

www.latimes.com/opinion/opinion-la/la-ol-death-penalty-byrom-execution-halted-new-trial-20140401,0,4976607.story#axzz2xdeyQnFj

April 1, 2014 | Los Angeles Times Opinion LA blog

Think Mississippi's death penalty system is fair? Then don't read this.

By Scott Martelle

If the state of Mississippi had finished what it started, Michelle Byrom would be dead right now. Instead, based on revelations about confessions kept from a jury and an alleged case of perjury, the state's Supreme Court on Monday tossed out Byrom's murder conviction and ordered a new trial — but also ordered that a new judge conduct it.

And this is after the case had already gone through the regular channels of appeal, as Oxford, Miss., legal blogger Tom Freeland pointed out:

“This is extraordinary and unprecedented to my knowledge. The order says that considering the petition — which I am told raised innocence issues — “the petition is well taken and should be granted.” The entire conviction — not just the sentence — is vacated for a retrial.

“This is after the case has been tried, on direct appeal to the Mississippi Supreme Court, on certiorari to the United States Supreme Court, on post conviction to the Mississippi Supreme Court, certiorari again, and then the federal district court and Fifth Circuit Court of Appeals. Next time someone says that a death sentence is fine because of all the judges who looked at it, remember Michelle Byrom.”

Byrom won a new trial based on a last-ditch post-conviction relief filing submitted Feb. 24, more than a month ahead of her March 27 scheduled execution. The case involved the 1999 murder of her abusive husband, Edward Byrom (our colleague Matt Pearce has more details here). Michelle Byrom was in a hospital being treated for pneumonia when the killing took place; she was accused of masterminding the hiring of Joey Gillis, a friend of her son, Edward Byrom Jr., to kill her husband.

But confessions and other evidence surfaced — some of which wasn't presented to her attorneys or the jury — that the son had killed his father to end long-running physical and verbal abuse. The state ultimately convicted Gillis and the son of post-crime related charges, and notably didn't convict Gillis of pulling the trigger. Yet his role was key to the case against Byrom, who was convicted on a capital murder charge in part based on alleged perjured testimony by her son.

Yeah, it's a mess, with enough confusion and probable cause to cast serious doubt over whether Byrom received a fair trial, at the least, and suggests that she likely is innocent. Details of apparent confessions from the son don't leave a lot of room for debate.

Pro-death penalty advocates may argue that this case proves the system works because Byrom has not been executed and gets another chance to defend herself. True. But it took extraordinary legal work to make that happen, and as we all know, not all defendants get such legal help. And wrongful convictions are not as rare as many would like to think.

Such pervasive imperfections in a system that, in the case of capital murder charges, ends with the state execution of a citizen should not be accepted in a mature, civilized society.

www.latimes.com/nation/nationnow/la-na-nn-mississippi-execution-20140331,0,3929959.story#axzz2xdeyQnFj

April 1, 2014 | Los Angeles Times

Mississippi high court halts woman's execution, orders a new trial

By Matt Pearce

Until Monday, Michelle Byrom was set to become the first woman executed by Mississippi in 70 years -- for a murder her son reportedly confessed to committing.

The Mississippi Supreme Court halted Byrom's execution, threw out her murder conviction and ordered a new trial in one of the nation's most closely watched capital-punishment cases.

In the decision handed down Monday, the court called its own move “extraordinary and extremely rare,” at least compared to similar death-penalty appeals, few of which result in new trials.

But the particulars of Byrom’s case have also been peculiar, according to observers who have followed it.

Byrom, 56, had been convicted of masterminding the 1999 murder of her husband, Edward Byrom Sr., and got the death penalty despite confessions by her son, Edward Jr., that pointed to a possible crime of passion.

“As I sat on my bed, tears of rage flowing, remembering my childhood my anger kept building and building, and I went to my car, got the 9mm, and walked to his room, peeked in, and he was asleep,” read one letter by Edward Byrom Jr., quoted in the Jackson Free Press. “I walked about 2 steps in the door, and screamed, and shut my eyes, when I heard him move, I started firing.”

