

Paper: Houston Chronicle

Date: Sat 03/24/2007

Section: B

Page: 3

Edition: 3 STAR

**State will seek death in retrial of Graves / In a rare case, Texas AG's office helping
Burleson prosecutor pro tem**

By HARVEY RICE

Staff

GALVESTON - A special prosecutor will seek the death penalty in the retrial of former death row inmate Anthony Graves, whose capital murder conviction was overturned because of prosecutorial misconduct.

The decision to seek the death penalty for Graves, who the Texas Innocence Network says is innocent, came in a one-sentence court filing this week in Burleson County by former Navarro County District Attorney Patrick Batchelor.

Batchelor was appointed Burleson County district attorney pro tem in January after District Attorney Renee Mueller recused her entire office.

Batchelor is being aided by Assistant Attorney General Julie Stone, a rare case of the Texas Attorney General's Office being involved in a local criminal prosecution.

A gag order imposed by Burleson County District Judge Reva Towslee-Corbett prevents either prosecutors or defense attorneys from commenting.

Graves was convicted in 1994 as an accomplice in the slaying of Bobbie Joyce Davis, 45; her 16-year-old daughter, Nicole; and four grandchildren, between 4 and 9.

They were bludgeoned, stabbed and shot, and Davis' Somerville home was doused with gasoline and set ablaze.

Robert Carter was executed in 2000 for the slayings, proclaiming Graves' innocence moments before his death. Carter said in a deposition that he gave false testimony against Graves to prevent prosecutors from trying his wife as an accomplice.

A three-judge panel of the 5th U.S. Circuit Court of Appeals ordered a new trial last year after finding that prosecutors withheld from the defense Carter's claim to have acted alone. The panel said the prosecution elicited false testimony.

Graves, whose bail was set at \$1 million, is in the Burleson County Jail.