

Graves case shows death penalty should be outlawed



LEONARD PITTS JR. says just tinkering with capital punishment statutes won't guarantee that innocent defendants will never be sentenced to die.

A few days ago, Anthony Graves called his mother and asked what she was cooking for dinner. She asked why he wanted to know. He said, "Because I'm coming home."

Maybe it sounds like an unremarkable exchange. But Anthony Graves had spent 18 years behind bars, 12 of them on death row, for the 1992 murder of an entire family, including four young children, in the Texas town of Somerville. It wasn't until that day, Oct. 27, that the district attorney's office finally accepted what he'd been saying for almost two decades: he is innocent.

So the news that Graves would be home for dinner was the very antithesis of unremarkable. His mother, he told a news conference the next day, couldn't believe it. "I couldn't

believe I was saying it," he added.

Graves' release came after his story appeared in Texas Monthly magazine (www.texasmonthly.com). The article by Pamela Colloff detailed how he was convicted even though no physical evidence tied him to the crime, even though he had no motive to kill six strangers, even though three witnesses testified he was home at the time of the slaughter.

The case against Graves rested entirely upon jailhouse denizens who claimed they'd heard him confess and upon one Robert Carter, who admitted committing the crime, but initially blamed Graves. Carter, executed in 2000, recanted that claim repeatedly, most notably to District Attorney Charles Sebesta the day before Sebesta put him on the stand to testify against Graves. Defense attorneys say Sebesta never shared that exculpatory tidbit

with them, even though he was required to do so.

Colloff's story drew outraged media attention, including from yours truly. But the attention that mattered was that of the current district attorney, Bill Parham, who undertook his own investigation. He was unequivocal in explaining his decision to drop the charges. "There's not a single thing that says Anthony Graves was involved in this case," he said. "There is nothing."

One hopes people who love the death penalty are taking note. So

often, their arguments in favor of that barbarous frontier relic seem to take place in some alternate universe where cops never fabricate evidence and judges never make mistakes, where lawyers are never inept and witnesses never commit perjury. So often, they behave as if in this one critical endeavor, unlike in every other endeavor they undertake, human beings somehow get it right every time.

I would not have convicted Anthony Graves of a traffic violation on the evidence Sebesta offered. Yet somehow, a jury in Texas convicted him of murder and sent him off to die.

When you pin them on it, people who love the death penalty often retreat into sophistic

nonsense. Don't end the death penalty, someone once told me, just enact safeguards to ensure the innocent are never sentenced to die.

Yeah, right. Show me the safeguard that guarantees perfection.

Those who propose to tinker with the death penalty until it is foolproof remind me of the addict attempting to negotiate with his addiction, desperately proffering minor concessions that will allow him to continue indulging in this thing that is killing him.

But there comes a day when you simply

have to kick the habit.

As a nation, we are stubbornly addicted to the death penalty, strung out on exacting retribution and calling it justice. Even though we know innocent men and women have surely died as a result.

Or, like Anthony Graves, been robbed of irreplaceable years. He was 26 when he was arrested. He is 45 now. When he made that call home to his mother, he borrowed his lawyer's cell phone.

The lawyer had to show him how to use it.

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