

What story does this shirt tell?

□ Thanks to DNA testing, the case of death row inmate William Thomas Zeigler Jr. is in the courts and both the prosecution and defense have separate views on the results.

Jean Palombo-Gonzalez

ORLANDO

Rudolph Holton walked out of Florida's death row on Jan. 24. After serving 16 years, Holton became the 25th person to be exonerated and released from Florida's death row since 1972.

William Thomas Zeigler Jr. hopes to be the 26th person – soon.

Zeigler has been on death row since 1976, convicted of first-degree murder of his wife, Eunice, and a black customer of his furniture store, Charlie Mays. He was also convicted of second-degree murder of his in-laws, Perry and Virginia Edwards.

For a case that should be cold after almost 27 years, there are sparks emanating from the defense – evidence they would like the court to recognize and use to grant a new trial or a turnover of sentence. It is evidence, the defense says, that discredits the prosecution's theory.

Zeigler said the new material, which includes DNA testing on his clothing and that of others worn the night of the murders, proves his innocence. He has vehemently stated his innocence since Dec. 24, 1975, the night of the murders.

The evidence that has surfaced within the last two decades has made an impression on two jurors from the original trial. (See story, this page.)

But nothing sways the opinions of the prosecution, the state attorney's office of Orange

and Osceola counties.

So Zeigler waits on death row and wonders whether the courts will allow a bloody pair of pants and a blood-soaked shirt to tell his story.

DNA testing

The 9th Judicial Circuit Court of Florida granted DNA testing Aug. 27, 2001. County Circuit Judge Donald E. Grincewicz granted the motion after listening to arguments from John Pope, an attorney for the defense, and a prosecution team made up of Assistant State Attorneys Jeff Ashton and Chris Lerner and Assistant Attorney General Kenneth S. Nunnalley.

DNA testing was not available at the time of the crime. Labs then could not differentiate blood samples of the victims who had the same blood type. A process called "blood sub-typing," which could have helped differentiate samples splattered on the scene, was available, but was not completed by investigators.

After the 2001 motion hearing, Pope said he was pleased with the opportunity to allow DNA to clear his client. Upon seeing the results from Laboratory Corporation of America (LabCorp) in June 2002, Pope felt confident for his client of more than 12 years.

"The court needs to move on

this (the DNA results)," Pope told *The Florida Catholic* Jan. 15. That same day a motion was filed in the 9th Judicial Circuit Court asking the court to look at the DNA results and a host of other evidence discovered within the past 20 years.

"These tests confirm what we've said all along, that Tommy Zeigler is not guilty," Pope said.

Ashton, who has been working on the case in excess of a de-



cade, disagreed and said the motion to present the DNA is "untimely" because the Florida Supreme Court had already ruled against DNA testing.

The prosecution responded to the defense's Jan. 15 motion by saying the defense asked to use DNA testing too late, adding that it should have been requested sooner.

"Even if they got the best results they hoped for it wouldn't change the outcome," Ashton told *The Florida Catholic* Feb. 4. "No DNA result could change the outcome of the case."

Prosecution vs. Zeigler

The murders occurred in Zeigler's Furniture Store in Winter Garden. It is the prosecution's theory that on the night of the murders, Zeigler, who, according to Ashton, perpetrated the crime alone, shot his wife at close range in the back of the head, fought with Perry Edwards and shot and killed him, and then shot Virginia Edwards.

This occurred around 7:24 p.m. Within a half hour, the prosecution claims Zeigler convinced Mays to enter the furniture store, fought with him, shot him twice, then continued to beat him to death.

The motive for the murders, prosecutors contend, was to cash in on a \$500,000 insurance policy on Eunice, a policy taken out only a month before the murders. The prosecution theorizes after performing the murders, Zeigler called for help and shot himself to make it appear he was the victim of a robbery.

