

USE OF RELIGIOUS SOURCE MATERIAL

(updated September 2010)

I. UNITED STATES COURT OF APPEALS

Romine v. Head,
253 F.3d 1349 (11th Cir. 2001).

Habeas relief granted as to death sentence where “prosecutor in his closing argument gave the jurors a hell fire and brimstone mini-sermon the effect of which was to tell them that regardless of the law of Georgia, they ought to follow the law of God, as the prosecutor interpreted it to rule out any consideration of mercy.” Although independent claim concerning jurors’s use of Bible during deliberations was procedurally defaulted, use of the Bible to check accuracy of prosecutor’s argument was considered in prejudice analysis.

II. UNITED STATES DISTRICT COURT

Jones v. Kemp,
706 F.Supp. 1534 (N.D.Ga. 1989).

Habeas relief granted as to death sentence where jury asked whether it could take Bible into deliberations and trial court allowed this to occur. It is well established that religion may not play a role in sentencing.

III. STATE COURT

People v. Harlan,
109 P. 3d 616 (Colo. 2005).

Affirming order vacating death sentence and imposing a life sentence where jurors researched Bible verses and took notes on them at night; brought one or more Bibles, a Bible index, and notes on certain biblical passages into the jury room during penalty phase deliberations the next day; and shared in the jury room an authoritative passage commanding the imposition of the death penalty for murder prior to the jury reaching its verdict imposing the death penalty.

State v. Williams,
777 N.E.2d 892 (Ohio App. 2002).

Interest of justice required that Ohio death row inmate receive a hearing where evidence indicated that jurors undertook group prayer along with court personnel.

Glossip v. State,
29 P.3d 597 (Okla. Crim. App. 2001).

While reversing capital case on ineffectiveness ground, court notes impropriety of jurors' use of bible at both stages of trial.

Ex Parte Troha,
462 So.2d 953 (Ala. 1984).

State supreme court granted writ of certiorari and reversed petitioner's rape conviction because juror consulted a minister, who was also his brother, for guidance and scripture references to enable him to make decision in accordance with Christian principles.

State v. Harrington,
627 S.W.2d 345 (Tenn. 1981), cert. denied, 457 U.S. 1110 (1982).

Capital case. New sentencing proceeding was required because jury foreman read biblical passages to other jurors during their sentencing deliberations.