

Terry Lenamon on the Death Penalty

Sidebar with a Board Certified Expert Criminal Trial Attorney



Terence M. Lenamon is a Florida Bar certified expert in the area of criminal trial law. With over 17 years experience he has built a reputation as one of Florida's most respected criminal defense lawyers. His defense has been sought by many high-profile clients and has led him through 20 first-degree murder trials and eight death penalty cases. That experience has brought him national recognition as a go-to commentator on death penalty issues. He is the force behind both deathpenaltyblog.com and Florida Capital Resource Center (floridacapitalresourcecenter.org), and can be reached at terry@lenamonlaw.com.

Hank Skinner's Civil Rights Case for DNA Testing Will Be Heard By U.S. Supreme Court - How Important is This?

Posted on May 25, 2010 by [Terry Lenamon](#)

Hank Skinner won a victory on Monday, when [the U.S. Supreme Court announced it will hear his arguments for additional DNA testing](#) of evidence that was not tested at trial. How big of a big deal is the Skinner case?

Civil Rights Case - Not Habeas Corpus

Skinner has brought before the High Court an issue upon which the various federal courts of appeal have split in their decisions: whether or not a civil rights lawsuit can be pursued on the grounds that evidence which was not tested at trial for DNA should be tested after guilt and sentencing has been imposed. This is NOT a habeas corpus case.

Preventing the Execution of an Innocent Man

Hank Skinner has steadfastly asserted his innocence and [we've all pondered this before](#) - back in March, when his execution by the State of Texas loomed near. In March 2010, the highest Texas criminal court denied his last appeal, and Skinner was faced with only two possibilities between life and death: clemency by the Governor, or action by the U.S. Supreme Court. In March, [the Court granted a stay - only hours before Skinner was scheduled to be executed.](#)

[Today, the Supreme Court has insured](#) a significant period of time within which that execution is delayed. However, there's a twist to the Skinner case - something that may be far-reaching.... (Read the Supreme Court Order summarily granting his petition for writ of certiorari [here.](#))

What Hank Skinner is Asking the Court to Do

What Skinner is asking the Supreme Court to do is to allow a civil suit, based upon civil rights violations, to be a valid avenue for defendants

who have already been found guilty by a jury in a criminal trial.

Skinner isn't arguing legal error in the criminal case. Skinner is arguing that he has a constitutional right to prove his innocence *independently* of the criminal trial. Specifically, that the State of Texas violated his constitutional rights when they denied him the opportunity to test evidence for his DNA.

The Fifth Circuit Court of Appeals said that Skinner couldn't pursue his civil rights case because its goal was to get his sentence reversed, turning it from guilt to innocence, and therefore it had to be pursued as a habeas corpus action. (Read the Fifth Circuit [opinion here](#).)

If Skinner wins, he's not winning as big a win as one might think: if Skinner prevails before the High Court, what he gets is the opportunity to pursue a civil rights claim in the lower courts. His civil rights action essentially begins if, and only if, the Supreme Court gives him the green light to go forward.

Will There Be a Civil Rights Alternative to Habeas Corpus for DNA Innocence Testing?

Let's see if the United States Supreme Court disagrees with the Fifth Circuit. And let's hope that everyone remembers in all this procedural headiness that an innocent man may well be setting on Death Row, and the goal of our judicial system - civil or criminal - is justice being done.