Zeigler maintained his innocence from the beginning and tells a different account of the story. In a Sept. 16, 2001, interview with *The Florida Catholic*, Zeigler said he was not in the furniture store during the time his wife and in-laws were killed. However, he had entered the store after the killings and was immediately ambushed by a group of men. Zeigler said the store was dark. He lost his glasses in the struggle, but based on the number of voices he heard, he speculated there were three men in the store.

Zeigler kept a gun hidden under his desk in case of trouble or a robbery. He was able to obtain that gun, and during a struggle with one of the perpetrators, fired a couple shots. The struggle continued and he recalled grabbing the man around the chest, possibly the man he had shot.

Vernon Davids, one of Zeigler's original trial attorneys, recalled what Zeigler said from "day one," "I think I shot Charlie Mays and killed him." Zeigler maintains that he believes he shot Mays in self-defense and Mays was attacking him.

The night of the crime, Zeigler was beaten and also shot in the abdomen. The shot

went through Zeigler's front and out his back. Prosecutor Ashton described Zeigler's wound as self-inflicted and as a "small gunshot wound to his abdomen" that "caused no damage except for the bleeding in one area."

Blood was all over the floor and also splattered on the walls of the crime scene. Edwards, who moved around the store as he fended for his life, was shot in the ear, and bled copiously, most probably on himself, the walls and possibly his perpetrator. Mays, who was beaten in the head and body with a linoleum crank, was found face up on the floor of the store with the crank next to his left hand. Again, his blood would have splattered on the wall, and on the floor and possibly his perpetrator.

A pair of pants

After seven months, LabCorp compiled a certificate of analysis upon 23 items that were submitted for testing. The subjects related to the items include Tommy Zeigler; his wife, Eunice; the three other murder victims (Perry and Virginia Edwards and Charlie Mays) and Felton Thomas. Along with Edward Williams, Thomas was one of the prosecution's key witnesses at the original trial.

Although results varied on everything tested, Pope concentrates on the results of two items – the examination of Mays' pants and Zeigler's shirt. According to Pope, the cuffs of Mays' pants were analyzed first. DNA testing revealed Edwards' blood was on the cuffs. Davids said Pope contacted him after these findings and asked whether any other part of the pants should be tested. Davids, who is a lawyer out of Englewood, told Pope he would like the front of the pants from the knee to the angle checked. That testing was completed, and again Edwards' blood was on the left knee of Mays' pants.

"Whoever killed Perry Edwards was in a fight with him. And that person was beating Edwards when he was on the floor," Davids speculated. "If you picture Charlie Mays on his left knee and as he beats (Perry Edwards), Edwards' blood splatters the right rear cuff" and blood from the floor soaks Mays' knee.

The defense also said the finding of Edwards' blood on Mays' coupled with testimony from Herbert Leon MacDonell, a blood splatter expert for the prosecution in the original

Juror: New evidence might have swayed her vote

ORLANDO

Peggy Dollinger remembers not sleeping well for the six weeks of trial and sentencing of William Thomas Zeigler Jr.

Although the case was decided in 1976, Dollinger has vivid memories of her role as one of 12 jurors for the case.

"I have said all along I didn't think there was a fair trial," said Dollinger, who is now in her 70s. "There were things (introduced in the trial) that were very confusing at the time. ... But there was a lot of pressure to deliver a verdict."

Dollinger has followed the case since the trial of the Christmas Eve murders of Eunice Zeigler, her parents Virginia and Perry Edwards, and

Charlie Mays. She has been quoted in newspaper articles about the case, and has kept up, as best as possible, with evidence that has been discovered since the trial.

She said she now has doubts about Zeigler's guilt, and new evidence, such as DNA test results and discovery of an eyewitness testimony not presented at trial (see related story, this page) might sway her to believe Zeigler should have another trial.

"There is no way (Zeigler) would have gotten a fair trial in Orlando," she said. "I suppose new evidence would have influenced me if I had the opportunity to connect all the dots."

