

## OUR VIEW

### Legal system didn't uphold its integrity

**H**as an innocent man been confined to prison for nearly a quarter of a century, or could a cold-blooded killer soon go free?

Both are unpalatable scenarios. Yet, one of them summarizes a 1986 Port Huron murder case.

Scott Macklem, the 20-year-old son of Croswell's mayor, was gunned down on the morning of Nov. 5, 1986. It was an execution-style killing.

The murderer ambushed the victim, killing him at close range with a 12-gauge shotgun blast in a parking lot at St. Clair County Community College.

Suspicion fell on another young man, Fredrick Freeman, who had once dated Macklem's girlfriend. St. Clair County Prosecutor Robert Cleland portrayed Freeman as a jilted, jealous lover, and a jury agreed.

Freeman became a Buddhist in prison and took a new name, Temujin Kenu. He maintained his innocence and claimed he was in Escanaba, an eight-hour drive from Port Huron, on the morning of the murder.

A series of appeals went against the prisoner, but that changed last week when U.S. District Judge Denise Page Hood granted a petition of habeas corpus and called for a new trial.

In a 52-page ruling, the judge rejected many defense arguments, including claims of police threatening a key witness or accusations that Cleland, now Hood's colleague on the federal bench in Detroit, made improper remarks to the jury.

Hood also rejected claims that defense attorney David Dean failed to perform his job adequately. She acknowledged Dean was a drug addict and alcoholic at the time, but she said the record also shows he mounted a spirited, aggressive defense.

Where Dean failed, she said, was in preventing Freeman from taking the stand in his own defense and in failing to call a witness who might have corroborated the Escanaba alibi.

Also, the state's case relied on the apparently perjured testimony of a jailhouse informant, Philip Joplin, who claimed Freeman confessed to the killing in their shared cell.

Shortly before his death in 1994, Joplin recanted and said he lied on the stand in hopes of winning favorable treatment from authorities. And, in fact, he did get a break.

Given the evidence, Hood had little choice but to overturn the conviction. A new trial will be difficult to pursue. For starters, key witnesses such as Joplin and lead investigator John Bowns are dead.

Much about this case is troubling, starting with the Port Huron legal community's abject failure to police itself. It is now clear Dean's addictions were well-known to fellow lawyers in 1986, yet they did nothing to protect the integrity of our courts.

The system failed Scott Macklem. It failed Frederick Freeman. It failed all of us.