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A needed reprieve

THE ISSUE The state Supreme Court had ample reasons to block the execution of Thomas Arthur.

The Alabama Supreme Court blocked today's execution of Thomas Arthur, and thank goodness for that.

Start with the fact another inmate this week claimed he committed the murder that sent Arthur to Death Row. Add to it the fact, disclosed just Wednesday, that state prosecutors can't find some of the evidence which could be used to prove or disprove the belated confession.

As such, on Wednesday the Supreme Court voted to delay Arthur's execution, at least for the time being.

Let's hope the court's 5-4 ruling allows lawyers time to get to the bottom of a sworn statement issued this week by Bobby Ray Gilbert, a convicted killer now housed in the St. Clair Correctional Facility. In it, Gilbert claims he, not Arthur, shot Troy Wicker to death in 1982 at the behest of Wicker's wife, Judy. Mrs. Wicker initially had claimed an intruder raped her and killed her husband. She implicated Arthur after making a deal with prosecutors to get out of prison. She insists that is the truth and says Gilbert is lying.

No doubt, Gilbert's story merits skepticism. But it would have been outrageous to kill Arthur if Gilbert's story could possibly be true.

Unfortunately, prosecutors revealed Wednesday they can't produce some of the crime scene evidence that could prove whether at least part of Gilbert's story is true.

Clay Crenshaw, the head of the attorney general's death penalty office, said in a sworn statement he hasn't been able to locate the rape kit collected from Mrs. Wicker the day of the murder - a rape kit that state records show included both semen and saliva.

Which is just great. Although other biological evidence was collected and should be DNA-tested - assuming the state can find it - it's beyond troubling to think the state was prepared to execute Arthur when what could be crucial evidence is nowhere to be found.

DNA tests could have and should have been conducted, even without Gilbert's confession. It's not that we're convinced Arthur is not guilty. It's that we believe the state must be certain he is guilty before putting him to death.

Gilbert's statement raises questions that must be answered before an execution takes place. So does the issue of missing evidence.

Chief Justice Sue Bell Cobb and Justices Champ Lyons, Tom Woodall, Patti Smith and Glenn Murdock deserve credit for demanding the questions be answered before Arthur's execution takes place.

As Alabama State Bar President Mark White said in a statement praising the judges: "Our system of justice must find a way to avoid the situation where DNA exonerates a person after execution."

Amen to that.

An execution can't be undone. The state can't afford to get it wrong. Wednesday's ruling got it right.

---- **Index References** ----

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