

## James Holmes attorney admits to mistakes in previous murder case

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Daniel King

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CENTENNIAL — A lawyer for [Aurora theater shooter James Holmes](#) testified Friday that he was "negligent" in his defense of a man he represented in another capital murder case who is now on death row.

Dan King, the chief trial deputy for the state public defender's office, took the stand in Arapahoe County District Court in a post-conviction hearing of Sir Mario Owens, who, along with his friend, Robert Ray, was sentenced to death for killing Javad Marshall-Fields and Vivian Wolfe in 2005. Marshall-Fields was set to testify against Ray when Owens gunned down the couple on an Aurora street.

King admitted making mistakes during Owens' trial and sentencing, including not cross-examining a witness and not calling other potential witnesses to testify.

Owens' post-conviction attorney Jim Castle asked King whether he was qualified to be the lead attorney in the Owens case. King said, looking back now, that he wasn't.

"No, not really," King said. "But I guess my ego ... "

King said his office was understaffed and overworked at the time, and lacked the manpower to analyze thoroughly the many potential witnesses in the case. His boss rejected his request for more resources to defend Owens, King said.

"I was the employee. I was being told what to do," King told Judge Gerald Rafferty. "I was told I was ready and had enough resources. Perhaps that was a mistake."

Putting the original attorney on the stand post-conviction and post-appeal is not an unusual strategy for a defense attorney trying to spare the life of a client, observers say. But it could have a dramatic effect on Owens' appeal, and possibly on the Holmes trial. The theater shooting trial is scheduled to begin in December but could get pushed back.

Attorney Dan Recht, who is not a party to either case but has followed them both closely, said King's admissions could "absolutely" impact the Owens case.

"I think this could lead to a court finding that Sir Mario Owens was represented by ineffective counsel and was denied his Sixth Amendment right and that he gets a new trial," Recht said. "This is huge."

The post-conviction hearing was one of many held in recent weeks for Owens. The judge could order a new trial or sentencing hearing.

Recht said he has seen this strategy used in the past, when an attorney "falls on his sword" for someone he represented.

The mother of Marshall-Fields, Rhonda Fields, who sat through months of court hearings for Ray, Owens and another man involved, did not attend Friday's hearing.

But regarding King's claims of being understaffed, she said: "I don't buy" this argument at all.



*James Holmes and Daniel King*

"It's typical legal maneuvering and strategic tactics to prolong the sentence for Sir Mario Owens," said Fields, who after the trials was elected to the Colorado House of Representatives in large part for her anti-gun stance.

Recht said King's statements will likely not impact the Holmes trial, unless Holmes decides he wants a new public defender and a judge agrees.

"My guess is that (Holmes) was told this was going to be happening," he said.

Sam Kamin, a law professor at the University of Denver, said it is common for post-conviction attorneys to put the original defense attorney on the stand to prove a defendant received ineffective counsel.

"That's their jobs to look for errors in the record," Kamin said.

He said the U.S. Supreme Court has said a defendant is not entitled to a perfect trial or a perfect attorney, so finding mistakes doesn't mean a defendant will get a new trial or sentencing hearing.

Fields said she doesn't even want to think about the possibility of a new trial, saying the trials took a heavy toll on her and her family.

"Right now, there's a big pit in my stomach thinking about that possibility," Fields said.

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