But jurors never heard of those confessions, according to local media. Instead, officials argued that one of Edward Byrom Jr.’s friends, Joey Gillis, was the triggerman as part of a murder-for-hire plot orchestrated by Michelle Byrom.

Gillis and Edward Byrom Jr. were convicted of lesser crimes and are now free, while Michelle Byrom got the death penalty. At one point, her execution had been scheduled for last week.

The prosecution has received national criticism, with legal analyst Andrew Cohen writing in the Atlantic that the case contained an “unholy trinity” of constitutional problems: “Her lawyers acted incompetently at trial, making one mistake after another. Exculpatory evidence that likely would have changed the outcome of her trial was hidden from her by the trial judge, and perhaps by prosecutors as well. Dealing with codefendants, prosecutors played a form of musical chairs with the facts and with the charges.”

One Mississippi Supreme Court justice had previously written of Byrom’s defense against the death penalty: “I have attempted to conjure up in my imagination a more egregious case of ineffective assistance of counsel during the sentencing phase of a capital case. I cannot.”

In the en banc order handed down Monday, the state’s highest court did not detail the specifics about why it threw out the conviction, saying simply that the court had reviewed the materials surrounding the case and that Byrom’s appeal was “well taken and should be granted.”

After the ruling, Byrom’s lawyers said in a statement that they were “grateful” for the decision and for the opportunity to give Byrom another shot in court.

“Michelle suffered extreme sexual and physical abuse from an early age and throughout her marriage,” the statement said. “We are pleased that Ms. Byrom will now have the opportunity to present the overwhelming evidence that she is innocent of murder-for-hire.”

The case was ordered back to Tishomingo County to be assigned to a different trial judge.

edition.cnn.com/2014/03/31/justice/mississippi-michelle-byrom-execution/index.html

April 1, 2014

Mississippi death row inmate Michelle Byrom to get new trial

By Marlena Baldacci | CNN

STORY HIGHLIGHTS

Defense attorney “grateful” for decision, applauds “just and fair result” in case

Michelle Byrom was sentenced to death for the 1999 slaying of her husband in Iuka, Mississippi

Byrom, set to be executed for her husband’s murder, gets new trial, state high court says

Defense says it wants to explore Byrom’s son’s confession to court-appointed psychologist

(CNN) -- A new trial has been ordered for Mississippi death row inmate Michelle Byrom, according to a state Supreme Court opinion issued Monday.

Byrom's capital murder conviction was reversed, and the case has been remanded to the circuit court for a new trial, the opinion said.

"We are very grateful that the Mississippi Supreme Court has granted Michelle Byrom's request for relief from her death sentence," said Byrom's attorney, David Calder. "This was a team effort on the part of the attorneys currently representing Michelle, and we believe that the court reached a just and fair result under the facts presented in this case."

Byrom has been on death row since her 2000 conviction for capital murder. The 57-year-old woman was convicted of being the mastermind of a murder-for-hire plot to kill her allegedly abusive husband, a killing her son had admitted to committing in several jailhouse letters and, according to court documents, in an interview with a court-appointed psychologist.

He recanted when he was put on the stand, according to court records.

Attorney General Jim Hood, who had requested Byrom's execution, said Monday his office would seek the court's reasoning for the reversal.

"While we respect the Mississippi Supreme Court's decision, it is important that the trial court know and understand the specific errors that were found by the justices so that the lower court knows the best way to proceed," he said. "Our citizens can once again take comfort in the fact that we have a legal system that works for all parties involved."

The Supreme Court opinion noted that the decision "is extraordinary and extremely rare in the context of a petition for leave to pursue post-conviction relief."

Oliver Diaz, the former presiding justice of the Supreme Court, called the opinion "actually kinda amazing," from the order for a new trial to the ruling's release on a Monday instead of a Thursday, as usual.

