

Broward Death Row inmate ordered set free



Herman Lindsey (Florida Department of Corrections / July 9, 2009)

By Paula McMahon Staff Writer

2:02 PM EDT, July 9, 2009

The Florida Supreme Court has overturned the death sentence in the 1994 murder of a Broward County woman and ordered that the man convicted of the crime should be acquitted because of insufficient evidence.

In an opinion released this morning, the court ruled that the evidence presented at the trial of Herman Lindsey was legally insufficient to support his conviction and that the case was based entirely on circumstantial evidence.

Lindsey, 36, was charged with killing Jo Ann Mazolla in an April 1994 pawn shop robbery. He was arrested in March 2006, nearly 12 years later.

Mazolla, 51, of Wilton Manors, was a clerk at the now-closed Big Dollar Pawn Shop in a strip plaza on West Sunrise Boulevard just west of Andrews Avenue.

Lindsey has been on death row since June 2007.

The justices said the trial judge, Circuit Judge Eileen M. O'Connor erred in denying Lindsey's request for a judgement of acquittal. Chief Justice Peggy Quince separately found that the judge also abused her discretion by allowing the prosecution to exceed the scope of its cross-examination.

Lindsey testified in the sentencing phase of the trial solely about his family and childhood but the prosecutor questioned him on cross-examination about the crime and the shooting, the court found.

"The prosecution's comments were not only improper, but were also prejudicial and made with the apparent goal of inflaming the jury," Quince wrote. "Therefore it cannot be concluded that these comments did not affect the jury's decision to impose the death penalty."