

# Murder conviction thrown out in dog mauling case

SAN FRANCISCO (AP) — Citing a lack of evidence, a judge tossed out Marjorie Knoller's murder conviction Monday in last year's dog mauling death of a neighbor. He also sentenced Knoller's husband to the maximum four years in prison.

Knoller, 46, could have faced 15 years to life in prison for murder. Like husband Robert Noel, she now faces up to four years for involuntary manslaughter and having a mischievous dog that killed someone.

The judge's decision stunned friends and relatives of the 33-year-old victim, Diane Whipple. Knoller's sentencing was delayed until at least July 15 so prosecutors can argue that her second-degree murder conviction should be reinstated.

"We have not yet given up on our chance of convincing the judge that the murder charge is appropriate," said District Attorney Terence Hallinan.

Superior Court Judge James Warren said that Knoller and Noel are "the most despised couple in

this city" but that the evidence did not support the murder conviction.

He said Knoller had no way of knowing her dogs would kill someone when she left her apartment Jan. 26, 2001.

"There is no question in this court's mind that in the eyes of the people, both defendants are guilty of murder," Warren said. "In the eyes of the law, they are not."

Whipple, a college lacrosse coach, was attacked by the couple's two huge Presa Canario dogs in their apartment hallway last year. The judge called the dogs "a canine time bomb that would at some inevitable point explode with disastrous consequences" even as he threw out Knoller's conviction.

"I'm in shock," said Sharon Smith, Whipple's partner, who shed a tear as the judge ordered a new trial for Knoller.

If Warren does not change his mind and his decision stands, prosecutors will have to consider whether they can retry Knoller for murder without

violating her constitutional right against double jeopardy. She was convicted of manslaughter for the same crime.

"Whether we can retry it or not, we're not

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— Judge James Warren  
Superior Court judge

exactly clear," Hallinan said. "It's a much trickier question."

The prosecutor added that he was surprised by

the judge's decision: "I thought this went beyond manslaughter."

Knoller was walking the dogs just before she attacked Whipple — her husband was out of town — and testified that she tried to throw herself between the animals and her neighbor. The judge threw out the murder conviction despite saying he did not believe much of Knoller's testimony.

"I cannot say as a matter of law that she subjectively knew that day that her conduct would cause death," he said.

Warren also pointed out that Noel was charged with murder and that Noel, in the judge's view, was more culpable than his wife.

The judge said Noel knew his wife could not control the dogs, each of which weighed more than 100 pounds, and knew they would have to be walked at some point that day. The burly Noel had been unable to control the animals at least twice previously, the judge noted.

The judge said that both Knoller and Noel were cavalier about Whipple's death and even blamed the dead woman in interviews.

## Violence continues in Middle East as Arafat blasts Rice

JERUSALEM (AP) — Yasser Arafat rebuked U.S. national security adviser Condoleezza Rice on Monday for saying his Palestinian Authority is corrupt and "cavorts with terror," but the Palestinians also were trying to muster U.S. good will with a proposed outline for a state living in peace with Israel.

The proposal, obtained Monday by The Associated Press, appears to soften the Palestinian demand that all 1949 war refugees and their descendants have the right to return to Israel, and for the first time proposes Israeli sovereignty over part of Jerusalem's Old City.

The outline was delivered to U.S. Secretary of State Colin Powell in Washington last week by Palestinian Cabinet Minister Nabil Shaath, Palestinian officials said, speaking on condition of anonymity.

Israeli reaction was muted. Prime Minister Ariel Sharon maintains that a final peace deal is far off and rejects key Palestinian demands, such as a renewed division of Jerusalem and a dismantling of Jewish settlements.

Israeli government spokesman Dore Gold said he wasn't aware of the proposal and didn't know whether the Americans had passed it on to Israel, but said it was premature to discuss ideas for peace talks.

Also Monday, a Palestinian blew himself up on Israeli territory near the West Bank, killing only himself, and Israeli forces continued their pursuit of militants in Palestinian villages.

In El Khader, a village near Bethlehem, Israeli soldiers shot and killed Walid Sbeh, a member of the Al Aqsa Martyrs Brigades militia, witnesses and Israeli military sources said. The sources, speaking on condition of anonymity, said Sbeh organized suicide attacks in Israel.

Later, Palestinian security officials said some Israeli tanks and jeeps moved into El Khader. The Israeli military had no comment.

Near Ramallah, Israeli soldiers shot and killed a Palestinian who was pushing a cart, Palestinians said. Another man was wounded. The Israeli military had no comment.

Also, Palestinian witnesses said Israeli tanks and jeeps surrounded the house of Hamas fugitive Raed Irfahat at the entrance to Yamoun village near Jenin. Irfahat was not there and the soldiers left after firing tank shells near the house. The army said it blew up a car containing a bomb.

After the start of construction of the first 75-mile section of an electronic fence to keep suicide bombers from leaving the West Bank, Israeli officials said planning would begin soon to extend the fence to cover a total of 215 miles — roughly the length of the unmarked edge of the West Bank.

More than 220 Israelis have been killed in the past 21 months by suicide bombers, all from the West Bank. The Gaza Strip, where the radical Hamas group is based, is fenced in.

Arafat has been under U.S.

### Israel builds fence along West Bank

Israel started building the first section of a controversial electronic fence to keep Palestinian suicide bombers and gunmen from leaving the West Bank and attacking Israeli towns.

The 75-mile-long fence will follow the so-called Green Line — Israel's border before the capture of the West Bank in the 1967 war.



SOURCES: Israeli Defense Ministry; Associated Press; ESRI

and Israeli pressure to curb attacks on Israel, and both nations have urged elections and reforms in Arafat's Palestinian Authority.

Rice, in an interview with The Mercury News of San Jose, Calif., said a Palestinian state should not be based on the Authority, which she said "corrupt and cavorts with terrorism."

Asked about Rice's comment, Arafat said Monday: "We do not have the right to put impose orders on us about what to do or not to do."

"We are doing what we can as good for our people and we do not accept any orders from anyone," Arafat said.

Arafat also denounced Israel's fence as "a fascist apartheid measure." U.S. officials warned that borders must be negotiated, though Israel said the fence was not a border but a security measure.

The Palestinians apparently hoped their new proposal would generate good will in the Bush administration.

It sticks to the long-standing demand for a Palestinian state with its capital in east Jerusalem, but hints at softening the Palestinians' stance on key issues that undid an ambitious peace effort a year and a half ago.

It calls for "a fair and agreed-upon solution" to the refugee problem, based on U.N. General Assembly Resolution 194. The resolution gives the refugees a right to choose whether to return to their former homes or receive compensation, a concept Israel rejects, saying an influx of millions of Palestinians would overwhelm its 5 million Jews.

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