

WEEKLY AUTO BUYERS' GUIDE



# The Sunday News Tribune



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JEFFERSON CITY, MISSOURI

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\$1.00

## Tackett seeks court order to exhume Barber's body

By BOB WATSON  
News Tribune

Cole County Prosecutor Bill Tackett has asked Special Judge Frank Conley to order that Gary Charles Barber's body be exhumed from its grave.

Barber was a Missouri State Penitentiary inmate who was killed in an Oct. 18, 1985, stabbing in a prison recreation room.

Joseph Amrine was the MSP inmate sentenced to death after he was convicted of Barber's murder by a Cole County jury in a 1986 trial.

With no physical evidence presented in the trial tying Amrine to the killing, his

conviction was based primarily on the accounts of three other inmates who testified against him.

But Amrine's death sentence was overturned April 29 by the Missouri Supreme Court, which ruled 4-3 that Amrine's attorneys had presented evidence of his "actual innocence" because the three inmates have recanted their trial testimony.

The court's opinion, written by Judge Richard Teitelman, said "confidence in (Amrine's) conviction and sentence are so undermined that they cannot stand and must be set aside."

The court ordered Amrine's release

from prison "unless the state elects to file new charges" against him.

Tackett's motion to exhume Barber's body was filed with the Cole County circuit court late Thursday afternoon. No hearing has been set for the motion.

In the two-page motion, Tackett said Barber's body is needed for a DNA sample, since a vial of Barber's blood taken after the 1985 murder probably can't be used "because of its age," and the prosecutor's office "has been unable to locate any living relative at all for purposes of DNA comparison."

Tackett, the third Cole County prosecu-

tor to be involved in the case, last month amended the original murder charge and listed DNA technicians as new witnesses.

Amrine was transferred from the Potosi Correctional Center's death row on June 12 and now is being held on \$1 million bond in the Cole County Jail.

In his newest motion, Tackett repeated that DNA testing wasn't available 17 years ago and never has been done on any of the blood evidence available from the beginning of the case.

And — for the first time since Tackett last month sought the new DNA testing —

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## ☆ Exhume

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his motion Thursday identified the evidence to be tested as "a blood stain on the defendant's trouser pocket (inside and partially outside)."

The motion also noted that Sean D. O'Brien, Amrine's lawyer, had asked then-Prosecutor Richard Callahan for assistance in providing that pair of trousers for DNA testing.

However, the testing never was done because "the funds needed for Mr. O'Brien to complete this test were not available," the motion said.

Amrine didn't testify at his trial, and a corrections officer and other inmates said he had been playing cards in another area when Barber was killed.

No testimony ever has been given explaining how blood got on Amrine's clothing, Tackett has said.

O'Brien was the appeals lawyer whose arguments led to the high court's ruling granting Amrine's freedom.

He could not be reached Saturday to comment on Tackett's new motion. But O'Brien previously has questioned Tackett's efforts to keep Amrine in prison.

And, in his June 18 motion for a change of venue if a new trial is ordered, O'Brien noted "an unusual amount" of pretrial publicity in the case, including some that "has illustrated the innocence of Mr. Amrine and problems with the judicial system in Cole County that put an innocent man on death row."

Tackett has not responded yet to O'Brien's change-of-venue motion and on Saturday declined to comment on his own new motion.

He has said previously the exhumation might be needed if no relative of Barber's could be

found. Experts say DNA testing can be done best with a relative from a person's mother's family.

Barber is buried in the Oakville Cemetery in South St. Louis County.

To get his body exhumed, Tackett must get orders from both Conley, a retired Boone County circuit judge assigned to the case June 24, and from officials in St. Louis County.

Tackett has said he's pursuing the DNA testing "to find out whether or not to re-try the case," as the Supreme Court ordered.

"I'm just trying to find out the truth," he said June 9. "If this evidence shows that Joe Amrine is exonerated in some fashion, that's fine with me. ...

"But, if it shows he's guilty, it's my charge to make sure that he doesn't walk out of prison as someone who murdered somebody."