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TEXAS FORENSIC SCIENCE COMMISSION: UPDATE

By Richard Schulte

“Whether our criminal justice system has executed an innocent man should no longer be an open question. We don't know how often it happens, but we know it has happened. Cameron Todd Willingham's case proves that.”

Barry Scheck, Innocence Project

Source: “Report: Texas Executed Innocent Man”, American Constitution Society blog, August 31, 2009. (<http://www.acslaw.org/taxonomy/term/751>)

On December 23, 1991, a fire occurred at the Willingham residence in Corsicana, Texas at roughly 10:30 in the morning. Three young girls, age 2 and twins age 1, died in the fire.

On January 8, 1992, the father of the children, Cameron Todd Willingham, was taken into custody and charged with murder. After being convicted of the crime, Willingham was executed on February 17, 2004.

Prior to Willingham's execution, a fire investigator reviewed the technical evidence in the case and expressed the opinion that the determination that the fire was arson was in error.

In 2007, the Texas Forensic Science Commission agreed to review the Willingham case after receiving a complaint regarding evidence presented in the case by the Innocence Project. The Forensic Science Commission retained the services of Dr. Craig Beyler to review the fire investigation in the case and Beyler delivered his report to the Commission on August 17, 2009.

Two days prior to the Commission's meeting to discuss the “Beyler Report” in October 2009, Governor Rick Perry replaced three members of the Commission, including the chairman of the Commission. Given this, the Commission's consideration of the “Beyler Report” was delayed.

After a sub-committee of the Commission reviewed the “Beyler Report” in the first half of 2010, the sub-committee developed a draft report on the complaint in the Willingham case and presented this draft report to the full Commission on September 17, 2010. The full Commission voted not to accept the draft report of the sub-committee and requested that the Texas State Fire Marshal, Dr. Beyler and other fire investigation experts be called to testify before the Commission.

The former chairman of the Commission, Sam Bassett, issued a statement regarding the Commission’s decision at its meeting on September 17th:

"When this draft was offered, what should have happened with the commission did happen. Science prevailed. It is heartening to see the scientists on the commission are taking this investigation seriously and requiring that more be done. It is only through a complete investigation that the commission will retain credibility and do the best job possible."

Source: “Forensic Science Commission Takes Up Willingham”, Morgan Smith, The Texas Tribune, September 17, 2010.

(<http://www.texastribune.org/texas-dept-criminal-justice/death-penalty/forensic-science-commission-takes-up-willingham/>)

The next meeting of the Forensic Science Commission is scheduled for November 19, 2010 in Austin, Texas.

Discussion

The name Barry Scheck may be familiar. Scheck was one of the attorneys involved in the defense of O. J. Simpson at Simpson’s criminal trial in 1995.

As you may recall, Simpson was acquitted in the criminal trial, but was subsequently ordered to pay damages to the families of the two victims in a subsequent civil trial. Obviously, the juries in these two separate trials (criminal and civil) on the same matter differed in their opinions as to whether or not O. J. Simpson was guilty of the crimes he was alleged to have committed.

The trials of O. J. Simpson are of interest in the Willingham case because it shows that two juries hearing similar evidence came to two different conclusions. It should be noted that the standards of proof in a criminal trial are different from that of a civil trial, however, the Simpson trials confirm what everybody already knows, the make-up of the jury affects the outcome of a trial.

Such is justice in the United States.

Mr. Basset's comments regarding the Commission's investigation of the Willingham case seem to be both reasonable and wise. Given that Willingham has already been executed, a rush to judgment on whether or not Willingham was wrongly executed serves no purpose. Both sides in this case will benefit from the Commission's decision to study this case further.

Such is justice in the United States.

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