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State court expands convicts' access to DNA testing

By GENE JOHNSON Associated Press | Published: Aug 21, 2014 at 1:47 PM PDT (2014-08-21T20:47:1Z)

SEATTLE (AP) - Washington's Supreme Court on Thursday made it easier for convicts to obtain DNA testing that could prove their innocence.

In a 6-3 ruling, the justices said that in deciding whether to grant such testing, courts must presume that the results of testing would be favorable to the convict - significantly tipping the calculation in the convict's favor.

The ruling came in the case of Lindsey Crumpton, who was convicted of repeatedly raping a 75-year-old Bremerton woman in 1993 and is expected to spend the rest of his life in prison. Crumpton was arrested running near the woman's house, carrying bedding smeared with blood, a beige phone cord, several handkerchiefs and costume jewelry - all of which the woman identified as hers.

In 2011, he requested DNA tests on the woman's rape kit, flannel sheets and other items. A superior court judge rejected the request, finding that Crumpton had not shown that the DNA test would likely demonstrate his innocence. That ruling was upheld by the state Court of Appeals.

But the high court reversed them both, saying that it wanted to formalize what lower court decisions had implied: that judges should presume DNA testing would be favorable to the convict. Writing for the majority, Justice Mary Fairhurst said it was important not to overburden state testing labs, but also to ensure wrongly convicted people don't remain in prison. She was joined by Justices Charles Wiggins, Charles Johnson, Steven Gonzalez, Sheryl Gordon-McCloud, and temporary Justice Stephen Dwyer.

"Many innocent individuals have been exonerated through postconviction DNA tests, including some who had overwhelming evidence indicating guilt," Fairhurst wrote. "And there is no direct evidence showing that labs have in fact been overburdened by an onslaught of postconviction testing."

Only if the DNA testing is in fact favorable to the convict would a court decide whether to order a new trial, she noted.

The Innocence Network and the American Civil Liberties Union of Washington state filed a brief on Crumpton's behalf. "If society can do a test that potentially can show an innocent

person has been convicted and imprisoned, we should do that test," ACLU spokesman Douglas Honig said.

The three dissenting justices - Debra Stephens, Susan Owens and Chief Justice Barbara Madsen - said Washington's law on post-conviction DNA testing does not include a presumption that the testing results will be favorable to the defendant.

"The legislature certainly could have enacted a law requiring postconviction DNA testing in every case that involves physical evidence that had not been tested at trial," Stephens wrote in dissent. "Instead it passed a less encompassing statute, opening the door to such testing only when the petitioner shows 'the likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis.' "

Stephens said the majority's opinion would lead to many convicts petitioning for such testing.