

## **Judge lifts the specter of death penalty for suspect: Court says police failed to prove slaying was federal crime**

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DETROIT -- A reputed gang member suspected of murdering at least six people will no longer face the death penalty.

Judge Nancy G. Edmunds dismissed two of the four indictments against Efraim Garcia, a member of the **Cash Flow Posse** that operated in southwest Detroit for more than a decade. The indictments that were dropped had accused Garcia of murder and conspiracy to murder Evan Ison in November 1994 in Detroit.

Edmunds said there's no basis to seek the death penalty because the government failed to establish that Ison's slaying was a federal crime. The Wayne County Prosecutor's Office said it will decide whether to issue a state murder charge against Garcia, 31, in Ison's slaying. The maximum state penalty for murder is life in prison.

"There is no evidence that the activities of the **Cash Flow Posse**, brutish and tyrannical as they may have been, substantially affected interstate commerce," Edmunds wrote in an 18-page opinion issued Wednesday, referring to a requirement for considering the murder a federal crime. "Even if the government proves beyond a reasonable doubt that Garcia murdered Evan Ison ... that murder is still, in the end, a street crime committed by a thug as part of a local turf war in southwest Detroit."

A defense attorney praised the decision, though his client still will go on trial Oct. 5 on racketeering and conspiracy charges.

"Judge Edmunds was especially sensitive to the fact that Michigan's had a prohibition on the death penalty since 1849," said Chicago attorney Jeffrey Urdanger, who has handled numerous death penalty cases.

While state law prohibits capital punishment for someone convicted of state charges, the death penalty would be permissible in a federal case tried here.

Authorities say the **Cash Flow Posse** was responsible for dozens of murders, drug deals and numerous other crimes from 1988-98. At least seven members have been convicted in federal court for crimes committed as part of the group.

The gang was formed in 1988 by 12 young men to counteract pressure from two national gangs, the Latin Counts and the Cobras, to join their gangs. The gang's activities eventually spread to Port Huron and Belleville, police say.

Since indictments were issued in 1997, targeting most of the top members, community leaders say the gang problem has significantly improved.

The U.S. Attorney's Office said it had not decided whether to appeal the decision to the 6th Circuit Court of Appeals. "It's a shocker," said Gina Vitrano, a spokeswoman for U.S. Attorney Saul Green.

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