

Criminal Justice Issues and Prisoners' Rights

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COLUMBUS- The American Civil Liberties Union of Ohio filed a lawsuit today in the U.S. District Court for the Southern District of Ohio on behalf of death row inmate Darryl Durr, who was denied post-conviction DNA testing. According to Ohio law, courts must consider appeals from non-death row prisoners who have been refused DNA testing after they were convicted. However, courts are not required to hear appeals from death row inmates who have been denied DNA testing. In its suit, the ACLU asks the court for a temporary restraining order preventing the state from executing Durr until it can rule on whether he has a constitutional right to a mandatory appeal of his denial of DNA testing.

Death is the most severe punishment society can give, and deserves the highest level of scrutiny to ensure no innocent person is wrongly convicted, said ACLU of Ohio Legal Director James Hardiman. To deny those facing execution the same level of due process given to other inmates will only increase the likelihood of a grave injustice.

Ohio has seen a growing number of prisoners exonerated because they were finally given access to DNA testing, added Hardiman. No one wins when the wrong person is convicted. By allowing more post-conviction forensic testing of evidence, we are better able to ensure the innocent are freed and the guilty are held responsible.

Durr is scheduled to be executed on April 20, 2010. He was convicted for the murder of Angel Vincent in 1989, largely through the testimony of his former girlfriend. There was no physical evidence connecting Durr to the murder and he has maintained his innocence. In August 2009, Durr asked the Cuyahoga County Court of Common Pleas to allow DNA testing on various items found at the murder scene. The court partially granted his request, but refused to allow him to test a necklace found on the victim.

To date, the ACLU of Ohio is not aware of any death row inmate in the state who has been granted an appeal after being denied post-conviction DNA testing.

Defendants in the lawsuit include Cuyahoga County Prosecutor Bill Mason, Ohio Attorney General Richard Cordray, Governor Ted Strickland, and Cuyahoga County Clerk of Courts Gerald Fuerst.

If we continue to use our flawed death penalty system, we must take every precaution that innocent people are not executed. It defies logic to extend access to critical DNA testing to one group of people but deny it to another group that is facing a harsher penalty. said Hardiman.

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