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Hinton verdict up for review High court acts in Death Row case

STAN DIEL News staff writer

The Alabama Supreme Court on Friday ordered a judge to review the conviction of Death Row inmate Anthony Ray Hinton, whose case has been a rallying point for death penalty opponents.

Hinton was convicted of killing two fast-food restaurant managers and wounding a third during three robberies in 1985. In a unanimous ruling, the state Supreme Court ordered the Jefferson County trial court to determine whether Hinton had inadequate counsel because of questions surrounding the qualifications of a forensics expert who testified for the defense.

Bryan Stevenson, executive director of the Equal Justice Initiative and Hinton's current attorney, said the ruling is a significant win for Hinton, who has been on Death Row for 21 years. Should the court find that the expert was incompetent, Hinton likely will get a new trial, he said.

"This has been a horrific miscarriage of justice," Stevenson said. "Anthony Ray Hinton had nothing to do with these crimes."

Jefferson County Circuit Court has not yet set a date for the hearing.

Hinton was convicted largely on the strength of the eyewitness testimony of the surviving restaurant manager and expert testimony that bullets recovered from all three crime scenes had been fired by a pistol police found in Hinton's home.

A man hired by Hinton's trial attorney to counter state forensics experts testified the bullets could not be matched to the gun, but was discredited by the prosecution. Prosecutors at the trial said retired engineer Andrew Payne was blind in one eye and had admitted he didn't know how to operate the microscope used to examine the bullets. In closing arguments, the prosecutor called him "a one-eyed charlatan."

Since Hinton's conviction, three nationally known experts consulted by his new attorneys, said the six bullets cannot be matched definitively to any gun. They also said the .38 pistol in evidence was not mechanically capable of firing the bullets recovered from one of the shootings.

Lower courts rejected appeals on numerous grounds, but in a 14-page ruling released Friday, the state Supreme Court ruled that Payne's qualifications must be reconsidered. Chief Justice Sue Bell Cobb recused herself without comment. The other justices concurred with the ruling.

Efforts to reach former chief prosecutor Bob McGregor on Friday were not successful. But in 2005, after the new forensics experts had weighed in, he said he still had no doubts. "I've never had a case in my life that I've been so absolutely

convinced by the evidence,’’ he said at the time.

The crimes for which Hinton was convicted all occurred under similar circumstances:

- On Feb. 25, 1985, John Davidson, an assistant manager at a Southside Mrs. Winner’s, was forced into the restaurant’s cooler and shot twice in the head. The store was robbed of \$2,100.
- On July 2 of that year, 25-year-old Thomas Vason, an assistant manager at a Captain D’s in Woodlawn, was forced into a cooler and shot twice in the head. That restaurant was robbed of \$650.
- On July 26, 1985, Quincy’s night manager Sid Smotherman Jr. was shot in the head and hand in a robbery at the Bessemer restaurant.

Smotherman survived and testified at trial that he was driving home after work when Hinton bumped his car, and when he got out to check for damage Hinton forced him at gunpoint to drive back to the restaurant. There, he said, Hinton ordered him into the cooler and shot him.

In addition to questions about the forensic evidence, Hinton’s attorneys have pointed to other evidence they say undermines the prosecution’s case.

Records introduced at trial indicated that Hinton clocked in at his job at a Bruno’s warehouse in Ensley before the crime at the Quincy’s, and

clocked out afterward. A supervisor testified that he regularly checked and found Hinton to be on the job.

Hinton would have had to sneak out of the warehouse, drive 15 miles to the restaurant, shoot Smotherman, drive 15 miles back and sneak back into the warehouse without his absence being noticed, his attorney said.

EMAIL: sdiel@bhamnews.com

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