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NOVEMBER 28, 2012

"When they put you in that cell... and those bars slam home... that's when you know it's for real. A whole life blown away in the blink of an eye. Nothing left but all the time in the world to think about it." — Red from "The Shawshank Redemption."

The idea of the innocent man jailed for a crime he didn't commit is a concept so frightening to law-abiding citizens that it routinely serves as the plotline for books and movies like "The Shawshank Redemption." An innocent falling into the maw of the judicial system and winding up rotting in jail for something he didn't do is a special kind of Hell. But that kind of thing only happens in movies, right?

Maybe not. Two instances have come to light in the past year in which it appears Mobile County's judicial system sent the wrong man to prison. In the most recent of these, a man has been waiting for execution on Alabama's Death Row for more than a decade, found guilty of stabbing someone to death.

William Ziegler, now 37, was sent to Death Row in 2001 for murdering Russell Allen Baker by slitting his throat and taking part in stabbing him more than 100 times. But for the past few years, attorneys from New York's Sidley Austin firm and Mobile's Hand Arendall have worked to get Ziegler right what they saw as a great wrong. They sought a new trial based upon "Rule 32," which argues the defendant either had his civil rights violated or there is important new evidence. And they were rewarded last month when Mobile County Circuit Court Judge Sarah Stewart released a 210-page order granting Ziegler a new trial.

While at first glance it may seem the system has worked well in getting Ziegler his new trial, it came only after a long, hard fight and a decade of Ziegler's life gone. And a perusal of Judge Stewart's order can only leave the reader slack-jawed wondering just how something like this could happen. She didn't just give Ziegler a new trial, she blistered prosecutors, Sheriff's investigators and even Ziegler's defense attorney, laying out a situation that ranges from negligence on one end to what may be outright devious behavior on the other.

Some examples? Sheriff's investigator Dale Kohn, the uncle of a then-14-year-old girl who had spent the night of the murder with both the victim and the suspect, was actively involved in the investigation and interrogation of suspects despite his familial connection. Jack Tillman's office then tried to cover up his involvement, according to the judge.

Evidence was mishandled or even just left out of the trial, including a blood-drenched car owned by one of the other suspects. The jury never heard about that, or the contents of the bag marked "evidence" that was left in the trunk of the car.

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Stewart's order also describes how Ziegler's appointed attorney Habib Yazdi actually took evidence — including another suspect's bloody underwear and shoes — and threw it in the trash. The judge blasted Yazdi's handling of Ziegler's case, saying his pretrial discovery "rendered the entire case incomplete and inadequate."

During the sentencing phase of the trial, Yazdi, who was supposed to be arguing for Ziegler's life, thanked the prosecution, saying "Just imagine if we didn't have them, and if they didn't do this, everyone of us would be stabbed every day." Move over Perry Mason.

That then-Circuit Court Judge Robert Kendall even allowed an attorney as limited as Yazdi to handle a capital case raises serious questions. Another circuit judge told Lagniappe in a story we did about the case last year that Yazdi was a "C+ lawyer" and shouldn't try capital cases.

Stewart's problems with the case are too numerous to list here, but even so prosecutors continue to fight against Ziegler getting another trial. The state's Attorney General's Office quickly filed an appeal, trying to put a lid on the situation. Prosecutors say he was convicted by a jury of 12 people and that should be good enough regardless of what the judge found. But Ziegler's not alone.

Just over a year ago, Toby Priest was released from prison after winning a Rule 32 petition. Priest served three years of a 20-year sentence before the fact an eyewitness' testimony stating he definitely was not the robber was never presented to the jury won him a new trial. In the second trial prosecutors couldn't even put enough together to finish and dropped the case. But even as he was set free, prosecutors maintained his guilt.

While it is awful to consider that innocent people have gone to jail, what is even more troubling is that some prosecutors may not have the capacity to look at their own work critically when problems arise. No one likes to be wrong, but everyone is wrong from time to time. Prosecutors are not exempt from that rule of life.

One thing that has become clear to me over years is the legal system is far from perfect, and often because of the sheer glut of cases, expediency takes precedent over thoroughness. What's even clearer is the power judges, prosecutors and police have to make certain things happen when they want to.

These two cases are only the latest in a series of very questionable occurrences in Mobile County's courtrooms over the past several years. We can all probably agree the behavior of disgraced former Circuit Judge Herman Thomas calls into question nearly everything he did on the bench. I often wonder if there aren't people sitting in jail right now who did nothing more than rebuff his kind offers of "guidance" inside his secret little room in Government Plaza. That the federal government continues to withhold 11 pages of emails detailing the alleged "conflict of interest" that kept them from prosecuting Thomas on civil rights charges relating to the alleged use of his position to demand sex from inmates, makes me even more suspicious. Another Thomas trial might bring forth droves of prisoners making those very claims.

Another case I believe needs an independent look is that of Rodney Stanberry, who has been in jail for murder for roughly 20 years now. A Lagniappe story in 2009 detailed the very shaky circumstances surrounding his conviction.

Alabama needs an Innocence Project like Georgia's, in which people who have credible evidence have an opportunity to be heard by someone other than the very people who put them in jail in the first place.

I'm sure most law enforcement officials want to get it right 100 percent of the time, but they're human and even with the best of intentions, mistakes will be made. Given our recent history it is not even certain best intentions are always part of the deal, and it's clearly time for some reflection as to how to make sure more innocent people don't have those bars slam home behind them.

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