

Court reverses Amrine verdict

Ruling could free
death row inmate

By LYNN FRANEY
The Kansas City Star

The Missouri Supreme Court on Tuesday overturned a Kansas City man's murder conviction and death sentence in a prison stabbing, saying he had presented clear evidence of his innocence.

The decision means Joseph Amrine, who was convicted in the 1985 death of a fellow prisoner, may be released soon unless prosecutors file new charges against him.

Amrine's family greeted the news with jubilation Tuesday.

"I'm very excited," said Ronnell Amrine, one of Amrine's siblings, all of whom live in the Kansas City area. "I know the state's not going to prosecute him again; they don't have anything to stand on."

Cole County Prosecutor Bill Tackett said his office would face hurdles in refiling the case, including the fact that three inmates who implicated Amrine have since recanted and that 17 years have elapsed since the slaying.

"But I'm going to go back and look at every inch of this, and if there's a submissible case, I'm going to do it," Tackett said.

The Missouri attorney general's office had argued before the Supreme Court in February that the court could overturn Amrine's conviction only if it found a constitutional violation in trial proceedings, not just if it thought Amrine was innocent.

However, four of seven judges said Tuesday in an opinion written by Judge Richard Teitelman that the court does not have to find a constitutional violation to overturn a conviction if it believes a death row inmate is innocent.

Calling imprisonment and execution of an innocent person a "manifest injustice," the judges said the witnesses' recantations presented a "clear and convincing showing of actual innocence that undermines confidence in the correctness of the judgment."

Teitelman, who was joined by Judges Ronnie White and Laura Denvir Stith, also wrote: "This case thus presents the rare circumstance in which no credible evidence remains from the first trial to support the conviction." Judge Michael Wolff concurred in a separate opinion.

Missouri Attorney General Jay

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Nixon said Tuesday in a prepared statement, "The court held that this case presented a unique set of facts, and ruled...that it can hear a free-standing actual innocence claim. In doing so, the court is defining — as it has the authority to define — state habeas process and procedures."

Nixon said he would inform local prosecutors of the court's new standard for evaluating appeals.

Amrine's demand for release garnered public attention last year when a University of Missouri-Columbia graduate student produced a documentary laying out the evidence favoring Amrine's innocence.

After the documentary was shown around the state, including at Kansas City churches and colleges, death penalty opponents besieged the governor's office with petitions, letters and phone calls seeking clemency.

Amrine, 46, had made the news before that, too; in 2000, he was one of 26 American death row inmates featured in an anti-death-penalty publication compiled by Italian clothing manufacturer United Colors of Benetton.

Amrine's statement — "I am not ready to die" — was on the first page of the glossy magazine supplement called, "We, on Death Row."

Ronnell Amrine said he always believed in his brother's innocence.

"When he called me right after the murder happened, he told me he didn't have anything to do with it," Ronnell Amrine recalled. "I said, 'You'll be locked down awhile, and they'll find the real murderer.' It didn't happen like that."

Joe Amrine was nine years into a 15-year sentence for robbery, forgery and second-degree burglary at the Missouri State Penitentiary, now called the Jefferson City Correctional Center, when inmate Gary Barber was stabbed on Oct. 18, 1985.

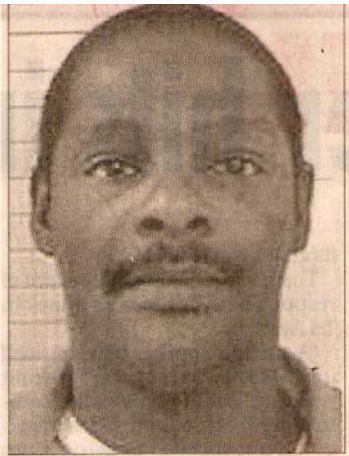
Amrine said he was playing cards with other inmates when the stabbing occurred. Six inmates testified that Amrine was indeed playing cards with them when Barber was stabbed. Three other inmates, however, eventually implicated Amrine.

Based on that testimony, Amrine was convicted in 1987 of Barber's murder.

In the years since, the three inmates all have said they lied, one because he himself had been pointed out as the killer by a guard, and the two others because investigators had promised to move them to other jails, where they would be free of sexual predators.

Other courts that have heard Amrine's case have questioned the other inmates' credibility, saying the recantations were not valid.

In a dissenting opinion, Judge Duane Benton and Chief Justice Stephen Limbaugh pointed to those other court's decisions on the recantations as reason not to overturn Amrine's conviction. They called for a hearing by a special master to evaluate the case evi-



Joseph Amrine

dence.

The four judges in the majority on the Amrine decision all were appointed by Democratic governors. The dissenting three were appointed by Republican governors.

Last August, the Democratic-appointed judges also formed a majority in overturning the conviction and death sentence in a St. Louis County case.

Sean O'Brien, a Kansas City lawyer who represents Amrine, said three things prove Amrine's innocence.

No physical evidence tied Amrine to the crime, O'Brien said, and the recantations showed that the inmates implicated Amrine for their own gain, not because they actually knew Amrine committed the crime.

The third factor, O'Brien said, is that the prison guard who pointed to another inmate in the killing has never changed his testimony.

The Supreme Court's decision left O'Brien elated.

"If I knew how to do a hand-spring, I'd do a hand-spring," O'Brien said.

As soon as he heard about the opinion, O'Brien talked to Amrine, who is on death row at Potosi Correctional Center.

"I'm thrilled and Joe was thrilled," O'Brien said. "He alternatively laughed and cried.... This is a huge step in the right direction, because it puts Joe back at square one."

Amrine's release is still not certain, however.

O'Brien said the state would have 15 days to decide whether to request a rehearing of the Supreme Court case. If there is no rehearing, the Supreme Court will issue a mandate ordering Amrine's release.

The court, in its Tuesday decision, gave the state 30 days from the date of that mandate to refile charges. If it has not filed by then, Amrine would be free.

Ronnell Amrine said the Amrine family would welcome their brother back to Kansas City joyfully. He has talked to Joe about once a week, and the siblings have taken turns visiting him in Potosi.

Ronnell Amrine said it would be difficult for his brother to get readjusted to society, because he has been in prison for more than half

On the Web

- The case is SC84656
- It is available on the Internet at www.osca.state.mo.us

his life. Amrine attended Lincoln High School.

"It's going to take some nurturing to get him in the groove back here," Ronnell Amrine said.

He said he used to support the death penalty. But his brother's case has made him rethink that stance.

"I'm thinking now, all those people saying, 'I'm innocent; I didn't do it.' Maybe they didn't do it," Ronnell Amrine said.

He said he did not believe his brother was singled out for improper treatment or prosecuted unfairly because he is black, as some supporters have claimed.

"This could have happened to anybody," Ronnell Amrine said. "I just think he was at the wrong place at the right time, as far as the state was concerned. I don't think they were wanting to convict him knowing he was innocent. They made a mistake."

And the family believes they have the people of Missouri to thank for Tuesday's decision, for helping them publicize Joe Amrine's innocence claims.

"They've showed support for us all the way through," Ronnell Amrine said.

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