

# The Huntsville Times

## Alabama's blood-stained hands

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None

Alabama's Death Row inmates are not indisputably innocent, unlike the 31 people killed on Monday by Cho Seung-Hui on the Virginia Tech campus. The inmates have been convicted of capital crimes.

But not being indisputably innocent doesn't automatically equate to guilt.

Take the case of Walter McMillian, who was on our state's Death Row for almost six years before he was released from prison in 1993. The Alabama Court of Criminal Appeals concluded that evidence of his innocence had been hidden by the sheriff of Monroe County and other officials.

McMillian's capital murder conviction was overturned and the charges against him were dismissed.

Justice was served, but at least six years late. Meanwhile, McMillian had to live with a ticking clock in his head, each passing second pushing him one step closer to death.

Were it not for the Court of Criminal Appeals, the state would have murdered an innocent man - which would have made Alabama as much a murderer than Seung-Hui was.

Since 1975, Alabama has executed 35 convicts. During the same 32 years, seven convicts - McMillian, Gary Drinkard, Louis Griffin, Randall Padgett, Wesley Quick, James Cochran and Charles Bufford - were ultimately acquitted of capital murder.

The state unjustly had sentenced them to die.

"The trials that led to some of these convictions are incredibly unreliable," said Bryan Stevenson, the executive director of the Equal Justice Initiative, a non-profit organization that provides poor defendants and prisoners with lawyers. "In most of these cases, the lawyers called no witnesses, presented no defense."

Most on Death Row don't have the money to pay high-priced lawyers. They have had to rely on state-appointed attorneys to represent them who, by law, can't be paid more than \$1,000 for their out-of-court time, severely limiting their ability to give their clients a vigorous defense.

No vigorous defense means no fair trial - and in capital cases, that can mean certain death.

So what, you might say. If they don't want to be on Death Row, they shouldn't have committed a capital crime.

But what if they didn't? What if, like Drinkard, Griffin, Padgett, Quick, Cochran and Bufford, they should never have been facing capital charges?

What if, like McMillian, some of them are actually innocent of committing any crime at all?

Then they had better be fortunate enough to have money, or to have Stevenson or some other lawyer who can work on their behalf at no cost to them. Otherwise, Alabama will be financing their deaths.

This is why it's so important that the U.S. Supreme Court gives serious consideration to *Barbour vs. Haley*, the case brought against the state by Alabama Death Row inmates.

"We are arguing that in the United States, there ought to be a right to counsel for death row inmates," said Stevenson, who is representing the inmates in the case. "Alabama is the only state that continues to refuse counsel to death row inmates for conviction appeals."

With a one-to-seven rate of capital cases being overturned in Alabama over the past 32 years, why would Alabama officials want to risk staining their hands with innocent blood?

Yet, the state has argued to the Supreme Court that inmates have no constitutional right to legal counsel paid for by the state.

So what?

The lack of a constitutional right doesn't prohibit the state from providing the lawyers. In fact, I'm surprised that in this Bible Belt state, in which politicians love to put their piety on parade, that no state official is taking the just, righteous position that a person convicted to die needs to be given every opportunity to prove his innocence.

"If I get hit by a car tomorrow, dozens of people on Death Row will have no legal representation," Stevenson said. "We (Equal Justice Initiative) can not continue to meet all of these needs. We get no state funding. We get no federal funding."

He added, "The states wants a death penalty. The law ought to be that if you're going to have a death penalty, it's applied fairly."

Is that really too much to ask?

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