

Innocence and the Death Penalty

For Every Six People Executed In North Carolina, One Innocent Person Has Been Removed From Death Row.

The most compelling reason for a temporary halt on executions in North Carolina is that problems with the current capital punishment system are so widespread that there is the real possibility that an innocent person could be executed. The people in North Carolina have reason to fear that could happen. Under our current death penalty law, at least six innocent people have been wrongfully convicted of first-degree murder – four of their stories are below.

Alan Gell: State Hides Key Evidence of Innocence

Alan Gell spent nine years behind bars, more than four of them on death row awaiting his execution, for a 1995 murder in Bertie County. In 2002, over objections of the Attorney General's office -- and while a five-part series on the case was running in *The News & Observer* -- a judge ordered a new trial because the Attorney General's office had withheld compelling evidence of Gell's innocence. Forensic experts agree the victim died at a time Gell could not have committed the murder. Seventeen witnesses said they saw the victim alive well after the only time Gell could have done it. Many of those statements, along with an audiotape showing that a key witness planned to frame Gell, were not shared with the defense during Gell's trial, and he was sentenced to death.

The Attorney General's office continued to seek Gell's execution even after the evidence of his innocence was revealed. A judge threw out Gell's conviction and Attorney General Roy Cooper decided to retry Gell for the murder. The jury in the second trial deliberated for less than three hours before finding Gell not guilty. On February 18, 2004, Alan Gell was released from prison after spending almost nine years in jail for a crime he did not commit.

Darryl Hunt: After 18 Years, DNA Matches True Killer

Darryl Hunt was tried and convicted twice of the 1984 rape and murder of Deborah Sykes. In his first trial, the state sought the death penalty, and the jury sentenced him to life. Hunt consistently maintained his innocence. In 1994, scientific advances allowed for DNA testing of evidence that revealed that the DNA of the rapist did not match Hunt's. The State then changed its story insisting that there was more than one assailant, and that Hunt still could have killed her. Hunt remained in prison. In December 2003, shortly after the *Winston-Salem Journal* published an eight-part series, the DNA from the crime scene was finally run through a database and a match was found. A man who had been identified in a similar rape a few months after Sykes' murder was arrested. He confessed to having committed the rape and murder alone, and apologized to Hunt and to the victim's family. Hunt was exonerated on February 6, 2004, and formally pardoned by the Governor on April 15, 2004.

Jerry Hamilton: DNA Tests Point to Innocence

Jerry Hamilton has been behind bars since 1996, and spent more than six years on death row. His conviction and death sentence were overturned in April 2003 because the state withheld evidence of his innocence. The key witness against Hamilton was his codefendant, who made a deal with prosecutors and was sentenced to 12 years in prison after recanting his own confession. Crime scene DNA samples tested by the SBI after Hamilton's trial match the codefendant and do not match Hamilton. There was no other physical evidence tying Hamilton to the crime. He is currently awaiting a new trial.

Charles Munsey: Records in State's Possession Prove Key Witness Lied

Charles Munsey was sentenced to death in 1996. The state's star witness was a jailhouse informant who said Munsey confessed to him when they were both in Central Prison. Prison records showed the informant was lying, that he was never at Central Prison with Munsey. State files that were finally turned over to the defense showed the prosecutor and the Attorney General's office knew about those records. Even after another man confessed to the crime, the state continued to press for Munsey's execution. A judge threw out the conviction and the state dropped the murder charge against Munsey, but he died in prison before he could be released.

In addition to Gell, Hamilton, and Munsey, Tim Hennis and Alfred Rivera were also sentenced to death for crimes they did not commit. Both were ultimately acquitted in retrials, Hennis in 1989, and Rivera in 1999.