

DNA testing deadline approaches for Florida inmates

By K. Chandler
Special to Sentinel-Voice
FT. LAUDERDALE, Fla. (NNPA)—Florida, which holds the dubious distinction of housing the nation's third-largest prison population behind Texas and California with 75,210 prisoners statewide—including 368 who are facing the death penalty—may soon become known as the state that denied thousands of inmates the right to pursue their innocence through DNA testing, despite some 131 criminal exonerations so far nationally.

Across the country hundreds of lawyers, paralegals, law professors and their students, along criminal justice advocates are rushing to beat an Oct. 1 deadline for submitting DNA claims, which will hopefully clear thousands of prisoners. Rudolph Holton, who served 16 years on Florida's death row for a conviction that was later determined to be without merit, is just the latest example.

Released in January, he became the 25th person to be exonerated in a state, which leads the country in the sheer number of prisoners who

have been exonerated. Another 10 or more inmates, who are believed by many legal experts to have a good chance of being found innocent through DNA evidence, continue to languish on death row.

The law allowing inmates to seek relief through DNA testing was sponsored by state Sen. Alex Villalobos (R-Miami) and went into effect in 2001. The impetus for it stemmed from the death of Frank Lee Smith, a convicted murderer and rapist from Broward County. Tragically, a year after his death, DNA evidence, which had only recently been introduced as a viable tool in clearing criminals of wrongdoing, proved that Smith was innocent of the brutal 1985 murder and rape of an 8-year-old Broward girl. But by then it was too late, as he had died a painful death from cancer while awaiting execution on death row.

Similarly, Jerry Frank Townsend, another Broward County resident serving a 22-year sentence for the capital offenses of rape and murder, was also exonerated after

DNA evidence determined that he could not have been the perpetrator.

Under the new law, anyone who is criminally convicted has two years following sentencing to request that a judge review DNA evidence that might clear his or her name. This covers anyone who was convicted prior to when the law went into effect as long as they meet the Oct. 1 deadline. Excluded are those individuals who pled guilty.

According to Jenny Greenberg, who works with the Innocence Project out of Florida State University in Tallahassee, there are about 82 cases that they are cur-

rently fast tracking in order to submit them for DNA examination before the rapidly approaching October deadline. That is 82 out of a total of 400 cases that were originally submitted by inmates. Of these 82 cases, only 20 are completed and ready for DNA testing, she said.

Many other pro-bono lawyers are facing the same dilemma and complain that they are being stretched to the limit by a deadline that appears to be both capricious and arbitrary. They assert that there should never be any limitations or restrictions placed on justice, and maintain that in order to prepare their cases properly, it is only fair that

the Oct. 1 deadline be extended.

According to attorney Barry Scheck, co-founder of The Innocence Project at Cardozo Law School in New York, there is enormous difficulty in tracking down legitimate cases. Some of the obstacles hindering the process, he pointed out, include locating the attorneys who originally represented the case, along with court transcripts that have long since been filed away, and DNA samples that may or may not exist any longer.

Gov. Jeb Bush disagrees with extending the Oct. 1 deadline and according to his press secretary, Alia Faraf,

he is fully "satisfied that Florida has adequate safeguards in place to ensure that no person is wrongfully executed."

Faraf also noted that the governor had given his assurances that he would never sign a death warrant "until relevant DNA evidence that could exonerate the inmate has been considered."

"The fact is, in most of the cases around the nation, there wouldn't have been exoneration if there was a deadline," said Raag Singhal, former president of the Broward Association of Criminal Defense Lawyers. "I don't understand what the governor's (See DNA, Page 15)

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for this unprecedented

Republican redistricting push is to do away with the section that calls for preclearance in the federal Voting Rights Act that is up for a vote in 2007, he said.

"If Republicans can get enough support in Congress, that section won't be reauthorized in 2007," West said.

It's important for people around the country to understand that what is happening in Texas and with the California recall election are not isolated incidents, West said. Those situations are part of a broader scheme by Republicans to keep control of the country for decades, he said.

"You have to connect the dots," West said. "It started in Florida [with the 2000 election] and moved to Colorado with the redistricting by Republicans there earlier this year. It's now in Texas and California. These are not isolated situations. There needs to be a national effort against them. I blame Democrats, if we don't put up a defensive and offensive plan."

In Florida, some say the six-week battle to recount that state's votes in 2000 didn't have to end when it did. Al Gore didn't have to concede after a few weeks, said Bob Fertik, a Washington, D.C.-based Internet political strategist who co-founded a progressive cyberspace group called Democrats.com.

"Gore won the popular vote, and studies in Florida have shown he would have won that state under most scenarios if the recount had gone forward," Fertik said. "Gore should have continued fighting until he won—not for himself, but for the good of the nation and our now-endangered democracy."

By contrast, the Democrats in Texas have held off the Republican plan for four months since more than 50 House members fled to Oklahoma in May.

State Sen. Rodney Ellis, D-Houston, who also is in New Mexico, noted that he and West were not radicals in the sense of Malcolm X, though they have always found ways to stand up for justice. Ellis was president pro tem of the Texas senate for two years and is chairman of the Senate Government

Organization Committee. West was the first African-American chief felony prosecutor in Dallas County and is vice chairman of the Senate Education Committee.

"They pushed us over the edge," Ellis said. "People are just not going to disrespect us." Ellis is particularly incensed by the fines imposed by Republicans. "We have no intention of paying those fines," he said.

Kevin J. Shay writes *The Dallas Examiner*.



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