She said over the years she

would think about the case and she became more suspicious of what the prosecution's key witnesses said. She also didn't buy the motive for the quadruple murders – \$500,000 of insurance money, Dollinger said, because some new evidence could be compared to what the prosecution presented and would have allowed her to make a better decision.

Another juror, Mary C. Kelley, 66, also is able to recall the trial. She also gave an account of a tense jury room.

Kelley said at the time of the trial, she believed Judge Maurice Paul, who presided on the case, must have known something that the jurors didn't

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trial, cements the importance of finding Edwards' blood on Mays' pants.

The Florida Catholic obtained a report completed by MacDonell on the physical evidence found at the furniture store. He examined the evidence Jan. 7, 1976.

In the report, MacDonell concluded Mays was not in the store at the time Perry Edwards was killed.

"The basis for this conclusion is the fact that when Mr. Mays was beaten, his blood splatters did not mix with the already dried, swipe blood patterns that resulted from Mr. Edwards' movement throughout the rear of the store."

Pope explained that the testimony proves Edwards' blood should not have soaked Mays' pants because it would have been dry on the floor by the time Mays encountered it.

However, DNA tests confirm Mays' pants did have Edwards' blood on them. Pope and Davids both ask the question, "If Edwards' blood was dry, how did it get on Mays' pants?" Their conclusion is that Mays was present for the killings, and was not a victim but a perpetrator.

"It's just as Tommy said," Davids added.

Prosecutor Ashton said it is understandable that Perry Edwards' blood would be on Charlie Mays because they were killed in the same vicinity of the store. Ashton also commented how Edwards' blood could get on Mays even though a prosecution expert testified their blood did not mix

because Edwards' blood was dry before Mays was attacked.

"The only spot that there is blood from Perry Edwards on Mays' pants is one spot on his knee and one spot on the back cuff," Ashton said. "(MacDonell) never said every bit of blood throughout the store was dry. He is commenting on one particular area."

A shirt

Zeigler's white shirt was covered with blood on the front and back after the murders. DNA testing was completed on a portion of the shirt under the armpit, and Mays' DNA was found on the shirt.

The defense claims the fact that Perry Edwards' blood was not found on the shirt solidifies Zeigler's innocence. Also, the fact that Mays' blood was found on the shirt corroborates Zeigler's story about fighting with Mays.

The prosecution does not deny or find surprise that Mays' blood is found on Zeigler's shirt, but they differ with the defense on who was the perpetrator and who was the victim.

"They tested two or three areas on this massively bloody shirt and it came back to Charlie Mays," Ashton said.

According to Davids, the state had the opportunity to test other blood stains on Zeigler's shirt. The state declined.

The Jellison tape

At a status hearing for the defense's motion held Feb. 8, the prosecution requested to have more time to respond to the defense's motion, even though it had filed a response Feb. 4. Another hearing was scheduled March 7.

Zeigler's case is also active on a federal level. On Jan. 28, oral arguments were presented before the 11th Circuit U.S. Court of Appeals in Atlanta to determine if evidence is strong enough to support a new trial. There is no indication as to when a ruling would be made.

Pope again represented Zeigler and Florida Assistant Attorney General Kenneth S. Nunnelle argued for the state.

Eleven issues were presented. Of those, the judges inquired only about juror misconduct and issues surrounding the Jellison tape. One issue of misconduct concerned a juror who became increasingly anxious during the month-long trial, and solicited advice from her pastor. The pastor laid his hands on the juror and absolved her of any responsibility in the decision of the case.

Since 2000, *The Florida Catholic* has come across evidence that the defense claims was hidden by the prosecution during the 1976 trial. One of those items is a transcript of a taped phone conversation between Jack Bachman, an investigator for the state attorney's office, and Jon Jellison, then a 19-year-old Minnesota resident who was vacationing in Winter Garden with his sister, mother and father at the time of the murders.

