

## Former FBI Director, Florida State Attorney and Past President of the ABA Join Constitution Project in Amicus Brief Involving Death Row Inmate

---

6/21/2010

FOR IMMEDIATE RELEASE

CONTACT: Dallas Jamison, (720) 333-1494 or [djamison@constitutionproject.org](mailto:djamison@constitutionproject.org)

WASHINGTON - This afternoon, the Constitution Project will file an amicus brief in the Florida Supreme Court requesting the Court grant petitioner Paul Hildwin's "all writs" petition filed June 9 by the Innocence Project. The Constitution Project is joined in its brief by William S. Sessions, former director of the FBI and former federal district judge, Harry L. Shorstein, former five-term State Attorney for the Fourth Judicial Circuit of Florida and Sandy D'Alemberte, past president of the American Bar Association and former dean of Florida State University College of Law. As Director of the FBI during the time DNA testing began, Judge Sessions oversaw the creation of the FBI's first DNA laboratory and the development of the Combined DNA Index System (CODIS).

Hildwin, who is on death row in Florida, was convicted in 1986 for the rape and murder of Vronzettie Cox. Hildwin's petition, and the Constitution Project brief, requests the Court to order that unidentified DNA samples found at the scene of the murder be uploaded into a national (CODIS) and state (FDLE) DNA database, so that the samples can be compared against the other profiles there. In 2003, testing was performed on these DNA samples found at the scene of the murder, and that testing conclusively showed that neither sample matched Hildwin's DNA profile. Hildwin petitioned the Florida courts for relief, but despite the new evidence, the Florida Supreme Court denied his request for a new trial. The Court asked the State why the DNA profile found at the crime scene had not been uploaded into CODIS. The State replied that it was because the testing was performed at a private testing facility that had not been certified by the Florida state crime laboratory, but assured the Court that the profile would have been uploaded into CODIS "long ago" were that technical barrier not present. Subsequently, the facility was certified by the State of Florida but the State still refuses to upload the sample into the database.

In 2005, The Constitution Project's bipartisan, blue-ribbon Death Penalty Committee—comprised of both supporters and opponents of capital punishment—strongly recommended that the government "be required to submit DNA profiles to DNA databanks in certain cases."

According to Constitution Project President Virginia Sloan, "The prosecution's function is not to see that Mr. Hildwin remains convicted of this crime, but to ensure that the right person is convicted and that justice is done."

The brief states in part:

“Justice will not be done in this case until the unidentified DNA sample is compared against the profiles contained in the CODIS and FDLE databanks, an act that the prosecution has assured the Court that it would complete once the technical problem related to the private laboratory was resolved. Now that the private laboratory has become an ‘approved vendor’ of the FDLE, there is no barrier to the prosecution’s exercise of its truth-seeking function. Yet, the prosecution continues to oppose Hildwin’s request to compare the DNA evidence against the profiles in the CODIS and FDLE databanks without any credible legal basis. Such opposition is an obstacle to the search for truth and simply cannot be tolerated.”

To obtain a copy of the *amicus* brief filed in the Florida Supreme Court, please visit <http://www.constitutionproject.org/manage/file/409.pdf>.

The Constitution Project Death Penalty Committee report, *Mandatory Justice: The Death Penalty Revisited*, is available here: <http://www.constitutionproject.org/manage/file/30.pdf>.

*The Constitution Project seeks consensus solutions to difficult legal and constitutional issues. It does this through constructive dialogue across ideological and partisan lines, and through scholarship, activism, and public education efforts.*

For more information about the Hildwin case, please visit the Innocence Project website at: [http://www.innocenceproject.org/Content/DNA Database Search Could Free Man on Floridas Death Row Legal Papers Filed to Force State to Allow Search for Real Perpetrator in 1986 Murder Case.php](http://www.innocenceproject.org/Content/DNA_Database_Search_Could_Free_Man_on_Floridas_Death_Row_Legal_Papers_Filed_to_Force_State_to_Allow_Search_for_Real_Perpetrator_in_1986_Murder_Case.php)