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State Supreme Court throws out death row inmate's conviction for 1987 killing

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TALLAHASSEE — The Florida Supreme Court threw out the conviction Thursday of an Indiana man sentenced to death 25 years after a slaying that had no suspects until DNA on a cigarette butt was re-examined years after the crime.

The court ruled that the evidence against Carl Dausch wasn't sufficient to convict him of the July 1987 murder of Adrian Mobley. Dausch was placed on death row in 2012.

While he now longer faces execution in Florida, Dausch will still remain in custody until he can transferred back to Indiana, where he was serving a 60-year rape sentence before being convicted in 2011 for Mobley's murder. Dausch, 55, was sentenced for the Indiana crime in October 1990 and his earliest possible release date is October 2017.

But him not be immediately released doesn't make things better for Assistant State Attorney Pete Magrino, who won the murder conviction.

"The victim's family are obviously disappointed. I'm disappointed," Magrino said. "Obviously a jury of his peers decided he was guilty of the crime and given all the facts and circumstances of the case ... he should suffer the ultimate penalty for what he did."

Mobley's body was found hogtied along a Sumter County road in July 1987. The 27-year-old was beaten to death and his car and wallet were missing. Several hours later, the car was found abandoned just off Interstate 65 north of Nashville, Tennessee. Mobley's wallet was found near the Florida-Georgia state line.

But the homicide soon became a cold case and wasn't revived again until 2002, when the Florida Department of Law Enforcement received a grant to analyze DNA from unsolved cases. DNA taken from a cigarette in Mobley's car and from anal swabs taken at the time of the murder pointed at Dausch as a suspect. Dausch's fingerprints were also found on Mobley's car and on a cigarette lighter wrapper found inside.

A witness at the time also gave the description of someone similar to Dausch leaving Mobley's abandoned car.

But Dausch said he was hitchhiking back to Indiana on Interstate 75 when he was picked up, presumably, by the real killer. Dauch's family was returning to Indiana from Flagler Beach. He left them along Interstate 10 to finish the trip on his own, according to testimony. That didn't put him anywhere Sumter County, which is 115 miles to the south.

The only DNA placing Dausch with the victim statistically could have come from 1 in 29 white men - a much higher percentage than in other cases. And while finger and palm prints matching Dausch's were found on the rear driver's side door and roof of Mobley's car, none were found on the steering wheel, stick shift, radio or other areas near the driver's seat. Fingerprints found on Mobley's wallet didn't match Dausch's.

The court found that the evidence against Dausch wasn't strong enough to convict him of murder, and said there was

some plausibility to his alibi.

"We do not take lightly the result that will flow from our decision today. We have reviewed the entire record in this case with the utmost seriousness and care. Yet, our comprehensive review of this case leaves us with the inescapable conclusion that the evidence is simply insufficient to conclude, beyond a reasonable doubt, that Dausch was the person responsible for murdering Mobley," the court wrote.

Chief Justice Ricky Polston disagreed, pointing to Dausch's attempted suicide the day before his murder trial was originally supposed to begin, as well as the jury's right to weigh DNA evidence as it saw fit.

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