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Another day in court

THE ISSUE Lawyers for Death Row inmate Thomas Arthur will get to make their case early next year for DNA testing.

Death Row inmate Thomas Arthur will get another day in court - one that should take place but, at the same time, shouldn't be necessary.

Those who are in line to be executed by the state of Alabama shouldn't have to fight so hard to get DNA tests on biological evidence collected before modern scientific methods transformed law enforcement.

State prosecutors and the governor should be willing to use all available means to make sure an innocent person is not put to death, and they shouldn't need a court to tell them that's the right thing or force them to do it. But in Arthur's case and in others, they have resisted appeals for DNA tests in old capital cases.

As such, Arthur has three times come within a day of being executed, all the while professing his innocence in the 1982 murder of Troy Wicker. Days before Arthur's most recent appointment with death, another inmate confessed to the killing, a development that led to renewed calls for DNA testing.

Perhaps even more troubling than the inmate's confession - which even Arthur's advocates concede may not be reliable - is the state's subsequent confession that it couldn't find key evidence which could be used to determine the truth.

Small wonder the Alabama Supreme Court halted Arthur's July 31 execution and paved the way for the Feb. 17 hearing now set before Jefferson County Circuit Judge Teresa Pulliam.

The new court date is an opportunity to sort out the questions surrounding this case, questions that are so abundant even some of the victim's family has been supportive of Arthur's quest for DNA testing.

These questions simply must be answered before an execution takes place.

Arthur was convicted along with Wicker's wife for the crime. Judy Wicker initially claimed an intruder had killed her husband and raped her. She later changed her story and admitted paying Arthur to kill her husband in a deal that won her an early release from prison.

The rape evidence collected from Mrs. Wicker the day of the murder is what prosecutors now say is nowhere to be found.

Arthur's lawyers say DNA tests on that semen and saliva, along with other biological evidence from the crime scene, could shed light on Arthur's claims of innocence and the other inmate's professions of guilt.

At the very least, Arthur's lawyers will now get to make their best case for requiring the state to redouble its efforts to find the missing rape kit and to make all the pertinent evidence available for DNA testing.

This is good news - not just for Arthur, who may or may not be innocent, but for the people of Alabama, who need to know for sure before a man is put to death in their names.

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