

Group asks governor to order DNA testing

By Jerry Crimmins
Law Bulletin staff writer

A coalition of 212 people has asked Gov. Rod R. Blagojevich Thursday to order DNA tests on evidence from a double murder that took place about 31 years ago.

According to the Center on Wrongful Convictions at Northwestern University School of Law and others, the DNA tests could prove that the man convicted of the murders, Johnnie Lee Savory, is innocent.

Due to a daunting list of legal and scientific reasons — including the primitive nature of DNA testing until recent years — DNA tests have never been conducted on the evidence, according to Savory's defenders.

Illinois and U.S. courts have refused to allow testing despite Savory's requests.

In a letter to the governor, Thomas P. Sullivan of Jenner & Block LLP wrote: "There is no question that DNA testing of the fingernail scrapings and hairs recovered from the victims' hands could reveal evidence materially relevant to Mr. Savory's claim of actual innocence."

Sullivan wrote on behalf of 212 people, whose names were on a list attached to the letter.

Sullivan is chairman of the advisory board of the Center on Wrongful Convictions and is one of the five ex-U.S. attorneys on the list.

The other former U.S. attorneys were Samuel K. Skinner, Thomas P. Sullivan, Dan K. Webb, and Scott R. Lassar.

The victims of the crime, Connie Cooper, 19, and her brother, James Robinson, 14, were stabbed to death in their Peoria home in 1977.

Savory, then 14, confessed to the murders and was twice convicted.

His first conviction was tossed out in 1980 after an appellate court ruled his confession was illegally obtained.

Savory was convicted again a year later based on testimony from three witnesses who said Savory talked about

committing the crime in their presence, according to the Center on Wrongful Convictions.

But two of those three witnesses have since recanted, and the 7th U.S. Circuit Court of Appeals questioned the veracity of all three, Sullivan said.

Sullivan contends in the letter that a comparison of the hairs found in the victims' hands with samples taken from Peter Douglas, the stepfather of the victims, "has the potential to identify Mr. Douglas as the true killer."

Savory, 45, was paroled on Dec. 19, 2006, after spending almost 30 years in prison.

Savory has since petitioned the governor for executive clemency based on actual innocence.

"The testing will not cost the state any money" because Savory will pay for it, Sullivan said in the letter.

The Center on Wrongful Convictions and Jenner & Block would actually pay the cost, estimated at \$25,000 to \$30,000, said Rob Warden, executive director of the Center on Wrongful Convictions.

Sullivan compared Savory to Gary Dotson, who was convicted of rape but later cleared when the victim said he didn't do it after then-Gov. James R. Thompson ordered DNA tests. Dotson was the first person to be exonerated by DNA tests.

According to Sullivan, the evidence in Savory's case that should be tested includes: "hair samples found in a bathroom sink that purport to link Mr. Savory to the crime"; "hair found in the hands of the victims that excluded Mr. Savory but which was never compared to hair samples collected from other suspects"; "fingernail scrapings from the victims"; "a pair of pants with a bloodstain ... which purports to link Mr. Savory to the crime"; and stains on a knife, possible from blood, allegedly used to commit the crime.

Savory sought DNA tests on some of the evidence in 1998 soon after Illinois passed a law guaranteeing the right to DNA testing when relevant to a claim of actual innocence.

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Neither Jenner & Block nor the center were involved in Savory's case at the time.

Illinois courts refused to allow testing on the pants taken from Savory's home, even though that evidence was admitted against Savory.

Savory's father had testified that the blood was his own from an injury at work, and the prosecution contended it relied on other evidence to gain the conviction.

DNA tests were not originally sought on the hair samples because early DNA tests relied on nuclear DNA as found in blood, Warden said.

DNA tests on hair samples require

mitochondrial DNA, according to Steven A. Drizin, legal director for the Center on Wrongful Convictions. Such tests are now available.

The fingernail scrapings from the victims were never tested because the Peoria County trial court "found that the petitioner, Savory, could not establish the chain of custody for the fingernail scrapings or that they existed," explained Christopher Tompkins, an associate at Jenner & Block.

Savory's lawyers contend these fingernail scrapings do exist.

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