

EDITORIALS

A mockery of justice

THE ISSUE *A state appeals court rejected the appeal of Death Row inmate Anthony Ray Hinton.*

If Anthony Ray Hinton's death sentence doesn't concern the Alabama Court of Criminal Appeals, it's hard to imagine what death sentence would. Yet the court voted 3-2 to uphold Hinton's conviction.

To do so, the court had to ignore serious doubts about crucial ballistics evidence that linked Hinton to a 1985 series of robbery/murders at Birmingham-area restaurants.

The court had to accept the fact these doubts weren't properly presented at the original trial because Hinton's lawyer hired an unqualified "expert" to challenge the prosecution's evidence.

The court had to disregard the fact that Hinton's lawyer retained this "expert" because he didn't know about changes in the law that would have allowed him more money to hire someone better-qualified.

Instead, Hinton's life was placed in the hands of a makeshift expert whose price was right — an expert who was thoroughly and rightly savaged when cross-examined by prosecutors. Small wonder Hinton was convicted and sentenced to death.

The expert "was mocked and represented to be no better than a buffoon and a paid liar," wrote Judge Sue Bell Cobb, in a dissent arguing that Hinton should get a new trial. "The testimony on the *only* physical evidence that connected Hinton to any of the crimes was useless to him because it was delivered by a witness who (was) not qualified or competent to render the opinions."

On appeal, Hinton's lawyers secured three nationally known forensics experts — one of them the former chief of the FBI's firearm and tool-mark identification unit — who disputed the testimony of state forensics

employees who said the bullets from the crime scenes matched Hinton's gun. The national experts said they couldn't match the bullets to a single gun, much less to the gun found at Hinton's mother's home.

But the judges on the criminal appellate court were unmoved.

"A party cannot go back after the trial to secure what he considers a more qualified expert," said the majority opinion written by Judge Pam Baschab. "Proceedings might never end because, theoretically, better experts might always be found. The appellant had a chance to present expert testimony to the jury, and he did so."

That's true, as far as it goes.

But the problems raised in Hinton's case can't be filed neatly away as just another one of the endless appeals from Death Row. Hinton's acclaimed appeals lawyer, Bryan Stevenson, argues his client is innocent — and contrary to some public perceptions, that doesn't happen every day.

But at the very least, there are grave questions about the critical evidence in the case against Hinton. When it comes to life-and-death cases, courts can't afford to cloak themselves in procedural rules and look the other way.

Cobb and the other dissenting judge, Greg Shaw, said they expect the case to run into problems in higher courts. Let's hope they're right.

"Because a man's life hangs in the balance and because I am convinced that this case will not withstand the many additional levels of review in state and federal courts, the only remedy for these violations of Hinton's rights is to grant . . . a new trial," Cobb wrote.

We concur.