

Claim Death Row inmates lack legal aid called 'fiction'

Ex-justices say prisoners' post-conviction appeals hobbled

By **STANDIEI**
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A claim before the U.S. Supreme Court that says Alabama's Death Row inmates don't have adequate legal representation is "a work of fiction" and a "fantastic tale . . . that has absolutely no foundation," the state says in documents filed with the high court on Friday.

Also on Friday, three former Alabama Supreme Court justices, a former appellate judge and three former presidents of the Alabama State Bar filed a friend-of-the-court brief in support of the inmates.

"Alabama's legal system regarding the provision of counsel to indigent Death Row inmates . . . is in a state of crisis," said the filing.

Six current Death Row inmates, represented by a nonprofit advocacy group, claimed last month that they can't file later appeals, called "post-conviction" appeals, without lawyers, which the state doesn't provide. Alabama is

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the only state in the nation that doesn't provide condemned inmates with attorneys for such appeals.

Their filing, which asks the Supreme Court to hear their case, claims that to get a lawyer, inmates must convince a judge they need legal representation to protect their rights and that they have a solid legal argument for an appeal.

But, the inmate's filing says, they can't make those arguments successfully without an attorney. In essence, the Death Row inmates need a lawyer to prove they need a lawyer, they said. Alabama violates the Sixth and Eighth Amendments to the U.S. Constitution because inmates are unable to do work necessary to their appeals, they argue.

The state argued Friday that the Sixth Amendment applies only to criminal matters, and post-conviction appeals are "civil in nature." The court also said that the Eighth Amendment isn't applicable because it applies to the trial phase only, and not post-conviction appeals.

Opposing views

The state also argued the inmates' filing paints a grossly inaccurate picture of their situation. All of the condemned inmates named as plaintiffs in the suit have lawyers, the state said.

"Inmates are overwhelmingly, if not uniformly, represented ... by superbly qualified counsel," the state's filing said.

The friend-of-the-court brief

THE SIXTH AMENDMENT

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

THE EIGHTH AMENDMENT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

said more than a dozen of Alabama's Death Row inmates don't have lawyers to handle their appeals. The brief was filed by former state Supreme Court Justices Douglas Johnstone, Ernest Hornsby and Ralph Cook; former State Bar presidents Fred Gray Sr., William Clark and Robert Segall; and former Alabama Court of Criminal Appeals Judge William Bowen.

The state's filing also accuses lawyers representing Death Row inmates of fabricating a quote from an appellate court decision to support their case.

Bryan Stevenson, executive director of the Equal Justice Initiative of Alabama, which is representing the inmates, said late Friday that he had not seen the state's filing and therefore could not discuss its specifics. But he remains convinced the state's Death Row inmates are inadequately represented.

"It's our position that Alabama should not be the only state in the country that does not provide legal assistance to condemned prisoners," he said.

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