A STRONG DEGREE OF INNOCENCE

THE LAST CHANCE OF FREEDOM FOR TWO CONVICTED PRISONERS MAY BE IN THE HANDS OF A SMALL GROUP OF UNIVERSITY STUDENTS, WRITES AMY DALE

A s students returned to the University of Sydney last week, some of their number have been tasked with an assignment where the stakes are much higher than a simple pass or fail.

The set readings are the evidence and exhibits in the case of a prisoner who claims to have been wrongly convicted. In the coming weeks and months they will mine through the details that resulted in the conviction, a test that poses many questions but one above all: Was justice served, or did the system get it horribly wrong?

Students, who are working for degrees in psychology and law, signed confidentiality agreements before beginning coursework and are not allowed to discuss any details of the case that may reveal the identity of the prisoner, whose last chance of freedom lies in their hands.

It is the first case the university effort titled Not Guilty: The Sydney Exoneration Project will explore, but already they are fielding requests to assist others currently behind bars.

Dr Celine Van Golde, the director of the project, has urged the students not “to have tunnel vision the other way” in their work and be blinded by the pursuit of innocence. They may finish their work and believe the prisoner was wrongly found guilty.

“This is the pilot, (after the first case) we will see if we can take more on,” Van Golde says.

“We don’t start from the position that this person is innocent. We are reassessing a case, from a scientific and forensic psychological perspective and (determining) if that points to innocence or to guilt.”

The idea of re-examining cases previously thought completed and relegated to judicial archives is gaining momentum in Australia but it is already well established overseas.

The US Innocence Project, founded in 1992, aims to assist prisoners who can be exonerated by DNA evidence. So far they have secured the release of more than 330 convicted people, at least 20 of whom were on death row.

The University of Sydney’s project is not the first of its kind in Australia — a similar program operating out of RMIT in Melbourne recently attracted attention after it emerged it had taken on one of the nation’s most intriguing cases — the conviction of Keli Lane for the murder of her two-day-old daughter Tegan.

The Bridge of Hope Innocence Initiative is the former champion water polo player’s last chance.

Lane has already unsuccessfully appealed the 2010 jury’s majority verdict and minimum 13½-year jail sentence to both the NSW Court of Criminal Appeal and the High Court.

Lane has always denied killing Tegan, and told police that she had given the baby to her natural father, a man she knew as either Andrew Morris or Andrew Norris and with whom she had had a brief affair. A nationwide search has found no trace of Andrew or Tegan, who if she were alive would turn 20 this year.

Lane’s lawyers argued during an appeal that the jury should have been instructed that they could return a verdict on the lesser charge of manslaughter because, as Tegan’s body has never been found, there was no way of proving cause of death and whether the intention had been to kill or seriously harm her.

During the hearing one of the judges remarked to Lane’s lawyers that the defence at trial ran as “an all or nothing case”. In the absence of a body, what would have distinguished manslaughter from murder was an accused’s state of mind, but that clearly could not be in play in the Lane case — she had always claimed there had been no crime at all, and that her knowledge Tegan was alive.

The program’s director Dr Michele Ruyters told The Daily Telegraph the Lane case was an easy choice for their program, compared with many others that do not pass a rigorous vetting process.

“We only take cases (that explore the possibility) of factual innocence,” Ruyters says. “We’re not crusaders or lobbyists, we want to be objective in our approach. It’s fair to say (in the Lane case) that there were a number of areas in the prosecution case … that couldn’t be explained in depth or (things suggested Lane was not guilty) that weren’t explored in depth.”

She says that police and prosecutors can often be accused of “tunnel vision” — where evidence is shaped around a particular suspect and can lead to a deliberate ignoring of contradictory evidence or simply a failure to detect inconsistencies in the case, and it is something the initiative is keen to avoid from the other side of the guilt divide.

“We start at the very beginning,” she says. “It is a painstaking process.”

Each case, most of which is brought before the program by the prisoner themselves, is put through a three-part test. First whether it is in line with the project’s aim, and concerns a factual issue in the case and not a legal technicality.

Once this hurdle is cleared, the students have a greater challenge on their hands. Can they find the proof that the applicant was wrongly convicted? As with some of the most exhaustive police investigations, sometimes that takes them months, sometimes even years.

So far, roughly 35 cases have made the cut and are now currently being investigated by the Bridge of Hope Innocence Initiative.

Sensitivity to victims or surviving family members is also important to the team, and Ruyters says this often leads to a need to “get creative” when trying to track down evidence or statements in the case. “We will not contact victims under any circumstances … we have got to be really considerate and we do try to tread carefully,” she says.

Representatives from Bridge of Hope have visited Lane in jail, as well as potential witnesses who they say were not called at the 2010 trial.

Lane’s parents Robert and Sandra last week broke more than a decade of silence to speak out in support of their daughter, who they believe to be innocent.

Previously the only time the voice of Lane’s family has been publicly heard was in phone intercepts released after the verdict.

“It is just so unlike a young bloke to want to raise a child,” Sandra said to her daughter during a recorded conversation a few years before she was charged and ordered to stand trial.

“It’s just, that’s the thing I just can’t get a grip on, obviously that’s what you agreed … isn’t it?”

Yeah … well, I didn’t really have too many options,” her daughter replies.

As it stands, the now 40-year-old Lane has just one option left to be freed from her jail sentence before she becomes eligible for parole in May 2023.

We’re not crusaders or lobbyists, we want to be objective in our approach.

Dr Michele Ruyters