The Jellisons were staying in the Winter Garden Inn, and their room's entrance faced the back of Zeigler's Furniture Store. The transcript chronicles Jellison's account of that Christmas Eve night. Jellison told Bachman he and his family saw a police car parked in the back of the furniture store and several minutes later, they heard gun-

shots.

Bachman kept revisiting whether gunshots were heard first or whether the family saw the police car first. Jellison maintained the family saw the police car first and then heard the gunshots.

After telling Jellison that the owner of the furniture store was charged with the crime and the motive was a 30-day-old insurance policy on his wife, Bachman told Jellison they were trying to find somebody who might have seen Zeigler jumping the fence behind the furniture store.

"As long as you heard the gunshots after, you know, you saw the police car then that wouldn't help us a bit," Bachman said, according to a tape transcript.

Then Jellison asked if the investigator would want his mother to call him back, and Bachman said, "Not unless, you know, you all get together and decide you heard those gun shots before you saw the police car and in that case we'd give you a free trip back to Florida."

In the Atlanta hearing, Pope said not only was what the Jellisons saw important, but the fact that the state's investigator attempted to persuade them to alter their report of what they saw leads to the possibility that state's witnesses might have been persuaded to change their testimony. Pope said because the first jury vote was six to six, having known what the Jellisons saw might well have changed the verdict.

Speaking for the state, Nunnelle argued that all 11 points, including the Jellison tape and the juror misconduct, are procedurally barred because they were not presented in a timely manner. Most of the questions asked by the judges involved

whether these issues were procedurally barred and if not, what difference they would have made in the outcome of the case.

Assistant State Attorney Ashton said the "difficulty" with the Jellison tape is it "isn't consistent with anybody's theory with what happens." He said if the jury would have heard the tape, it would have made no sense.

"It wasn't turned over because it was meaningless. When you have a piece of evidence and clearly the witnesses are mistaken. It clearly is meaningless," Ashton said. "It's not exculpatory, it doesn't help the defense, it's not inculpatory, it doesn't help the state. It is one of Mr. Zeigler's red herrings."

Pope said he wasn't surprised with Ashton's surmise. He said if it was meaningless, why was it hidden and withheld.

"I'm dumbfounded by their stating that the witnesses are clearly mistaken. It's as if they are stating, 'We knew best and we weren't going to bother you with it,'" Pope said.

"A red herring is a cliché to avoid confronting an argument," he continued. "The initial jury vote was six to six, and when you have a close case the jury has to decide whom to believe. (The prosecution) had testimony with a lot of holes, but convincing scientific testimony from a blood splatter expert."

But, Pope added, if you add to that testimony the fact that blood from Perry Edwards was on Charlie Mays that testimony turns into evidence that points to him as a perpetrator.

"And that's when the prosecution's theory collapses," Pope explained.

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know. Although the jury recommended life imprisonment, the judge sentenced Zeigler to death.

Like Dollinger, Kelley said there were problems with the eyewitness testimony of the prosecution's key witnesses. She said, even now, the timelines they presented for the night of the murders "seems strange" to her. And she also didn't think money was the motive for the murders.

"I don't think it was something that would cause him to kill so many people. It didn't make sense. It was a lot of money, but not that much," she told *The Florida Catholic*. "You can't see in someone else's mind, but to me that wasn't one of the reasons that he could

have killed his wife. There could have been other reasons, but not that. He was well off."

Although Kelley seems to be at peace with her verdict, especially since it was the judge, not the jury, that ruled for the death penalty, she wonders about the case and evidence that has surfaced. Although she would not go as far as to say her guilty verdict was wrong, she said if new evidence is good enough, the courts should evaluate it for the sake of possibly saving a life.

"If they do get enough evidence, I think they should be able to present it to a jury and maybe they can make a wiser decision," Kelley said. "I would hate to see someone who is innocent condemned to death. As far as I am concerned, I would like to see him get every chance possible to prove his innocence."

— Jean Palombo-Gonzalez



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