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Release of death row prisoner is blocked

By WILLIAM C. LHOTKA Post-Dispatch
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Prosecutor maneuvers for time to study evidence

Joseph Amrine's trip from death row toward freedom took a detour Thursday as a prosecutor maneuvered for more time to see if physical evidence would support a retrial for a Missouri prison killing in 1985.

Amrine was just four days short of release from prison in Potosi when Cole County Circuit Judge Byron Kinder signed a custody transfer order sought by Prosecuting Attorney Bill Tackett. It brought Amrine to jail in Jefferson City.

Tackett said the maneuver would keep Amrine in custody for longer, although it was not clear how.

He said he had taken the steps because the Missouri Supreme Court had not yet acted on his request to hold Amrine up to 90 days more. Later Thursday, the high court denied the extension.

In a ruling April 29, the Supreme Court ordered that Amrine either be released or get a new trial, and set a deadline that expires Monday for Tackett to decide. The judges expressed strong doubt over Amrine's guilt. Over the years, three former inmates who had testified against Amrine recanted their accusations. No physical evidence ever connected him to the slaying.

"Our confidence in the outcome of the first trial is sufficiently undermined to require setting aside his conviction and sentence of death," wrote Judge Richard B. Teitelman for the 4-3 majority.

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Missouri Attorney General Jay Nixon had taken the position at a hearing on Feb. 4 that the court should ignore claims of innocence if there were no constitutional problems. The court said Missouri law empowers it to review guilt, not just legal matters.

In a phone interview Thursday, Tackett said he wanted a DNA test on what he said might be blood found on the shirt Amrine wore Oct. 18, 1985, when Gary "Fox" Barber of St. Louis was fatally stabbed

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at the penitentiary in Jefferson City.

He described his legal move as "a decision to continue a criminal investigation. It is not a decision to go forward with prosecution." He said he might call for a new trial if a DNA test puts Barber's blood on Amrine's shirt.

Amrine is still charged "under the existing indictment and warrant," Tackett emphasized. "I did not file new charges."

Sean D. O'Brien, the Kansas City lawyer representing Amrine on appeal, said, "I don't think it is anything more than a speed bump for Joe's release."

He scoffed at the blood sample, saying, "Whatever is being detailed now wasn't there in 1988, and obviously wasn't there in 1985."

He said a Highway Patrol expert performed a sophisticated test for blood on the shirt in 1988 "and found nothing."

Amrine, 46, formerly of Kansas City, was represented by a public defender at the hearing on Thursday. Kinder was the judge 17 years ago at the trial in which Amrine got the death penalty. The judge set Amrine's new bail at \$1 million.

Amrine had been due for release from prison in 1992 on his convictions for robbery, burglary and forgery.

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