mistaken Ramirez's home for a drug dealer's when they attempted to rob the residence.

Lozano testified Ramirez had him in a chokehold when Condon fired. Ramirez's wife, Edna Gregorio, testified that her husband was shot in a struggle over the gun. She said she helped her three children escape through a window of a room at the rear of the house before returning to see her husband struggling over the gun. She testified that she was then pushed face-down into a couch by Lozano and then heard two shots.

Ramirez was shot twice; one bullet struck him in the thigh and the other passed through his elbow and into his chest, where it tore a cardiac artery, according to court documents.

In his testimony, Lozano said he didn't know Condon had a gun until after they entered Ramirez's home.