

Leave Lisker alone

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One way or another, the legal apparatus of California seems determined to get Bruce Lisker. The pursuit continues despite the fact that his murder conviction— for which he spent 26 years in prison — was overturned last year when a federal judge concluded that the original case against him was based on sloppy police work, incompetent representation by his attorney and “false evidence.”

Ordinarily, defendants are convicted and imprisoned based on strong evidence and solid facts that lead to a determination of guilt beyond a reasonable doubt. Those conditions did not apply to the Lisker case, however, so when his conviction was overturned, justice was served. When Atty. General Jerry Brown’s office subsequently filed court papers saying that it would not appeal the matter, and when soon after, Los Angeles County Dist. Atty. Steve Cooley reluctantly dropped the case against Lisker, citing lack of evidence, it seemed that he was at last a free man. But never underestimate the relentless churning of legal machinery. Now Brown is mulling whether to throw Lisker back behind bars over late paperwork.

Last week, Brown’s office asked U.S. District Judge Virginia A. Phillips to reverse her decision overturning Lisker’s murder conviction because of a U.S. 9th Circuit Court of Appeals decision in a separate case in July. In that case, the court ruled that late petitions for release were forbidden even if they proved “actual innocence.” Then on Thursday, the attorney general’s office said it was reconsidering that request.

It most definitely should not proceed. Doing so would tell the public that because the state could not prove Lisker’s guilt in court, it is now seeking a backdoor excuse to incarcerate him. Deadlines and timeliness are certainly important, and they help expedite cases and streamline the workings of the judicial system. But the ultimate

goal is to serve the interests of justice, not thwart it. In this case, to wield a timeliness argument against an inmate who already has been released and whose guilt the office has acknowledged it cannot prove in court would be a travesty.

Lisker, who was accused of stabbing his mother to death in 1983, was released last year after an investigation by Times reporters Matt Lait and Scott Glover not only knocked down key pillars of the prosecution's case against him, but strongly indicated that another person left traces behind at the murder scene that were never fully checked out. Furthermore, even though another suspect was found to have lied to police about his whereabouts and to have created a false alibi, Lisker's lawyer never presented that exculpatory evidence in court.

In 1983, there were plenty of reasons to suspect Lisker was behind the crime. Today, much of the evidence against him has been discredited. A jury hearing the case today, according to the federal magistrate who reviewed the case, "would know that there is essentially no evidence of [his] guilt."

Guilt should be the reason to send a man to prison for life, not a missed deadline.
