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DEATH PENALTY INFORMATION CENTER

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Critical DNA Evidence Untested As Texas Execution Nears

U.S. Supreme Court Asked to Review Novel DNA Issue

Henry Skinner is scheduled for execution in Texas on March 24 despite the lack of DNA testing of critical evidence from the crime scene that could lead to his exoneration. Skinner has always maintained his innocence of the 1993 murder of his girlfriend and her two grown sons in Tampa, Texas. At his trial, the prosecution presented the results of selective DNA testing that showed Skinner's presence at the crime scene, which was also his place of residence and a fact he has never disputed. But the state has repeatedly refused his request to test other DNA evidence, including material found on the victim that is routinely tested in such cases, and that could point to another suspect.

During an investigation into the case by journalism students from Northwestern University, a key witness from Skinner's trial recanted her testimony linking him to the crime. David Protes, a professor at Northwestern's Journalism School and Director of the Medill Innocence Project, has called on Texas officials to delay the execution until full DNA testing is performed.

Texas has already executed a number of individuals where evidence of possible innocence has later emerged, leaving a cloud of doubt on the fairness of the criminal

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justice system. Texas Governor Rick Perry allowed the execution of Cameron Willingham to proceed in 2004, despite a forensic report indicating that the trial evidence was unreliable. In Skinner's case, by conducting relatively routine DNA tests before his execution, doubts surrounding his guilt could be resolved one way or the other.

Retired federal Judge H. Lee Sarokin recently concurred in the need for testing, "If there are means available which will finally determine Mr. Skinner's guilt or innocence (and others like him), we should avail ourselves of them. Whatever the objections may be--they cannot outweigh the potential calamity of executing an innocent person."

Skinner's attorneys have filed motions for a stay of execution to allow for the DNA testing and are petitioning the U.S. Supreme Court to address an unresolved issue in the federal courts: Can an inmate challenge the state's refusal to grant DNA testing as a civil rights violation? So far, federal courts governing Texas cases have dismissed Skinner's petition for testing because they said it cannot be brought under the civil rights statute. Federal courts in other jurisdictions have allowed such petitions.

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