

□ Inmate awaits death while affirming his innocence for crime.

Editor's note: The following is the first of two articles on William "Tommy" Zeigler Jr., a death-row inmate who maintains his innocence 25 years after the crime. This week: How each side sees the case and how DNA testing could prove the 55-year-old's innocence or guilt.

Jean Palombo-Gonzalez

ORLANDO

William "Tommy" Zeigler Jr. has been on death row for 24 years.

He sits in his 6-foot by 9-foot cell because he was convicted of the Dec. 24, 1975, quadruple homicide of his wife, Eunice, his in-laws, Perry and Virginia Edwards, and friend and customer, Charlie Mays.

The prosecution, the 9th Judicial District in Orlando, which consisted of now retired state attorney Robert Eagan and Lawson Lamar, the current state attorney for that district, contends it tried the right man.

"It is our belief that we have the right man," said Randy Means, executive director of the state attorney's office for the 9th District. "We would not pursue the death penalty unless we are 100 percent sure of his guilt."

The Zeigler case is shrouded with inconsistencies. The inmate's original defense and appellate counsels say an innocent man waits to die at the hands of the state. According to the defense, the case that began in Winter Garden is not as cut and dried as the prosecution believes.

"This case was loaded with unfair tactics by the prosecution," said Terry Hadley, Zeigler's original lead trial attorney. "Tommy Zeigler did not get a fair shake from investigators or the judicial system."

"If there was ever a case that could warrant a moratorium on the death penalty, the Zeigler case would be one."

What the prosecution believes

At first, Zeigler was regarded as a victim because he was found at the scene with a gunshot wound in the abdomen. He was sent to the hospital where doctors performed emergency surgery. According to the defense, the surgeon said the bullet came "dangerously close" to being fatal.

Detective Donald Frye — the lead investigator on the case at the time — soon focused on Zeigler as the lone gunman and only suspect. The motive was to kill his wife to cash in on a \$500,000 life insurance policy.

The three other murders were committed, it was said, to cover up the insurance plot and make the scenario appear to be a botched robbery. Zeigler then shot himself to shift the blame on robbers.

Although a jury found Zeigler guilty of murder and made a sentence recommendation of life in prison, the presiding judge, Maurice Paul, now a federal judge in North Florida, changed the sentence to death.

Hadley said the insurance plot does not make sense because Zeigler was worth \$1 million and "the one thing he didn't need was money."

He added that the surgeon who operated on Zeigler the night of the murders testified that nobody could shoot themselves in that part of the abdomen without serious risk to life.

"The prosecution didn't have any other suspects. It's natural for humans to tend to look for points to support their case and put down points that may challenge the case," Hadley said. "I believe Donald Frye, Maurice Paul and Bob Eagan believed they were doing the right thing and bringing a guilty man to justice. But an inherent flaw in their system was they were wrong. They disregarded facts and a terrible injustice has occurred."

What the defense believes

Hadley said Zeigler's version of the events on Dec. 24, 1975, has not changed. He said he entered

Trail of blood to death row

'There is a slippery slope to the death chamber, and there are times when the prosecution is not interested in justice, but in expediency. Donald Frye (the chief investigator for the sheriff's office who first created the theory that Zeigler was the lone gunman) made a hasty judgment based on a trail of blood.'

— Vernon Davids

the store in the dark because the lights wouldn't come on. He was then assaulted at the back of the showroom. He had struggled with at least two assailants, but in the dark, and having lost his glasses at the beginning of the fight, he could not identify them.

His memory of the fight was hazy. He had perhaps fired the .22-caliber automatic that he carried with him. He could remember ejecting a jammed cartridge from the pistol.

After he was thrown into the hallway, he managed to pull a Colt revolver from a drawer. He might have fired it, maybe several times, but he didn't know whether he had hit anyone.

After he was shot, and passed out, he woke up on the floor and crawled around in the darkness trying to find his glasses. Eventually, he got his spare pair from the desk in his office. He remembered Officer Thompson bringing him to the hospital.

Above all, except for having fired in self-defense, he knew nothing of the four deaths in the store.

Vernon Davids, who tried the case with Hadley, examined and investigated the evidence for the case and handled the technical experts. Although the 22-caliber weapon was fired, neither he nor the prosecution could find the slug. He theorizes that one of the perpetrators left the scene with the bullet as a wound.

What was left behind was a tooth. It does not belong to any of the four victims or to Zeigler. Davids said he believes one of the perpetrators lost the tooth in a struggle with either Edwards or Zeigler.

Means would not comment on specifics of the case because it is in the appellate process. Davids said the prosecution has always disregarded these two "mysteries" because it did not fit within their case.

Reasoning for DNA testing

Davids, who now lives in Englewood, said he did not come into the case thinking Zeigler was guilty or innocent. The evidence convinced Davids of Zeigler's innocence.

When he was first introduced to the case he felt it would be a hard, uphill battle and he said it continued to be through the appellate process. The lawyer believes that DNA testing would prove Zeigler was not the killer.

