Chasing innocence

Trent Dalton

ON the day he stepped down as attorney-general, Kerry Shine left a parting gift to the Queensland legal system: 12 vials of DNA evidence once thought destroyed by government agencies.

The vials contain biological material taken from a poolside lavatory at the Oak Lodge apartments, Surfers Paradise, where 19-year-old South African tourist Michelle Cohn was found murdered on Boxing Day, 1990. The man convicted of Cohn’s murder, Shane Sebastian Davis, has proclaimed his innocence for two decades and could now be the first prisoner in Australia granted access to DNA innocence testing.

In August 2008, after making inquiries with the Queensland Police Service, the Office of the State Coroner, and Forensic and Scientific Services in Queensland Health, Mr Shine told Lynne Weathered, director of the Griffith University Innocence Project, there was no suitable DNA evidence relating to Cohn’s murder available for re-testing.

But on March 26, 2009 — the day Cameron Dick was sworn in as the new Attorney-General — Mr Shine wrote to Ms Weathered stating: “You have also requested information as to how and when the evidence (including DNA samples) stored at Queensland Health, Forensic Science, was destroyed. In relation to Davis, I have now been advised, that while certain items of clothing were returned to police officers of the Surfers Paradise Crime Scene Unit on January 31 1991, and 5 March 1991, there remain 12 vials which appear to contain biological material.”

Mr Shine also made a request through the Queensland Department of Health as to whether any biological material was held in South Australia, where Davis’s DNA was first taken for testing. The request, he says in the letter, returned “no result.”

Only after Mr Shine contacted agencies in South Australia directly was he informed of the existence of four DNA extract tubes pertaining to the Cohn murder from which DNA could probably be recovered.

“I am of the view that it would be appropriate to consider undertaking DNA testing on the material held both in Queensland and in South Australia,” Mr Shine states.

Brisbane DNA consultant and geneticist Carol Mayne told The Courier-Mail that no decision has been made by the Queensland Government regarding re-testing of DNA of convicted persons in Queensland.

Mr Dick said he will make his decision “in due course.”

Gold Coast defence lawyers Chris Nyst and Jason Murakami, who created the Innocence Project and have spent the past seven years lobbying the State Government to introduce DNA innocence testing, said Mr Shine’s actions should be applauded.

“Kerry Shine’s a lawyer himself,” Mr Nyst said.

“If Kerry Shine had a sense of where the justice lay, that’s where he would follow.

“We don’t know whether Davis is innocent or not. He says he is. What we do know is that we now have the technology to ascertain that. It should happen and we want it to happen quickly.”

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IN JAIL: Davis  Defence lawyer Chris Nyst  VICTIM: Cohn
EVIDENCE: Former
attorney-general
Kerry Shine