

Fairfield County prosecutor opposes another DNA test from 1993 rape case

Governor, state Attorney General want case re-examined, but convicted rapist now is free

BY MORGAN DAY • The Eagle-Gazette Staff • August 6, 2010

LANCASTER -- Attorney General Richard Cordray and Gov. Ted Strickland are pushing for post-conviction DNA testing for a man convicted in a 1993 rape case from Fairfield County.

But, given the evidence and the brutality of the crime, their request seems off base to Fairfield County Prosecutor David Landefeld, who sent letters of response Thursday to Cordray's and Strickland's offices.

The local case involving Robert Blackburn is one of seven Ohio cases in which Cordray and Strickland want prosecutors to allow additional DNA testing.

"Our position has been that at some point, at some point here, the matter has to come to a conclusion," Landefeld said Thursday about Blackburn's conviction. "And it just seems like the matter is concluded and the matter is finished, and there should be finality to the entire episode."

He said the 1993 trial forced an 8-year-old girl to face Blackburn in court as she testified against him. The man had brutally raped her, and a towel used after the rape contained DNA that matched Blackburn's, he said.

A Fairfield County jury convicted Blackburn of rape, and he was sentenced to 10 to 25 years in prison. He served prison time until Sept. 1, 2005, and was placed on parole until Dec. 27, 2007.

Cordray and Strickland sent a letter regarding their request to Landefeld on Monday -- the same day the two talked to media outlets. The two-page letter reads, "While we acknowledge that Mr. Blackburn is no longer incarcerated, we do not believe this should preclude the testing of the requested evidence. Individuals who are no longer incarcerated retain an interest in obtaining greater

certainty regarding their case as the effects of a conviction surpass the time of incarceration."

Still, Landefeld thinks Blackburn's case included overwhelming evidence that led to his conviction, and more DNA testing would not work in his favor.

And the request makes it appear Cordray and Strickland gave no thought to the victims of the crimes, who Landefeld said likely were not contacted beforehand.

"On the larger scale, it appears there was a complete disregard for the victim, not just in our case, but in all cases these letters were sent about."

In his response letter, Landefeld said attorneys for Blackburn had petitioned the Fairfield County Common Pleas Court to order post-conviction DNA testing of evidence at least three times. Two local judges refused to order the testing, while the Fifth District Court of Appeals upheld that ruling. The Ohio Supreme Court again refused to consider the appeal.

"I mean, I have a box full of appellate documents, and the courts have repeatedly said that there would be no value to this testing," Landefeld said.

Cordray and Strickland's letter to Landefeld assured him he has no legal obligation to make the requested evidence available for testing.

The two said, "Ours is a request for you to exercise the discretion that you have to assist in voluntarily

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making such evidence available for testing as a matter of public policy and to further utilize the advances in DNA testing."

A spokeswoman in Strickland's office said the letter had not arrived by 5 p.m. Thursday, and representatives from Cordray's office could not be reached for comment.

Morgan Day can be reached at (740) 681-4340 or mday@nncogannett.com.

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