

No way for state to justify denying lawyers to inmates

Among all of the problems and shortcomings in Alabama's criminal justice system, one of the worst is that we are the only state in the nation that does not provide condemned inmates with attorneys for appeals -- even if the inmate might have new evidence of innocence.

That means we are the only state willing to put a condemned inmate to death without ensuring that he or she has a fair hearing at every step of the legal process.

It's a practical concern as well as a moral one. Inmates who are condemned to die have to convince a judge that they need legal representation to protect their rights and to prove that they have a substantial claim for an appeal.

But a suit filed by six death row inmates says they can't make those cases effectively without an attorney. There's a circular quality to their argument. They need a lawyer to convince a judge that they need a lawyer.

Their case has wound up in the U.S. Supreme Court. Responding to the inmates Friday, the state filed documents saying that the claims of inadequate legal representation are "a work of fiction ... [a] fantastic tale ... that has absolutely no foundation."

But who's really spinning this issue? The fact that three former Alabama Supreme Court justices, a former appellate judge and three former presidents of the state bar weighed in on the side of the inmates Friday in a friend-of-the-court brief is a compelling development that should weigh heavily against the state's hard-line position.

The brief on the behalf of the inmates' argument was filed by former state Supreme Court Justices Douglas Johnstone, Ernest Hornsby and Ralph Cook; former Court of Criminal appeals Judge William Bowen; and former state bar presidents Fred Gray Sr., William Clark and Robert Segall.

In its argument filed with the Supreme Court, the state notes -- accurately -- that the six condemned inmates have attorneys. That's proof enough that adequate representation is available, according to the state filing.

But the friend-of-the-court brief from the former state judicial officials says more than a dozen condemned Alabama inmates have no attorney to handle their appeals.

Far from "a work of fiction," the lack of legal representation is a stark reality for poor Alabamians on death row.

Even if it wanted to correct the problem, the state doesn't have the money to do it. Over the weekend, it was disclosed that the prison population in the prison's population is approaching the state's all-time high of 28,440 -- more than twice the number the prisons were built to handle -- with no plans for new or expanded facilities.

Yet the state of Alabama can hardly justify -- fiscally, legally or ethically -- its willingness to let

condemned inmates go to their deaths without an attorney.

Its attempt to dismiss the claims of the six condemned inmates before the Supreme Court as "a fantastic tale" is wrong. Dead wrong.