

As inmate sits, slain man's family asks: Why has it taken 30 years?

By JANE MUSGRAVE

Palm Beach Post Staff Writer

Sunday, January 25, 2009

Paul Scott has been married and divorced twice. He's been memorialized in a country song. He's attracted the attention of religious figures worldwide.

All while sitting on Death Row for a 30-year-old murder that has long been considered one of the bloodiest in Palm Beach County history.

Paul Scott

Florida's Death Row

Longest-serving inmate

Gary E. Alvord: On Death Row since April 1974 for killing three Tampa-area women

Oldest inmate

William Cruse Jr., 81: Convicted of killing six people, wounding 10 and holding hostages during a rampage at adjacent shopping centers in Palm Bay in 1987

Average stay before execution

13.75 years

Average age at execution

44.43 years

Active death warrants

Wayne Tompkins, 51: Strangled his girlfriend's daughter in Tampa in 1983

Robert Trease, 55: Shot and slashed the throat of a Sarasota classic car dealer in 1995

Sources: Florida Department of Corrections; staff research

While Scott is neither the oldest nor the longest-serving inmate on Florida's Death Row, no one in Palm Beach County or the Treasure Coast has survived longer with a death sentence over his head.

It's a fact that outrages Carmen Alessi, who has waited three decades for his son's killer to receive the ultimate punishment.

"I want him fried," the 82-year-old Lighthouse Point man says matter-of-factly. "I'm staying alive until he's buried or cooked."

When Scott and his accomplice were arrested in January 1979 for beating James Alessi to death in his Boca Raton home weeks earlier, Carmen Alessi said he never expected to spend the rest of his life waiting for justice. Scott, 52, has now spent more time on Death Row than Alessi's 28-year-old son was alive.

The question haunting Alessi, his wife and daughter is simple: Why has it taken 30 years?

It's a question that's not easily answered.

While Scott has surely benefited from legal moratoriums that have temporarily blocked executions over the years, even seasoned death penalty lawyers agree his case is more complex than most.

"It has one of the most tortured procedural histories I've ever seen," said attorney D. Todd Doss, the latest in a string of attorneys who have tried to prove Scott was wrongfully convicted.

Aside from the various appeals — all of which have been rejected by state and federal courts — Scott's case has been championed by a diverse cast of characters. A respected teacher, a country western singer, an internationally known nun, his accomplice, his accomplice's attorney and even jurors who convicted him have raised questions.

"I've never forgotten this," said Lantana resident Donna Alho, who was 32 when she served on the jury that convicted Scott. "He deserved a fair trial."

Like at least three of her fellow jurors, Alho signed an affidavit questioning Scott's treatment.

"I came away from this trial feeling very troubled about the judicial system," she wrote. "It became clear to me that your defense is only as good as your dollar amount."

The reasons for her cynicism are clear.

Like Scott, Richard Kondian was arrested shortly after James Alessi's bloodied and bound body was found. Unlike Scott, Kondian's family in Rhode Island scraped together enough money to hire David Roth, one of the county's top criminal defense attorneys.

While Scott went to trial represented by a taxpayer-funded public defender, Roth recommended that Kondian plead guilty to second-degree murder.

Taking that advice, Kondian admitted he killed Alessi in a drunken and drug-induced rage when he claimed Alessi tried to rape him. He was sentenced to 45 years in prison. He was released 14 years later in 1994.

Scott, meanwhile, who has continually professed his innocence, sits on Death Row.

Bob Pauley, who teaches technology at Lantana Middle School and was a 2006 winner of the William T. Dwyer Excellence in Education award, first heard about Scott's case in late 1979 when an assistant public defender hunted him down at the now-defunct Plush Pony Lounge in West Palm Beach. Convinced Scott had been railroaded and knowing Pauley had written a song for county western star Mel Tillis, the attorney asked Pauley to pen a song to get the word out.

Pauley became consumed with Scott's case. He wrote not only a song, *A Prisoner's Lament*, but also a book about Scott, *A Circle of Blood*. Then friends with country singer Susan Stryker, he persuaded her to record the song.

Stryker became so obsessed with the case that she hired a Miami attorney to handle Scott's appeals. She then married Scott, a five-year union that ended around 1990, Pauley said.

Pauley launched an Internet crusade to interest others in the case.

For years, two small churches in Pennsylvania raised money for Scott's appeals.

Sister Helen Prejean, whose fight on behalf of a Louisiana Death Row inmate was made into the 1995 Academy Award-winning movie *Dead Man Walking*, wrote a letter urging Scott's release.

"Along with many others I want to raise my voice on behalf of Paul William Scott," the Roman Catholic nun wrote in 1998. "I believe he's innocent."

