

A judicious decision

Thursday, May 17, 2007

THE ISSUE: Four former Alabama appellate judges are siding with Death Row inmates in a case over the state's spotty legal defense system. The U.S. Supreme Court should take notice.

People facing the death penalty should be represented by competent lawyers at every step. But in Alabama, they may not have a lawyer, period, as they reach the crucial, latter stages of appeals. That's unconscionable.

No other state plays so fast and loose with lives. Why should Alabama? The U.S. Supreme Court is being asked to consider this question. The hope is that the high court will take the case and conclude inmates on Death Row are required to have at least some form of legal assistance throughout the appeals process. Alabama shouldn't have to be forced to do the right thing, but the state's reaction to the inmates' request shows why court action is necessary.

The state attorney general's office calls claims about inadequate legal representation for Death Row inmates "a work of fiction" and a "fantastic tale ... that has absolutely no foundation."

Tell that to inmates like Christopher Barbour and Thomas Douglas Arthur, who for years couldn't get lawyers, missed key deadlines for filing appeals and narrowly avoided dates with the electric chair in the meantime.

Tell that, as well, to Bill Bowen, a former judge on the Alabama Court of Criminal Appeals; to Sonny Hornsby, Ralph Cook and Douglas Johnstone, all former justices on the Alabama Supreme Court; and to Fred Gray Sr., William Clark and Bobby Segall, all former presidents of the Alabama State Bar.

These judges and lawyers have stepped into the case in support of the Death Row inmates. "Alabama's legal system regarding the provision of counsel to indigent Death Row inmates ... is in a state of crisis," they said in a filing intended to bolster the inmates' efforts.

Good for them.

Alabama is the only state that makes no provision for helping Death Row inmates with these latter appeals, which often confirm constitutional problems with death-penalty cases. The Equal Justice Initiative, which filed the lawsuit, represents dozens of Death Row inmates in various stages of appeals. But it has never been able to represent all of them, and it has frequently been in the position of scaring up out-of-state lawyers to volunteer their time to these cases. That imperfect system has become even more inadequate as Alabama added new inmates to Death Row and steps were taken to shorten the appeals process.

As state prosecutors argue, many inmates do manage to get first-rate legal representation for their appeals. But it's hit-or-miss at best, and that's not acceptable when we're talking about a punishment as serious as death.

If Alabama refuses to recognize that, we hope the U.S. Supreme Court will.