

Portage County Record Pub

Prosecutor rejects request for DNA test: Governor asks for additional research into seven cases, including that of man convicted for 1990 atwater murders

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COLUMBUS —Portage County Prosecutor Victor Vigluicci said he will not comply with a request from state officials to allow further testing of a cigarette butt collected as part of evidence in the case against the man convicted of murdering an Atwater Township couple two decades ago.

Vigluicci was one of seven county prosecutors across the state who received letters this week from Gov. Ted Strickland and Attorney General Richard Cordray, who are hoping for cooperation in retesting DNA evidence against men convicted of various crimes. The cases included the death penalty conviction of Tyrone Noling, convicted in a double killing in Portage County in 1990. But Vigluicci called the request from Strickland and Cordray misleading and inaccurate, and he said he would wait and let the legal process work its course.

“It’s a pending case,” he said. “I thought it to be improper or inappropriate for anyone to interject themselves into pending litigation like that. ... We’re going to let the Supreme Court make their decision and let the judicial process take its course here.” In the letters, Strickland and Cordray wrote that they hoped the prosecutors would provide the evidence for further testing.

“We write today because we believe that when DNA testing has the genuine and real potential to clarify the guilt, innocence or identity of a person suspected or convicted of a crime, significant efforts should be made to accomplish that testing,” they wrote. “Like you, we seek finality — our best certainty that the guilty are convicted and the innocent are set free — as a paramount goal of our criminal justice system.”

Prosecutors in Portage, Summit, Stark, Ashland, Pickaway, Lake and Fairfield counties received the letters. All noted that “the use of current DNA technology can help increase public confidence in the results obtained by our criminal justice system.” Most of the cases were among those spotlighted as part of a series by The Columbus Dispatch and the Ohio Innocence Project.

But Cordray said the prosecutors who received the letters are under no legal obligation to provide the DNA evidence for further testing.

“This is merely a communication to them asking them to exercise their discretion,” he said.

He added, "I don't think these things should be about suing and getting money. ... But if it's a matter of accuracy and certainty and if it could provide that, then I think it's worth doing."

Noling was sentenced to death in 1996 for killing an elderly couple in their home during a robbery. The victims were shot multiple times at close range, according to documents. Noling's attorneys have requested DNA evidence — specifically, a cigarette butt apparently left at the scene — be retested using technologies that were not available at the time of the crime.

But Vigluicci said the cigarette butt, picked up by police outside the victims' home, already has been tested, and the DNA it contained was not matched to anyone involved in the case. It didn't have any impact on the trial or the outcome, and Vigluicci said he is confident in Noling's conviction.

"We do resist and deny attempts to delay and to find issues or red herrings to throw up to the courts," he said, adding, "And there's always something else that they will throw up in these death penalty cases."