Although there was a lot of blood in the case,

DNA testing would be done on one article of clothing — Zeigler's T-shirt. In a written deposition, Officer Robert Thompson, one of the first people on the scene of the crime, described Zeigler's shirt as covered with blood and that the blood was dry and portions of the shirt were caked with dry blood.

Through a memo provided by Davids, the following is a portion of the 15-page statement taken by Lawson Lamar, then chief assistant state attorney and later sheriff of Orange County. He is currently state attorney for the 9th Judicial District in Orlando. Thompson provided this statement on Jan. 12, 1976:

"I saw a large hole burned in the front of his shirt. It was actually burned almost quarter size. That's a 25-cent piece. And I pulled the shirt up, and you could see two wounds. It was on the right side of his abdomen about in line with the navel. I saw what appeared to be a bullet exit wound approximately six inches from the entrance wound, and the two were located on the extreme right rear side. Neither wound was bleeding. The entrance wound was puckered out, and it wasn't bleeding either. There was dried blood around the exit wound also."

"Due to the dried blood on his face and he had, in fact, the underside of his left arm was completely caked and almost completely covered with dried blood."

According to the defense, this statement was suppressed by the prosecution during trial.

According to the prosecution, Zeigler acted alone when he murdered the four people. After the killer first shot Perry Edwards, Zeigler's father-in-law, Edwards got up and fought with the attacker.

"Edwards went through sheets and pillows. Edwards went through the hallway and ended up in the center of the store," Davids said. "Edwards had been beaten in the head. Whoever beat him would be covered with blood."

"What we are looking for is to see whether or not Edwards' blood is on Tommy's shirt," Davids continued. "That's all we need. If there is none of Mr. Edwards' blood on Tommy, then the prosecution was wrong. They said he was the lone perpetrator. If they are cock-sure they have the perfect opportunity to prove it. ... If they are so convinced Tommy did it, why not prove it without a shadow of a doubt."

Zeigler has agreed to personally pay for the testing. Pope said people have come forward and offered to offset a portion of the \$5,000 for the testing. Means, of the state attorney's office, said there is no need to do DNA testing because it would not prove Zeigler's innocence. He said the test is another "smoke screen" put up by the defense.

But Davids said the DNA is a crucial part of the case, and it is the strongest point of the appeal currently in process in the 11th U.S. Circuit Court of Appeals in Atlanta. Davids said there are cases where such a testing has proved other death row inmates as innocent.

"There is a slippery slope to the death chamber, and there are times when the prosecution is not interested in justice, but in expediency," Davids said. "Donald Frye (the chief investigator for the sheriff's office who first created the theory that Zeigler was the lone gunman) made a hasty judgment based on a trail of blood."

Other blood inconsistencies

Hadley said the fact that Thompson identified the blood on Zeigler's T-shirt as "dry" punches another hole in the prosecution's lone gunman argument. According to the prosecution's version of the events, the blood on his shirt should have been wet because the prosecution contends that Zeigler shot himself minutes before an officer — in this case Officer Thompson — arrived on the scene.

Much of the prosecution's case is based on testimony by Edward Williams, an acquaintance of Charlie Mays and Tommy Zeigler, and Felton Thomas, a local migrant worker who had never met Zeigler. Although both Thomas and Williams said they saw Zeigler between the time when the mur-

Clinton stays federal execution for six months

□ Opponents vow to continue seeking moratorium.

WASHINGTON

Opponents of the death penalty say they plan to keep pressing President Clinton to commute death sentences or declare a moratorium in the wake of his decision to delay for six months what was to have been the first federal execution in 37 years.

Juan Raul Garza, 44, was to have been executed at the federal penitentiary in Terre Haute, Ind., on Dec. 12, but Clinton announced Dec. 7 it would be delayed.

Churches, the federal prison and activists in the area had been preparing everything from prayer vigils to shuttle bus service in anticipation of crowds both opposing and supporting the execution.

Karen Burkhart, an Indiana Catholic who organizes events protesting capital punishment, told Catholic News Service Dec. 11 that activists would continue writing to the president, encouraging him to declare a moratorium on all federal executions.

"It's good that he granted a stay for Juan Garza, but he needs to do more for the rest of them," Burkhart said.

In his announcement, Clinton said although he believes the death penalty is appropriate for some crimes, he thinks the Justice Department needs more time to analyze information about racial and geographic disparities in the federal death penalty system.

"Whether one supports the death penalty or opposes it, there should be no question that the gravity and finality of the penalty demand that we be certain that when it is imposed, it is imposed fairly," Clinton said.

He asked the Justice Department to report to the next president by April with an analysis of racial and geographic disparities in how the



President Clinton

federal death penalty is applied.

Garza's pending execution had led religious leaders including Pope John Paul II, the president of the U.S. bishops' conference, the bishops of Indiana and several interfaith coalitions to plead with the president to commute Garza's sentence to life in prison without possibility of parole.

