

Bittersweet victory for death-row inmate

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Before pleading "no contest" last week to a 1977 Texas murder, Kerry Max Cook had spent almost half of his 42 years on death row.

And the Rev. Jim McCloskey of Centurion Ministries in Princeton Borough had spent the last 10 years — and several hundred thousand dollars — trying to prove Cook's innocence and win his freedom.

While the no-contest plea isn't quite the affirmation of innocence he sought, Cook will not have to return to jail. And Cook and McCloskey are celebrating that fact, even though their victory has a bittersweet taste.

"I'm enjoying the third day of my freedom, if not my vindication," Cook said in a phone interview from Texas on Thursday.

"None of this would have been possible without Jim McCloskey. He became not only my chief advocate but my best friend," Cook said.

Centurion Ministries is a prisoner advocacy group based in Princeton.

McCloskey said he spent probably a total of two years in Texas over the last 10 years working to free Cook. He remains firmly convinced of Cook's innocence but said he understands and supports his decision, the plea agreement and avoidance of what would have been a fourth murder trial.

"I've never worked harder or longer or



McCloskey

Cook

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spent more time, labor or money on any other case," said McCloskey.

"After a lot of anxious thinking, we agreed that Kerry should accept this," he said. "This will assure him he will be free and clear and never have to return to prison or death row."

By agreeing to a no-contest plea, Cook doesn't admit to or contest his alleged involvement in the 1977 murder of Linda Jo Edwards, one of the most brutal slayings in Texas history. Cook agreed to a 20-year jail term with credit for the time he served.

"What we secured here in Texas is not pure justice. It's a rough justice, but we'll take it," McCloskey said.

Cook has taken a long road to get his justice. He was sentenced to die in 1978 and spent 13 years on death row until an appeals court threw out the conviction. The court ruled that a psychiatrist who testified at the trial didn't tell Cook a conversation that they had could be used against him.

A 1992 retrial ended with a hung jury. In 1994 he was again convicted and sentenced to death. An appeals court overturned that verdict in 1996, ruling that prosecutors hid evidence.

Considering that Texas staunchly supports the death penalty — McCloskey calls it the "capital of capital punishment" — the prospects were daunting, despite strong evidence and credible witnesses, he said. In addition, the judge in the case was hostile to the defense, McCloskey charged.

"We knew who we were dealing with. We were not at all comfortable with that," he said.

Ironically, one of the members of the jury pool served as McCloskey's commanding officer in the Navy 33 years ago. The two men had lunch Thursday and the juror confirmed that the other members of the jury pool had been looking to convict, McCloskey said.

"His judgment of the mood was

we would have to prove Mr. Cook innocent. It was a presumption of guilt," McCloskey said.

CENTURION Ministries has worked with 50 men who the organization feels are on death row unjustly. McCloskey has helped 20 gain their freedom. Last July, Centurion helped V. James Landano gain an acquittal from a 1977 murder conviction in the shooting death of a Newark police officer.

Two men McCloskey has defended were executed. McCloskey said that provided two more reasons for Cook to take the deal.

"I was with both men up until five minutes before they were led to the chair. I know that the truth does not prevail and innocent men can get

executed," McCloskey said.

With a new life ahead of him, Cook faces an uncertain future. A paralegal, he has been without a job while working on his defense and now needs to "figure out what I'm going to do with my life."

"I have a home. I have a girlfriend, a dog and lots of friends. That love is going to see me through this," Cook said.

Cook said he is planning a trip to the Centurion office in Princeton in the near future. He said he wants to see the people who talked to him over the phone when he called from death row in tears, begging for help.

"I'd like to meet all the people that helped put me here," Cook said. "I didn't put myself here."

THE FOURTH murder trial was pending and jury selection had begun. Just a week ago, the prosecutor in the case, David Dobbs, said he wouldn't rest until Cook was placed back on death row.

But in the last week, Dobbs offered some plea bargains, which Cook rejected because they required a return to jail. Faced with a possible acquittal of Cook at trial, Dobbs offered him the no-contest plea.

For one hour, Cook, McCloskey and the attorneys debated it. McCloskey said he didn't want to influence Cook to take the deal.

"I would never tell Kerry what to do. I said we have a strong case and an excellent chance of prevailing but there are no guarantees," McCloskey said.

Ultimately, the conversation ended when Cook said, "I'm choosing life over death. Let's go."

Cook said he will wonder for the rest of his life whether he made the right choice.

He said he will still push for DNA tests that could exonerate him. Recently, investigators discovered semen in Edwards' underwear that had been overlooked for 22 years. The semen was to undergo tests to determine if it could yield DNA evidence.

"I will fight for the rest of my life to show the world that I am innocent," Cook said.

"This is not a case to show the world that the justice system worked. This is to show that the justice system failed," Cook said.

Edwards, a 21-year-old secretary at the University of Texas, was found beaten, stabbed and sexually mutilated in an apartment she shared with a friend in Tyler, Texas.

With Cook's no-contest plea, the case has been closed, which infuriates Cook.

"The thing that makes it so bittersweet, we all know that a person who killed Linda Jo Edwards has been laughing at the system for 21 years and will never hear the judgment of a court," said Cook.

While reluctant to accept the plea, Cook said he wouldn't accept any deal where he would have had to return to a 5-by-9-foot jail cell. In addition to the torment of waiting for execution, Cook had been sexually assaulted repeatedly, McCloskey said.

"HE WAS a lamb among wolves. He was sexually assaulted countless times," he said.

Cook said he tried to kill himself. But he said McCloskey wouldn't let him give up on his life. "He grabbed me, trusted me and never let go. His belief was so strong. I was able to draw strength and encouragement from that belief," Cook said.

The jury selection took place in Bastrop, Texas, a small ranchers' town of about 2,000 about 30 miles outside of Austin, the state capital. The jury pool candidates reflected the conservative values of "a county with more cows than people," McCloskey said.