

# NEWTON DAILY NEWS

## Gov. Rick Perry: Pro-life and pro-death

By Nat Hentoff

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With regard to abortion, would-be president Rick Perry is a committed pro-lifer — as am I. We differ deeply, however, on capital punishment. As Luke Johnson reported in The Huffington Post (“Henry Skinner Execution Approaches, Rick Perry Called On To Allow DNA Testing,” Oct. 28):

“Perry has overseen at least 236 executions, more than any governor in modern history. When asked in a September Republican presidential debate whether he ever lost any sleep over the possibility that someone innocent was executed, he said, ‘No, sir. I’ve never struggled with that at all.’”

Indeed, Perry approvingly calls the death penalty the “ultimate justice” (“Like Rick Perry, most ‘pro-life’ Americans OK with death penalty,” The Washington Post, Sept. 15).

While an execution is not always synonymous with “justice,” it surely is conclusive. Despite any subsequent provable evidence of innocence, a death-penalty victim cannot be brought back to life.

The Innocence Project and other organizations, however, have rescued an increasing number of death-row inmates from near-fatal mistakes made by witnesses, prosecutors, juries and judges. But Perry continues to lose no sleep because of these revelations.

Although much has been made of Perry’s stumbling performances in the profusion of debates among Republican presidential aspirants, not one of his opponents skewering him on other issues has mentioned Perry’s unshakable ease in putting Texas prisoners to death.

But one of this nation’s most consistent warriors for real-life, real-time justice — John Whitehead, president of the Rutherford Institute — recently confronted Perry with a demand for his intervention in a then-imminent, very problematic execution.

In a Nov. 7 letter sent directly to the governor ([rutherfordinstitute.org](http://rutherfordinstitute.org)), Whitehead began: “I call upon you, as a man who aspires to be this nation’s 45th president, to demonstrate your commitment to justice by temporarily staying the execution of Henry W. Skinner and allowing him access to DNA testing in order to put to rest any doubts that may linger about his guilt or innocence.” The execution date had been set for Nov. 9 but has since been delayed — not because of Perry.

Whitehead is not the only one with doubts about Skinner's guilt. In the letter to the Texas governor, that state's Attorney General Greg Abbott and Gray County District Attorney Lynn Switzer "expressed 'grave and growing concerns about the state's stubborn refusal to date to test all the evidence in the Skinner case.'" (Houston Chronicle, Oct. 27)

As Whitehead reminded Perry, Skinner had been "convicted in 1995 of murdering his girlfriend, Twila Busby, and her two sons. ... Since the trial, the lead witness has recanted her testimony, admitting that she was pressured by police to testify against Skinner. Subsequent investigations have implicated another man as the murderer.

"Most critically, key pieces of evidence relating to the murders were not tested. ... Believing that DNA testing of the evidence will exonerate him, Skinner has repeatedly petitioned the courts to allow the testing, but his pleas have been to no avail."

Now dig this: Whitehead, in his letter, cornered Perry with the fact that on June 17, Perry had signed a bill into law that gave prisoners the right to test previously untested biological evidence.

"Skinner's case tests your commitment to this legislation," Whitehead wrote.

It sure does. Whitehead continued: "Indeed the law's sponsor, state Senator Rodney Ellis, along with a number of other state officials, have affirmed that refusing Skinner the right to DNA testing would be a miscarriage of justice."

But while Perry did not reply to Whitehead, The New York Times reported on its website on Nov. 7: "The (Texas) state's highest criminal court on Monday (Nov. 7) stopped the execution of a man who claims that DNA tests of evidence will prove his innocence. ... The Texas Court of Criminal Appeals on Monday cited recent changes in Texas law on DNA testing, and said it would be 'prudent' to 'fully review the changes in the statute as they pertain to this case.'" In short, the execution has been stayed.

Remember: Skinner's execution had been set for Wednesday, Nov. 9!

There hasn't been, as of this writing, any answer by Perry to Whitehead's Nov. 7 letter, which told the inflexible candidate for the presidency:

"You can rest assured that temporarily staying Skinner's execution will not be seen as a sign of weakness but of leadership and strength. This nation needs a president with the wisdom and discernment necessary to lead the country — one who, when faced with tough decisions, is capable of doing what is morally right, whether or not it is politically expedient.

“In two days, Henry Skinner’s time will expire, and your own opportunity to show that you can balance wisdom, justice and leadership will have passed. Thus, I urge you to give this matter your immediate attention.”

The Texas Court of Criminal Appeals did that — but not Perry.

Skinner is not yet a corpse while his lawyers move urgently to get permission for that DNA testing. If the Texas Court of Criminal Appeals had not insisted on Nov. 7 that a try at justice be made, then Perry, on Nov. 9, would have added Skinner to his historically lengthening list of executions.

I had thought for a while I might vote for this man of seemingly John Wayne-like principles.

I have changed my mind.

Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights. He is a member of the Reporters Committee for Freedom of the Press, and the Cato Institute, where he is a senior fellow.