Garza, a marijuana smuggler, was convicted under federal anti-drug kingpin statutes of killing one person in Texas and ordering the murders of two others. His execution was to be in Terre Haute because that's the only federal prison equipped for it.

Some people who wrote to Clinton noted that the execution date for Garza, a Mexican-American Catholic, was particularly inappropriate — the feast of Our Lady of Guadalupe, the patroness of Mexico and all of the Americas.

"This day is the great feast of Our Lady of Guadalupe, the patron saint of the Americas, who appeared before a peasant to share the Good News that God has special concern for the poor and forgotten," Bishop Joseph A. Fiorenza, president of the National Conference of Catholic Bishops, told Clinton. "Despite their horrible crimes, the men and women on our nation's death rows are often themselves poor and forgot-

ten."

In the Dec. 5 letter to Clinton, Bishop Fiorenza, who heads the Diocese of Galveston-Houston, said the courageous acts of calling for a moratorium or commuting the death sentences "would demonstrate to the nation and the world that Americans are turning away from death and towards life by protecting even the lives of those who failed to demonstrate a similar respect for life."

Commuting death sentences would have even greater significance in the jubilee year, Bishop Fiorenza wrote, referring to Clinton's efforts this year on debt relief for poor countries.

"Changing a sentence of death to a sentence of life reflects the same spirit," he wrote. "Just as debt relief will save hundreds of thousands of poor people from death by hunger and disease, so too will commutations save the lives of those condemned. The jubilee year is not the time to begin again the execution of those who commit federal crimes."

The bishops of Indiana in a Dec. 6 statement said it is time "to put an end to state-sanctioned violence."

They said capital punishment does not honor the murderer's victim nor bring about closure or freedom to the victim's loved ones. "Only forgiveness can do that," they wrote. "Sadly, capital punishment is more often about revenge than it is about justice."

Since the federal government resumed capital sentencing under laws passed in the 1980s and 1990s, 31 men have received the death penalty, including seven for crimes committed while in the military.

David Paul Hammer was the next man in line for execution by the federal government, with a scheduled date of Feb. 21. But after becoming a Catholic last year while at the Terre Haute prison, he has begun pursuing appeals he previously refused and his execution is likely to be delayed until 2002.

Meanwhile, in other action on the issue, the Missouri Catholic Conference, the bish-

ops' public policy arm, took a legal challenge to the U.S. Supreme Court seeking to stay the execution of James Wilson Chambers in November. The conference and other religious organizations sued in federal court, saying the governor's office had mishandled Chambers' clemency request.

The challenge was rejected and Chambers was executed Nov. 15, but Catholic officials said their efforts broke new ground.

"We couldn't help him, but hopefully, this raised awareness and will have an effect on future cases," said Deacon Larry Weber, executive director of the Missouri Catholic Conference. "We called attention to the fact that the death penalty in Missouri is not administered in a very fair fashion."

"Basically, when we convict someone of capital murder and sentence him to death, we say, 'You're not a person anymore.' We don't respect them anymore, we don't respect their rights," he added. — CNS

U.S. delegation marks 1980 churchwomen's murders

Mike Lanchin

SAN SALVADOR

El Salvador is a country of poverty and violence, but also "full of energy and spirit," said members of a delegation of U.S. women religious to El Salvador to commemorate the 1980 murders of four U.S. churchwomen by the Salvadoran military.

"El Salvador is at a strange stage in its development since the end of the civil war (eight years ago)," said Immaculate Heart of Mary Sister Nancy Sylvester, a member of the presidency of the Leadership Conference of Women Reli-

gious, in an interview with Catholic News Service.

"It is a stage at which the majority of the people have been left out of the benefits," she added.

The legacy of the 12-year war has been "poverty and economic violence," Sister Sylvester said, but it has also been one of "energy and passion."

Mercy Sister Kathy Thornton, national coordinator of Network, a Catholic social justice lobby in Washington, said, "The energy and the passion of the people here will enrich my faith forever."

"It is so hard to communicate the reality that we have found here — I don't know quite how I will do it," she added.

Both women were part of the 70-member delegation's Nov. 30-Dec. 8 visit to El Salvador, cosponsored by LCWR and the SHARE Foundation (Salvadoran Humanitarian Aid, Research and Education), a parish-based lobbying and development organization based in San Salvador. — CNS

TRAIL

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ders of Eunice Zeigler and Perry and Virginia Edwards had occurred, neither man said Zeigler was covered with blood, as the prosecution contends Zeigler would have been following a struggle with Edwards.

Williams was also the only witness to claim to see Zeigler immediately after the first three murders and again im-

mediately after the last murder of Charlie Mays. Despite seeing Zeigler at close range, Williams never mentions the blood that had to be all over Zeigler if he had just been in hand-to-hand combat with and had severely beaten Perry Edwards as argued by the state.

Next week: The defense explains further reasons why Zeigler may not have gotten a fair trial and the mentality of Tommy Zeigler after 24 years on death row.



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