"The lawyers filed a last ditch motion for additional post conviction relief. These are almost never granted. Defendants are limited to a single post conviction motion," he wrote in an e-mail to CNN. "It is extremely rare to grant and send back for a new trial."

The court further instructed that a different judge should be assigned to Byrom's new trial.

Circuit Judge Thomas J. Gardner, who imposed the death sentence on Byrom after her conviction, declined to comment to CNN, saying, "The matter is ongoing."

Diaz also said the order for a new judge was extraordinary.

"Also, taking the step of removing the original trial judge is very unusual as well," he wrote.

Tara Booth, spokeswoman for the Mississippi Department of Corrections, said the department expects an order Tuesday to transfer Byrom from the Central Mississippi Correctional Facility to Tishomingo County, where the killing occurred.

Hood, the attorney general, had requested that Byrom be executed "on or before (the date of) March 27," but the Mississippi Supreme Court, which has the final say on execution dates, denied Hood's request.

During Michelle Byrom's original trial, prosecutors said she plotted to kill her husband, who was fatally shot in his home in Iuka, Mississippi, in 1999 while Michelle was in the hospital receiving treatment for double pneumonia. A jury convicted her based on evidence and testimony alleging that she was the mastermind of the plot.

Byrom Jr. admitted in jailhouse letters that he had committed the crime on his own after growing tired of his father's physical and verbal abuse, and a court-appointed psychologist has said that Byrom Jr. told him a similar story.

On the stand, Byrom Jr. pinned the slaying on one of his friends, whom he said his mother had hired for \$15,000.

Following her attorney's advice, Michelle Byrom waived her right to a jury sentencing, allowing the judge to decide her fate. He sentenced her to death.

Prior to Monday's ruling, Michelle Byrom's defense attorneys had filed a motion asking the court for additional discovery so the alleged confession to the court-appointed psychologist could be fully explored.

The defense attorneys also want to depose the prosecutor from her trial, Arch Bullard, regarding his knowledge of Byrom Jr.'s alleged confession to the psychologist.

Bullard has told CNN that he firmly believes Michelle Byrom was the mastermind of the murder-for-hire plot.

www.usatoday.com/story/news/nation/2014/03/31/miss-death-row-inmate-capital-conviction-reversed/7129477

April 1, 2014 | USA Today

Miss. death row inmate's murder conviction reversed

By Jerry Mitchell | Jackson Clarion-Ledger

JACKSON, Miss. — Four days after Mississippi sought to execute Michelle Byrom, the state Supreme Court tossed her capital murder conviction and ordered a new trial.

"I'm just overjoyed the court ruled so quickly after not setting the execution date to remedy a great injustice," said attorney David Voisin, a consultant for the defense team.

Defense lawyers were in the process of sharing the news with Byrom, 57, who has been on death row for 14 years.

"We are pleased that Ms. Byrom will now have the opportunity to present the overwhelming evidence that she is innocent of murder-for-hire," the defense said in a statement.

Paul Howell, chief investigator for the Tishomingo County, Miss., district attorney's office that handled the prosecution, said they plan to read over the order and take the appropriate action. "We respect the court's decision," he said. "We'll do whatever they ask us to do."

Monday's decision to reverse the case came after The (Jackson, Miss.) Clarion-Ledger and others drew attention to the fact that Byrom's son, Edward Byrom Jr., had repeatedly confessed to killing his father, Edward Byrom Sr., but jurors had never heard that evidence.

In Monday's two-page decision in the Byrom case, Justice Josiah Coleman called the ruling to reverse her conviction "extraordinary and extremely rare in the context of a petition for leave."

Former Justice Oliver Diaz Jr., who supported a new trial for her when he was on the bench, echoed the unusualness of the order, which came after Byrom had exhausted all her appeals. "It's breathtaking," he said. "It's amazing."

At Byrom's 2000 capital murder trial, jurors never heard any of Edward Byrom Jr.'s confessions. Instead, they heard him testify she hired "hit man" Joey Gillis for \$10,000 to \$15,000 to kill Edward Byrom Sr.

