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### Law and Order: Retrial set for inmate who was cleared by Missouri Supreme court

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JEFFERSON CITY, Mo. (AP) — A death row inmate whose murder conviction and sentence were overturned by the Missouri Supreme Court will be retried for the 1985 killing of a fellow prisoner.

Joseph Amrine, 46, of Kansas City, had been scheduled to walk out of the Potosi Correctional Center by next Monday. Instead, he was brought Thursday to Jefferson City to face an amended murder charge filed by Cole County Prosecutor Bill Tackett.

In a brief hearing before Special Judge Byron Kinder, Amrine pleaded innocent to a charge of first-degree murder in the 1985 stabbing death of Gary Barber at the old state prison in Jefferson City.

Kinder ordered Amrine held on \$1 million bond and set a tentative trial date of Aug. 12.

Under the Missouri Supreme Court's April 29 ruling, which cited the absence of "credible" evidence against Amrine, Tackett had until Saturday to refile the murder charge.

Tackett said Thursday he was sending possible blood samples from the clothing Amrine wore the day of Barber's death to a private laboratory, which he would not name. The sample will be tested to see if it connects Amrine to the crime.

"I'm just trying to find out what happened," Tackett told reporters after the hearing.

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Tackett would not rule out the possibility he would pursue the charge even if DNA tests do not implicate Amrine although "it becomes a very difficult hill to climb." Tackett said he expected to receive test results in about 90 days.

Until Tackett raised the blood sample issue last week, no physical evidence tied Amrine to Barber's death. Tackett said in a court filing Friday stains on Amrine's clothing appear to test positive for blood and that DNA tests were never conducted.

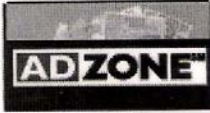
Tackett has said the blood samples previously were unavailable because investigators probably lacked the technology to find them. He has said the stains were found using highly sensitive equipment.

Kent Gipson, a Kansas City attorney who represented Amrine in the original case, said he was both disappointed and surprised by

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Tackett's decision.

"I think Joe has been in prison 17 years for a crime he didn't commit and this just compounds the injustice," Gipson said Thursday. "Any time an innocent man is in prison, even for a day, it's an injustice. Our position is Joe should be free because they don't have any case."

Tackett last week asked the Missouri Supreme Court for 90 days to complete the DNA tests. The state's highest court on Thursday rejected that request but added: "The state may obtain DNA testing of evidence and, if warranted, proceed to prosecute this case without the extension of time."

Amrine was sentenced to death in 1986 after being convicted of killing Barber when both were inmates in the old state prison in Jefferson City.

Key testimony against Amrine came from three former inmates, all of whom since recanted. Six other prisoners testified at the murder trial that Amrine had been playing cards elsewhere in the prison when Barber was fatally stabbed.

In the Supreme Court's 4-3 decision throwing out Amrine's conviction and death sentence, Judge Richard Teitelman said Amrine's case "presents the rare circumstance in which no credible evidence remains from the first trial to support the conviction."

The case marked the first time the Missouri Supreme Court had addressed whether a claim of innocence alone – without any claim of a violation of constitutional rights – could be heard by the high court as grounds to overturn a conviction and sentence.

Amrine had been in the Jefferson City penitentiary for robbery, burglary and forgery and would have been released in 1992. Barber, formerly of St. Louis, was imprisoned for burglary, auto theft and stealing.

Amrine also had been the subject of a 30-minute documentary – "Unreasonable Doubt: The Joe Amrine Case" – produced by a University of Missouri teacher and students.

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