Oliver already took the death penalty off the table for Lewis because Lewis has an IQ of 70.

CLEVELAND -- As of late Friday, U.S. District Court Judge Solomon Oliver Jr. had not ruled on the defense motion to retry Antun Lewis.

As of 4 p.m. Friday, defense attorney Angelo Lonardo tells Channel 3 that he has not heard from the court. He added that Lewis, 27, had been sent back to a federal holding facility.

A jury found Lewis guilty on Feb. 14 of setting the 3 a.m. May 21, 2005, fire in an East 87th Street home that killed Medeia Carter and eight children.

Federal prosecutors took the case, relying on a federal statute regarding crimes in federally subsidized housing, which was the case in Carter's situation.

Lewis was scheduled to be sentenced in June when the defense made the motion for a new trial based on new evidence. Oliver then rescheduled sentencing for Sept. 20 but continued that to a yet-to-be-determined date.

Oliver allowed the hearing on the basis of newly discovered information, as the new witness did not come forward with what he said he knew until four months after the verdict.

The new witness was prison inmate Michael V. Miller, who testified that the prosecution's main witness made up his testimony.

Oliver held hearings on the motion for a new trial over two days -- Aug. 30 and Sept. 2. Both sides had a deadline of Sept. 12 to file their final briefs on the motion.

Oliver already took the death penalty off the table for Lewis because Lewis has an IQ of 70.