The jury convicted Byrom of capital murder for this alleged murder-for-hire scheme.

Convinced the case would be reversed, her defense lawyers at the time put up no mitigating evidence, which included "a lifetime of physical, sexual and emotional abuse," wrote defense attorney David Calder.

Her stepfather abused her and, by age 15, she was working as a stripper, Voisin said. Edward Byrom Sr., who had a special darkened room to watch pornography, reportedly forced her to have sex with other men, which he videotaped.

Without any mitigating evidence, Circuit Judge Thomas Gardner sentenced Byrom to death.

In Monday's order reversing the conviction, the high court ordered the case assigned to a judge other than Gardner.

In 2006, state Supreme Court Justice Jess Dickinson called for Byrom's conviction to be tossed out, writing, "I have attempted to conjure up in my imagination a more egregious case of ineffective assistance of counsel during the sentencing phase of a capital case. I cannot."

Dickinson and two other justices concluded Byrom deserved a new trial because Edward Byrom Jr.'s letters admitting he killed his father were wrongly barred, but five justices upheld her conviction.

In an interview with The (Jackson, Miss.) Clarion-Ledger, former prosecutor Arch Bullard said he still believed Byrom was "the instigator" who "came up with the idea to have him killed."

But letters from her son told a different story, describing how after his father slapped him, he grabbed a 9 mm pistol and went in the room where his father was sleeping.

When he heard his father move, "I started firing," he wrote.

Edward Byrom Jr. also reportedly confessed to a psychologist that he had killed his father — more evidence jurors never heard.

Months after Byrom's conviction, Gillis' attorney learned about the statement to the psychologist and challenged the accusations against his client. Gillis wound up pleading to accessory after the fact.

In 2009, Gillis walked out of prison, and he has since given the defense a sworn statement, saying he did not shoot Edward Byrom Sr.

Contacted by The Clarion-Ledger, Edward Byrom Jr. denied killing his father.

But he wrote another letter to his mother, this one after the trial: "Do you remember the last question your attorney asked me? If I did it? Yes, I did, and Joey helped (in a way), but in so doing I released a chaotic chain of events that are still unraveling."

Sentenced to death, Byrom had exhausted all of her state and federal appeals when her lawyers sought relief to block the state from executing her. Byrom is one of two women on death row in Mississippi.

Monday's decision illustrates "there's a need to keep fighting for your client and not give up," said Alan Freedman of the Midwest Center for Justice, who helped represent Byrom on appeal. "It's never too late."

www.nbcnews.com/news/crime-courts/mississippi-womans-capital-murder-conviction-overtuned-n68296

March 31, 2014 - 5:16 PM | NBC News

Mississippi Woman's Capital Murder Conviction Overtuned

By Tracy Connor

Four days after it halted her execution, Mississippi's highest court on Monday overturned the murder conviction of a woman whose son has confessed to the killing.

In a ruling it acknowledged was "extraordinary and extremely rare," the state Supreme Court ordered a new trial for Michelle Byrom, 57, who was convicted of capital murder in 2000 for the death of her husband, Edward Byrom — even though she was in the hospital with pneumonia on the day he was killed.

Byrom's pending execution had rallied supporters who pointed to coverage by the Jackson Clarion-Ledger newspaper reporting that her son, Edward Byrom Jr., had confessed to a court psychiatrist and in jailhouse letters to having fatally shot his father in Iuka, Miss., in 1999.

At Michelle Byrom's trial, however, Edward Byrom Jr. testified that his mother paid a hit man to kill his father.

Byrom's lawyers welcomed what they called a "swift and extraordinary step" to right "the extreme injustice in this case."

"Michelle suffered extreme sexual and physical abuse from an early age and throughout her marriage. We are pleased that Ms. Byrom will now have the opportunity to present the overwhelming evidence that she is innocent of murder-for-hire," they said in a statement.

In a statement, Mississippi Attorney General Jim Hood said:

“While we respect the Mississippi Supreme Court’s decision, it is important that the trial court know and understand the specific errors that were found by the justices so that the lower court knows the best way to proceed.

