

The State; Woman Facing New Trial Is Ordered Freed; Court: A prosecutor calls the U.S. panel's ruling unusual. The jurists had overturned the Sacramento woman's 1986 murder conviction.

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Author: HENRY WEINSTEIN

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Four months after overturning a Sacramento woman's murder conviction, a federal appeals court Wednesday ordered her released on bail pending a new trial in the two-decade-old case.

The U.S. 9th Circuit Court of Appeals in San Francisco directed a federal judge in Sacramento to hold a hearing within 30 days to set conditions for the release of Gloria Killian. She has been in state prison since 1986 for masterminding the 1981 murder of a Sacramento coin dealer.

In March, the 9th Circuit ruled 3 to 0 that Killian was entitled to a new trial, saying that her conviction was based on false testimony by a convict who hoped for a lighter sentence in return for helping prosecutors.

Patrick J. Whalen, a deputy state attorney general who had asked the court not to grant bail, called the 9th Circuit's action "very unusual."

"In Sacramento, there is no bail" when someone is charged with murder, Whalen said.

But Killian's appellate lawyer, William Genego of Santa Monica, said she clearly was entitled to bail.

The legal standard is that the individual is entitled to bail "unless the court finds the person is dangerous or a flight risk," Genego said.

Genego also said that a Sacramento judge had granted bail to Killian when she originally was charged with the crime years ago "and she stuck around for trial."

The veteran defense lawyer said he would attempt to get the hearing set as soon as possible.

Genego said he expected that Joyce Ride of Pasadena, the mother of America's first woman astronaut, Sally Ride, would testify at the bail hearing.

Ride met Killian years ago in a goodwill visit to the California Institute of Women, became convinced of her innocence and hired a private investigator to look into the case. Ride has offered to provide a home for Killian when she is released.

Killian, now 56, had nearly completed law school at the time of her trial. While in prison, she has helped a number of inmates with their legal problems.

In mid-March a three-judge panel of the 9th Circuit ruled unanimously that Killian was entitled to a new trial. Writing for the court, Judge Michael D. Hawkins, a former prosecutor, described Gary Masse, the sole witness against Killian, as a "thoroughly discredited perjurer."

Hawkins said that "because Masse perjured himself several times and because he was the 'make or break witness' for the state, there is a reasonable probability that, without all the perjury, the result of the [trial] would have been different."

At the time, Christopher T. Cleeland, the Sacramento deputy district attorney who prosecuted the case, said he was still convinced of Killian's guilt.

The California attorney general's office asked the 9th Circuit to reconsider its ruling, but no action has been taken yet on that motion.

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