

EDITORIALS

Death row and wiser heads

In our opinion
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Forty-nine states provide lawyers to prisoners on death row. Guess which one doesn't. Well, sure, why bother guessing?

The state of Alabama recently defended its no-lawyers-for-death-row-appeals policy before the U.S. Supreme Court. In filings last week, the state said the case, which was brought by several Alabama death-row inmates, is a "fantastic tale" without a "foundation."

There's more to the state's so-called defense, including a wild claim that death-row appeals are not technically dealing with crime and hence are beyond the Sixth Amendment's mandate to provide the accused "assistance of counsel for his defense."

The state's case meanders on in a shameful fashion. It's not easy defending the indefensible, and Alabama failed in its attempt.

If the state had a moral ground on which to base its frivolous claims, then it might at least get a fair hearing in the court of public opinion.

But Alabama has no stockpile of good deeds in matters of law and order.

Well into the last century prisoners were barely treated better than slaves through a program where inmates were leased to companies.

Beyond the century's halfway point, prisoners were being used in a scheme involving drug experimentation, a story on which the Montgomery Advertiser reported and was awarded a Pulitzer Prize.

In the 1960s, the face of Alabama law enforcement were officers who brutalized blacks during high-profile incidents and a criminal justice system that looked the other way.

In the last decade of the 20th century, Alabama politicians were busily using prisoners as props in a ploy to look tough by handcuffing cons to hitching posts. A federal judge later said the practice "violated 'the evolving standards of decency that mark the progress of a maturing society.'"

Then there are the landmark U.S. Supreme Court cases.

In 1932's *Powell vs. Alabama*, better known as the "Scottsboro Boys" case, the court ruled the state had "denied the right of counsel, with the accustomed incidents of consultation and opportunity for trial" to nine black men accused of rape.

In 1961's *Hamilton vs. Alabama*, the court unanimously thumped Alabama for denying legal counsel to the accused during his arraignment.

Late last week, the state persisted in pursuing its shameful legacy. May wiser heads prevail once more.