“It is unusual for an appellate court to reverse and remand a case for a new trial without stating the reasons for the reversal. Our office will be filing a petition with the state Supreme Court seeking its reasoning for the reversal. That said, our citizens can once again take comfort in the fact that we have a legal system that works for all parties involved.”

Separately, Byrom has sued the state challenging its plan to use drugs bought from a specialty pharmacy to execute her and another inmate, Charles Ray Crawford.

The pharmacy’s co-owner told NBC News that he isn’t allowed to compound sterile injectibles under state law and didn’t actually compound the pentobarbital Mississippi’s prisons bought in 2012.

The state Supreme Court refused last week to set an execution date for Crawford.

www.chicagotribune.com/news/sns-rt-us-usa-mississippi-deathrow-20140331,0,5859303.story

March 31, 2014 - 5:31 PM | via Chicago Tribune

Mississippi woman on death row for over 13 years gets new trial

By Emily Le Coz | Reuters

JACKSON, Mississippi (Reuters) - The Mississippi Supreme Court on Monday ordered a new trial for a female death row inmate, only days after she was given a last minute reprieve from execution.

Michelle Byrom, 57, would have become the first woman to be executed in the state in 70 years. She was convicted in 2000 of the fatal shooting of her husband, Edward Byrom Sr.

On Monday the state Supreme Court reversed her capital murder conviction and ordered a new trial, describing the case as “extraordinary and extremely rare,” according to the court order signed by judge Josiah Dennis Coleman. There were conflicting confessions from the woman and her son.

“It’s rather rare. But the claims were very strong. We’re just delighted. It was a questionable case and the Mississippi Supreme Court recognized that,” said Alan Freedman, one of the attorneys on Byrom’s legal team with the Midwest Center for Justice based in Evanston, Illinois.

“We are grateful to the Mississippi Supreme Court in recognizing the extreme injustice in this case and taking the swift and extraordinary step of vacating Michelle Byrom’s conviction so that she can have a fair opportunity to have her case heard in court,” said David Voisin, a Jackson attorney advising Byrom’s legal team.

Mississippi Attorney General Jim Hood had asked the state Supreme Court to set her execution for last Thursday night, but the court denied his motion a few hours before the scheduled time.

Byrom says she suffered years of physical, sexual and emotional abuse by her husband and was hospitalized with pneumonia the day he died in what prosecutors alleged was a murder-for-hire scheme to collect insurance money.

Defense attorneys say new evidence indicates that Byrom’s son was responsible for the murder.

Byrom could remain in jail until her new trial but will be taken off death row, Freeman said. The state may also chose not to retry her and release her instead.

Meanwhile she will be transferred to Tishomingo County where she was convicted, according to Mississippi Department of Corrections spokeswoman Grace Fisher.

The state District Attorney’s office said on Monday it would review the court order before deciding on an appropriate action.

The state's chief investigator, Paul Howell, said it would take time to determine whether to retry Byrom, since the office would review all the older evidence and talk to all witnesses.

Execution of a woman in the United States is rare. In February, a Texas woman became the 14th female inmate put to death in the country since the U.S. Supreme Court reinstated the death penalty in 1976, compared with about 1,400 men executed in that time.

Byrom is one of two women out of 50 inmates on death row in Mississippi, according to the state's Department of Corrections.

Prosecutors said Byrom hired her son's friend Joey Gillis to shoot her husband. They argued her son's only role was to secure the weapon and dispose of it.

Michelle Byrom confessed to the crime. But she now says she was just trying to protect her son, Edward Byrom Jr., who testified against her in exchange for a lesser charge.

The jury that found Michelle Byrom guilty never heard from a state-appointed forensic psychologist who told the judge before trial that the son had admitted to the murder, according to Voisin. The judge also withheld that evidence from Byrom's defense attorneys at the time, Voisin said.

Barred from the trial, too, were two letters the son wrote to his mother describing how he killed his father after finally snapping from years of abuse.