Even Kondian wrote a letter in support of his onetime pal, whom he met on the Fort Lauderdale strip.

In a 1990 letter that Scott's supporters use to bolster their belief that Kondian, not Scott, delivered the fatal blow, Kondian wrote: "Paul never intended to kill Alessi or anybody that night and did not intend to harm anybody. He never did murder anybody."

However, prosecutors who for years have tried to persuade courts to carry out Scott's death sentence repeatedly have said the statement is being misconstrued.

Over the years, the two men have made various statements, many of them inconsistent with each other, Assistant Attorney General Celia Terenzio argues in a brief pending before the Florida Supreme Court.

Shortly after his arrest, Kondian, then 18, told police that he and Scott met Alessi, a florist, in Fort Lauderdale, and he drove them to his Boca Raton home where they planned to buy drugs.

While there, Kondian said, a naked Alessi tried to sexually assault him. Scott, then 22, heard his screams and tried to help him subdue Alessi. They beat him with anything they could find.

Terenzio said the evidence clearly showed that both Scott and Kondian bludgeoned Alessi to death. The medical examiner found that most of the blows came after Alessi was bound with electrical cord, unable to defend himself.

Further, Terenzio said, at his clemency hearing, Scott said the plan was for Kondian to have sex with Alessi to distract him, while Scott looked for things to steal.

Scott, however, now claims Alessi was alive when he left the house.

In a 1996 letter to The Palm Beach Post, he admitted to hitting Alessi with a flower pot, a vase and a kitchen chair. Kondian, he said, then knocked Alessi out by bashing him in the head with a paperweight.

Worried that Alessi would regain consciousness, Scott said, he grabbed an electrical cord to tie him up. Not realizing the cord was still plugged in, he said he was stunned when it sparked. Scared, he said he ran out through a patio screen.

Kondian, he said, killed Alessi later by hitting him in the head with a champagne bottle. While there was a bloody circle on the floor that looked like it could have been made by a champagne bottle, the bottle was never found.

Instead, jurors at his trial were told that Scott killed Alessi by hitting him in the head with a heavy object, possibly a bear statue.

In an affidavit written five years after the trial, a medical examiner wrote that he never testified what object was used to kill Alessi and doubted it was the bear statue. A champagne bottle would have been more likely, he wrote. More important, he said, he was never asked whether the fatal blow came from a left- or a right-handed person.

However, during his closing arguments, prosecutor Ken Selvig, who died in 2006, said the blow came from a left-handed person.

The statement was persuasive, jurors said. Kondian was right-handed. Scott was left-handed.

"The fact that Paul Scott is left-handed was extremely important in convincing me that he struck the fatal blow to Mr. Alessi," jury foreman Marilyn Federico wrote in an affidavit after learning of the discrepancy.

Instead of the death penalty, the Boca Raton woman said, Scott should have been sent to prison for life.

To Carmen Alessi, the debate that swirls around Scott misses the point. His only son is dead. Kondian got lucky. But that does not mean Scott should be spared.

Alessi dismissed Scott's supporters as "bleeding hearts" who would feel differently if they had lost their child to violence.

"What this guy did to my family, my son, my daughter, my grandson you can't imagine," he said.

To this day, the loss is so painful that Alessi declined to provide a photograph of the victim.

His daughter, Jane Bunch, agreed. She noted that at the time of her brother's death, Scott was on probation for second-degree murder in connection with the shooting death of a California liquor store clerk. Further, he has escaped two death warrants.

"I wish they would execute him," Bunch said. "He's walking around, and my brother's not."

Still, even Roth, who represented Kondian, said he has long been troubled by the case. In 1994, he took the unusual step of appealing for clemency for Scott.

"I felt very strongly that the disparity in the sentencing was horribly unjust," he said.

Doss, who represents Scott, said he would consider it a victory if he could get Scott's sentence commuted to life in prison.

However, Pauley said, Scott does not want that.

With an IQ of 69, he probably could have convinced the courts years ago that he could not be executed because he is mentally disabled. But, Pauley said, Scott would not launch such an appeal.

"Kill me or release me," he said, summing up Scott's view.

So the legal battle continues. Scott, who rebounded from Stryker by briefly marrying a pen pal and has another young woman interested in becoming wife No. 3, will continue to wait on Death Row. Alessi's family will continue to be tortured by unkept promises.

In the last legal ruling on the case, Palm Beach County Circuit Judge Lucy Brown rejected Scott's request for DNA testing of blood found in Alessi's home. Since Scott does not deny being in the home, she ruled, such evidence would prove nothing.

Doss is appealing that ruling to the state's high court. But, he said, even if he fails, more appeals will follow.

"It's not the last," he said.