



## ROBIN DeMONIA: Gov. Bentley: First do no harm, and then do good

Published: Sunday, March 27, 2011, 5:44 AM



**Robin DeMonia -- The Birmingham News**

By

When he was running for governor, Robert Bentley promised me he'd take seriously his most solemn duty: being the last hope for many people on Death Row.

This week, Bentley could get his first test. William Glenn Boyd is scheduled to be executed Thursday for killing Fred and Evelyn Blackmon in 1986.

It was a terrible crime. It began with Boyd making up a story about Mrs. Blackmon's daughter, whom he'd once dated. He said she was being held hostage and would be killed unless the Blackmons paid ransom.

After making Mr. Blackmon go to the bank to cash a \$5,000 check, the 20-year-old Boyd and a 19-year-old cohort drove the couple to a remote spot near the Coosa River. The Blackmons were shot and rolled into the river — Blackmon in the trunk of his Cadillac; Mrs. Blackmon in a barrel, after being hacked in the back with an ax.

Yet, for all the gory details, a jury voted 7-5 that Boyd should be sentenced to life in prison with no parole. A judge instead sentenced him to death, using a power routinely used in Alabama but almost unheard of everywhere else.

As governor, Bentley can still take the jury's advice. He can let Boyd live out the rest of his days in prison, the same sentence inflicted on his co-defendant.

Bentley should. But he should do so much more.

He can start by reading a new book by University of Virginia law professor Brandon Garrett, who dissected the cases of the first 250 people cleared by DNA after being convicted of crimes.

"Convicting the Innocent: Where Criminal Prosecutions Go Wrong" finds the common threads in cases where there's no question an innocent person was saddled with a horrible crime — including 17 who were sentenced to death. It also cautions that most people convicted of crimes, including capital crimes, don't have the luxury of DNA evidence to set the record straight.

The book made me think of Donnis Musgrove, who is on Alabama's Death Row for a 1986 murder in Jefferson County despite problems with every piece of evidence against him — much of it the kind of stuff cited again and again in the faulty convictions unraveled by DNA.

Musgrove was identified in a police lineup by the wife of murder victim Coy "Mooder" Barron, but only after she first picked someone else and met privately with an officer. Plus, she'd first said she didn't see whoever shot her husband in their dark bedroom.

A jailhouse informant, who has since admitted he lied, also played a role in Musgrove's conviction.

Just these two facts are serious red flags.

In 76 percent of the DNA exoneration cases, innocent people were identified by victims and/or eyewitnesses, who were often influenced, intentionally or not, by police. Many times, the misidentified suspect didn't match the witnesses' initial description. And while witnesses usually expressed doubts at first, they grew more certain — though no more correct — over time.

Bolstering 74 percent of the wrongful convictions was faulty scientific testimony about such things as blood types, bite marks and hair. In 21 percent of cases, jailhouse snitches or other informants played a role. And 16 percent of the time, those cleared by DNA had confessed to the crimes, many of them supposedly volunteering details only the perpetrator could know.

Bentley needs to know all this as the final arbiter of life and death.

Likewise, he needs to understand that wrongly convicted people usually aren't pillars of the community. They may have mental disabilities, criminal records and addictions. And when they are found guilty of crimes they didn't commit, they don't stand much chance in the normal channels of justice.

In 87 percent of the cases in "Convicting the Innocent," the wrongful convictions were upheld in the regular appeals process. In 10 percent of the cases, appeals courts actually cited the "overwhelming" evidence of these innocent defendants' guilt.

As a result of these miscarriages of justice, several states have examined procedures as well as old cases to address wrongful convictions. In some cases, the conclusions of forensic analysts have been revisited, and safeguards have been added to lessen the chance that innocent people can be coached into a false confession, or mistakenly identified by witnesses, or falsely implicated by jailmates.

That's a cause that Bentley, as a man of science, could champion.

It would fulfill his promise to me — and another oath he took, as a doctor. By all means, "do no harm" should be part of Bentley's creed as governor. But better yet: Do some good.

Robin DeMonia is an editorial writer for The Birmingham News. Email: [rdemonia@bhamnews.com](mailto:rdemonia@bhamnews.com)

© 2011 al.com. All rights reserved.