

## Time is running out

By Kimble Forrister

Darrell Grayson's days are numbered. He has 15 more, to be exact. If Governor Riley allows Alabama's broken capital punishment system to continue lumbering forward, the state will execute Grayson on July 26<sup>th</sup>. His story has a lot to tell us about the injustice that haunts Death Row in our state.

In 1980, at the age of 19, Darrell Grayson was arrested at his home and charged with a robbery and brutal murder of which he had no recollection. The officers instructed him to gather up the clothing he had worn the previous day. Still dazed after a hard night of drinking and cards with friends, Grayson grabbed some clothes from the floor of the room he shared with two brothers. State authorities later reported finding on the garments a single "Caucasian" hair that could have been consistent with those of the victim. The bad news continued: The police also found in Grayson's apartment a jacket that Grayson remembered loaning to a friend, Victor Kennedy, the evening before. In the jacket was Grayson's wallet. And in the wallet, the police said, were a couple of the victim's rings. The police also arrested Victor Kennedy for the murder.

Grayson has never denied being friends with his co-defendant. He's never denied being familiar with the crime scene. And – here's the catch – he's never denied committing the crime, because he has no memory of the time period in question. His court-appointed attorney – a divorce lawyer – suggested that Grayson throw himself on the mercy of the court. Presented with the circumstantial evidence, and wracked with the physical and mental pain of drug withdrawal, he confessed to rape, robbery and murder (although a rape had occurred, it was not included in the charges). The defense lacked sufficient resources to conduct its own investigation or forensic testing. Unlike most states, Alabama has no statewide public defender system. Court-appointed defense attorneys often lack the knowledge, skill, experience or inclination to handle capital cases. Too frequently, it's not the facts of the crime but the quality of the legal representation that determines whether the death penalty is imposed. Grayson's lawyer later remarked to the defendant's family that if he had handled a civil case in this manner, he would have been sued for malpractice.

An all-White jury convicted Grayson, who is Black, and sent him to Death Row at Atmore. There, he sank into a depression that lasted for several years. It was the death of his mother, who had never lost her faith in him, that shook Grayson out of his stupor and stirred him to make his remaining days count for something. He began putting his thoughts on paper, in letters, essays and poetry. He got published on the outside. He earned his GED and – while it was still possible on Death Row – earned a two-year Associate Science degree. In 1994, he got involved with Project Hope to Abolish the Death Penalty, an organization founded and run by Alabama Death Row inmates. For the past seven years, he has served as chairman of Project Hope and editor of its newsletter, *On Wings of Hope*.

The State of Alabama and the U. S. Court of Appeals 11<sup>th</sup> Circuit have denied Darrell Grayson the right to obtain DNA testing of the semen recovered from the crime scene (the U.S. Supreme Court declined to

hear the case). In issuing the denial, the courts cited Grayson's failure to claim his innocence. To do so, Grayson points out, would be to lie to the court, because he can't remember anything about that evening. He does assert that, in the state of drug- and alcohol-induced blackout that sworn witnesses observed him in earlier that night, he would have been physically incapable of the crimes. The courts also noted that, even if DNA analysis of the semen proved that Grayson did not commit the rape, the result would have no bearing on his murder conviction. But, as Grayson and his advocates point out, such a result would undermine his original confession, which included both the murder *and* the rape. Without witnesses to the crime itself (other than Victor Kennedy, the convicted co-defendant) and without Darrell Grayson's own knowledge of what happened, only the DNA holds the truth. And Alabama isn't interested.

There is one more piece of the puzzle. In his years on Death Row with Victor Kennedy, Grayson asked him many times what really happened. He never got an answer. Then, on the night of Kennedy's execution in 1999, an officer escorted Grayson from his cell to the Captain's office. There, the Captain introduced him to a man who identified himself as Victor Kennedy's preacher. He said he had come at Kennedy's request to ask Grayson's forgiveness. "Forgiveness for what?" Grayson asked. The preacher would not explain.

Darrell Grayson has a lot of questions – life-and-death questions-- and precious few answers. The state forensic laboratory could provide a crucial one, but it's not available. Alabama's judicial system is riddled with questions like Darrell Grayson's. In public opinion surveys, the great majority of Alabamians have said that they want answers, the kind of answers that a moratorium on executions and a thorough study of our capital punishment system could provide. But the wheels of our antiquated death penalty machine keep turning. One more time, time is running out.

*Kimble Forrister is state coordinator of Alabama Arise, a coalition of 155 congregations and community groups that work for fairer state policies toward low-income Alabamians.*