"I walked about two steps in the door, and screamed, and shut my eyes, (and) when I heard him move, I started firing," one letter read.

The judge did not allow the letters to be presented to jurors because defense attorneys failed to share them with the prosecution before the trial, Voisin said.

Gillis pleaded guilty to conspiracy and accessory after the fact to capital murder. Michelle Byrom's son pleaded guilty to conspiracy to commit capital murder, accessory before the fact to grand larceny and accessory before the fact to burglary.

Both men are now free after serving prison time.

Editing by David Adams; Editing by James Dalgleish, Andre Grenon and Steve Orlofsky

time.com/45042/mississippi-michelle-byrom-trial

April 1, 2014 | Time

Mississippi Grants Michelle Byrom New Trial

The Mississippi woman convicted of plotting her husband's murder in 2000 was granted a new trial on Monday, days after her postponed death by lethal injection would have made her the first woman executed in the state in seven decades

By Laura Stampler | @LauraStampler

A Mississippi woman on Death Row was granted a new murder trial Monday by the Mississippi supreme court, days after her execution by lethal injection was postponed.

Michelle Byrom, 57, would have been the first female convict to be executed in the state since 1944, and the 54th woman to have been executed in the United States since 1900. Her capital murder conviction has been reversed, and a lower court will hear her new trial.

Prosecutors accused Byrom of plotting her abusive husband's murder-for-hire, committed by her son's friend Joey Gillis, to collect \$350,000 and his life insurance policy, which led to her 2000 capital murder conviction.

But Byrom's son confessed to committing the crime in three different letters, excerpts of which were published in the Jackson Free Press, written to his mother and to a court appointed psychologist. Edward Byrom Jr. recanted and testified against his mother to get a lighter sentence, and he was released from prison last year. According to the Clarion-Ledger, Byrom admitted to committing the crime after a sheriff asked if she would let her son go to jail for the crime.

"We are very grateful that the Mississippi Supreme Court has granted Michelle Byrom's request for relief from her death sentence," David Calder, Byrom's attorney, said. "This was a team effort on the part of the attorneys currently representing Michelle, and we believe that the court reached a just and fair result under the facts presented in this case."

www.lawyerherald.com/articles/5170/20140401/mississippi-woman-on-death-row-gets-chance-of-acquittal-in-new-trial.htm

April 1, 2014 | Lawyer Herald

Mississippi woman on death row gets chance of acquittal in new trial

by Staff Writer

In a state Supreme Court opinion issued on Monday, a new trial has been issued for 42 year-old Michelle Byrom. Byrom is currently on death row after getting a conviction in 2000 for planning the murder of her allegedly abusive husband. CNN said her own son admitted to committing the crime in several jailhouse letters and an admission to a court-appointed psychologist, but recanted when he was put to the stand, court records showed. The Supreme Court reasoned that extraordinary and extremely rare decision was to address a petition for leave for Byrom to pursue a relief post-conviction. In addition, the Supreme Court also said that a new judge should be installed for Byrom's new trial.

Byrom's attorney David Calder had said, "We are very grateful that the Mississippi Supreme Court has granted Michelle Byrom's request for relief from her death sentence. This was a team effort on the part of the attorneys currently representing Michelle, and we believe that the court reached a just and fair result under the facts presented in this case."

During her initial trial, prosecutors said that Byrom planned to kill her husband. Her son, Byrom Jr, later admitted to fatally shooting her father in his home in Iuka, Mississippi in 1999. CNN said that Michelle, at that time, was receiving treatment at a hospital for double pneumonia. The jury's conviction was reportedly based on evidence and testimony given at the trial that she had plotted her husband's murder.

When Byron Jr recanted his earlier admission to the crime, his mother waived her right to a jury sentencing upon her attorney's advice, which left the judge to make the decision. Circuit Judge Thomas Gardner deemed her guilty and ordered her death. CNN said Attorney General Jim Hood had already filed for Michelle's execution to happen on or before March 27 prior to the Supreme Court opinion.