

The Death of Innocents: An eyewitness account of wrongful executions

By Sister Helen Prejean

Random House, 2005, 310 pages, hardcover

Review by Katherine E. Oleson

Sister Helen Prejean's second book, *The Death of Innocents: An eyewitness account of wrongful executions*, is equally as compelling as her first, *Dead Man Walking*. As the title suggests, Prejean looks at the death penalty from another angle: cases of innocent individuals accused of crimes and sentenced to death. Former Supreme Court Justice Blackmun's fear of "the gross injustice if an innocent man were sentenced to death..." has come true more than once.

Prejean weaves personal accounts, legal arguments and criticism together to paint a fuller

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accused — including the loss of his thriving business. He said, "Sally (his wife) and I are very disappointed with the judgement."⁸ His daughter Sabrina wasn't as restrained in her comments. In a radio interview days after the award was announced, she said, "I am completely outraged, and I do take it as a personal insult."⁹ She said that her father's experience in fighting the charges against him prior to his trial, his conviction and imprisonment, his quest to clear his name, and then his fight for compensation — all of which lasted for 12 years — has permanently altered his personality, "He is a different person now. He is completely obsessed with this case because he was so wronged, and he continues to be wronged and he was wronged again on October 12th."¹⁰

Endnotes:

1 Shocking Shortt Story, by Barry O'Kelly, GET SOURCE, August 11, 2002.

2 Daughter of Frank Shortt 'Outraged,' Irish Rights Watch, October 16, 2005.

3 *Id.*

4 Shocking Shortt Story, by Barry O'Kelly, GET SOURCE, August 11, 2002.

5 *Id.*

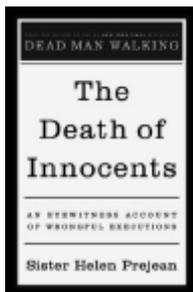
6 That is the dollar amount, since Ireland uses the Euro. The actual award was €1,923,871 (Euros). Based on an exchange rate of 1.1853 Euros per Dollar on December 23, 2005.

7 That is the dollar amount, since Ireland uses the Euro. The actual award amounts were €806,221 for losses related to Point Inn plus €550,000 in lost profits. It also included an award of €500,000 under the Criminal Procedure Act, exemplary damages of €50,000, and costs of €17,500. See, Shortt Awarded €1.93m for wrongful conviction, Irish Corruption website, October 13, 2005.

8 Nightclub owner disappointed at €1.9m payout, Irish News, October 12, 2005.

9 Daughter of Frank Shortt 'Outraged,' *supra*.

10 *Id.*



picture of what happened in the wrongful execution cases of two men she believes were truly innocent — Dobie Gillis Williams and Joseph Roger O'Dell.

Williams lived in rural Louisiana, and he was accused of raping and murdering a woman in 1984. His court-appointed lawyer neither investigated the prosecution's contrived crime scenario prior to his trial, nor challenged it during his trial. Williams was executed in 1997. Less than two years later the Supreme Court ruled it unconstitutional to execute a man with Williams' IQ of 65.

O'Dell was convicted in 1986 of rape and murder in Virginia, based largely on the testimony of a jailhouse informant. For more than ten years, O'Dell unsuccessfully sought court ordered DNA testing of crime scene evidence that might have proven his innocence. Supreme Court Justice Harry Blackmun disagreed with the Court's decision not to review his case, because he found "serious questions as to whether O'Dell committed the crime" and warned of "the gross injustice that would result if an innocent man were sentenced to death." O'Dell was executed in 1997. Virginia destroyed the evidence in 2000, so the truth will never be known.

Prejean legitimizes the voices of the accused by the seemingly sheer act of taking the time to ask questions and *listen* to the accused, Prejean brings attention to key pieces of evidence that had been ignored, disregarded, or not included by those at every stage of the judicial process. Sadly, as Prejean shows, these cases exemplify the many faults in the court systems across the United States.

Prejean writes in the preface, "I used to think that America had the best court system in the world. But now I know differently." Throughout the book, this revelation is illustrated. "When I first started visiting the condemned in 1982, I presumed the guilt of everyone on death row. I thought that an innocent person on death row would be a pure anomaly, a fluke. Not with all the extensive court reviews and appeals. Now, after working intimately with so many of the condemned and their attorneys, I know a lot better how the criminal justice system operates and how innocent people can end up on death row." (p. 9).

Prejean addresses many crime-related concerns in depth: contradictions in individual accounts of prosecution witnesses, coercion/hearsay of "confessions" by police, missing evidence from crime scenes, rationalizations used by lawyers and judges,

ridiculous prosecution scenarios with gaping holes in logic, and the list goes on.

Prejean dedicates a chapter to a thoughtful critique of Supreme Court Justice Scalia's support of "the machinery of death", particularly the reasoning he employs. In response to a statement by Justice Scalia that the death penalty is not a "difficult and soul-wrenching question", she states, "I find this morally troubling, because I can't help wondering how any human being could be called upon to decide life or death for his or her fellows and not break a moral sweat." (p. 173).

Once again, Prejean has brought attention to this debate through themes of dignity and respect for our fellow human beings that come forth in her writing. In a system ridden with flaws and injustices, she calls for public discourse and action on the death penalty. In her words, "Its practice demeans us all" (p. 270).

The Death of Innocents is available from The Innocents Bookshop at, <http://justicedenied.org/books.htm>.

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The suits make a variety of allegations that interrelate to portray the picture of how the systematic deprivation of Rose's rights to due process and a fair trial contributed to his wrongful conviction. Lodi Police detectives Matthew Foster and Ernest A. Nies Jr. are alleged to have coerced the rape victim to falsely identify Rose three weeks after the attack, and alleged to have failed to disclose exculpatory evidence that would have resulted in Rose's acquittal. Another allegation is San Joaquin County Deputy District Attorney Kevin Mayo "knew or should have known" that he coerced false testimony from the young victim when she identified Rose in court. Another allegation is DOJ Crime Lab technician Kathleen Cuila violated department protocol in the testing and analysis of fluid and hair samples. Other allegations are that Rose's court-appointed lawyer provided deficient representation, and that San Joaquin County randomly appointed the lawyer, who Rose alleges was unskilled and whose incompetence contributed to Rose's wrongful conviction.

The suit naming Cuila as a defendant seeks \$5 million in damages for Rose, and \$1 million each for his three children. The other suits don't specify damages.

Sources: Wrongly Convicted Man Seeking \$8 Million in Two New Lawsuits, *The Record*, Stockton, California, November 10, 2005.

Payback Sought For Years in Prison, *The Record*, Stockton, California, November 5, 2005.

Wrong Conviction Leads Former Lodi Resident to File Lawsuits, Layla Bohm, *News-Sentinel*, November 8, 2005.