

Waiting for justice

Pennsylvania's criminal-justice system needs a better balance between discouraging frivolous appeals by prison inmates and throwing away the keys.

In 1995, in response to a flood of post-conviction appeals, the legislature made it more difficult for defendants to seek a new trial. A law required any new evidence of factual innocence, other than DNA, to be presented to a court within 60 days of discovery.

But, as The Inquirer reported Sunday, one result of this harsh law has been to prevent people wrongfully convicted of crimes from obtaining belated justice.

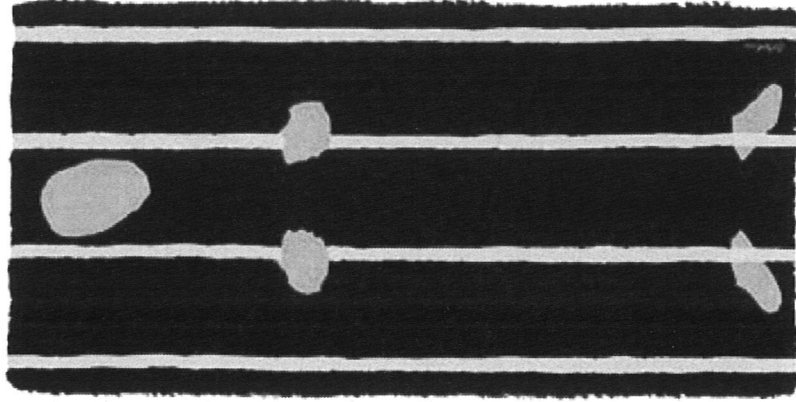
Exhibit A is Milton Scarborough, convicted in 1977 of murdering a woman and her two children in Muncy, Pa. Thirty-three years later, it's clear that Scarborough was railroaded. The three witnesses who accused him of murder all have admitted they lied under oath.

Not only has the so-called evidence against Scarborough crumbled, but his attorneys now believe they know who did kill the young family. Investigators at Centurion Ministries of Princeton, a nonprofit that seeks to free people wrongly convicted, have affidavits from two witnesses who say another man, now living in Florida, confessed to taking part in the crime.

Scarborough is now a frail 71-year-old prison inmate who has always professed his innocence. In spite of the promising developments, however, he is no closer to being freed.

In some states, the new evidence would be reason for granting Scarborough a new hearing. But in Pennsylvania, the 60-day rule for bringing up new evidence has thwarted his attorneys.

Common Pleas Judge Robert E. Dalton Jr. of Tioga County said Scarborough's lawyers had violated the 60-day rule by compiling



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all their information in "one comprehensive petition." The ruling implies that investigators who often work for years to build a case are required to file separate petitions each time they find a piece of evidence that might exonerate their client, no matter how insignificant it might seem at the time.

State Sen. Stewart Greenleaf (R., Montgomery), chairman of the Senate Judiciary Committee, helped to draft the law in 1995. He said it was not intended to bar serious appeals such as Scarborough's. He said courts are interpreting the law too rigidly.

That can be corrected by amending the law to allow a longer period to introduce new evidence. Florida allows two years; New York doesn't have a time limit. Even if amending the law invites more frivolous appeals, the state's justice system should lean more toward providing the time needed to reveal the truth.