



## The Birmingham News

### DNA testing for Arthur

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**THE ISSUE:** It's inconceivable that the state of Alabama won't order DNA testing before executing a Death Row inmate who claims to be innocent.

Thomas Arthur may absolutely be guilty of a 1982 murder for which he was sentenced to death. Arthur emphatically claims he is not; a jury concluded he was.

The truth is, there's at least some evidence to suggest guilt and other evidence that makes you wonder. Unfortunately, the jury that decided Arthur's fate didn't have the luxury of DNA testing that might have helped them sort through the complicated facts of the case.

Had the technology existed at the time of his trial, surely DNA tests would have been conducted on the evidence, which includes hair and semen. It's routinely used now on the front end of criminal cases to confirm guilt or to eliminate suspects.

It boggles the mind, then, that the state of Alabama won't order DNA tests before proceeding to execute Arthur on Dec. 6.

True, the U.S. Supreme Court this week denied Arthur's legal bid for DNA testing. But the courts are bound by legal timelines and rules. We may not always like those constraints, but at least we can see the reasoning behind the decision.

Gov. Bob Riley is under no such rules. He can order DNA testing in this case, and there's no good reason for him not to do it.

Arthur is accused of killing Troy Wicker, at the behest of Wicker's wife and Arthur's lover, Judy. Judy Wicker at first claimed someone broke into her home, raped her and killed her husband. But later, under a deal to get out of prison, Judy Wicker testified she paid Arthur to do the deed.

Testing evidence recovered in the case - including semen taken from Mrs. Wicker - may merely confirm Arthur's guilt. But it might also implicate someone else or at least lend credence to Mrs. Wicker's first version of the crime. In other words, it could bolster Arthur's claims of innocence. Either way, what does it hurt to do the testing before carrying out Arthur's execution?

Even the victim's family has supported Arthur's efforts to get the evidence tested, expressing uncertainty about the truth in the case.

Other factors the governor should consider: Judy Wicker, who under the prosecutors' theory of the case is as guilty as Arthur, served only 10 years in prison for her husband's murder. The prosecutor who tried Arthur had been a private attorney representing Mrs. Wicker.

And while Arthur asked for the death penalty - in an effort, he said, to ensure more appeals court scrutiny of the case - he was one of the inmates on Alabama's Death Row who missed crucial appeals deadlines because he did not have a lawyer. (Alabama is alone in not making sure condemned inmates have lawyers at every stage of the appeal process, but that's an editorial for another day.)

Arthur's date with death may be held up anyway as a result of a larger court case over the particulars of lethal injection. But it's worth it to hold off on the execution just to allow time for DNA results.

Indeed, if Riley had ordered the test when the request was first made, we'd already have the answer.