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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2011/03/30/supreme-court-rules-against-exonerated-death-row-inmate-for-prosecutors-who-withheld-evidence/>

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by [James Ridgeway and Jean Casella](#) | March 30, 2011

Last October we wrote at length about the [case of John Thompson](#), who spent 14 years on death row before he was exonerated based on evidence that had been purposefully withheld by prosecutors in the office of New Orleans DA Harry Connick Sr. A Louisiana jury found the DA's office culpable for Thompson's ordeal (which included coming within weeks of execution before the exculpatory evidence was revealed), and awarded him \$14 million in compensatory damages.

The state appealed the jury's verdict all the way to the U.S. Supreme Court, which yesterday ruled against Thompson and stripped him of his award.

As reported by the [Washington Post](#):

Conservative justices prevailed in the [5 to 4 ruling](#), which shielded the district attorneys office from liability for not turning over evidence that showed John Thompson's innocence.

Justice Clarence Thomas said Thompson could not show a pattern of deliberate indifference on the part of former district attorney Harry Connick Sr. in training his staff to turn over evidence to the defense team.

It was the first decision of the court term that split the justices into ideological camps, and Justice Ruth Bader Ginsburg emphasized her disagreement by reading a summary of her dissent from the bench.

I would uphold the jury's verdict awarding damages to Thompson for the gross, deliberately indifferent and long-continuing violation of his fair trial right, she said, adding that she was joined by Justices Stephen G. Breyer, Sonia Sotomayor and Elena Kagan.

She said the actions of prosecutors under the control of Connick, who left office in 2003 and is the father of the famous singer of the same name, dishonored the obligation to turn over evidence favorable to the accused established in [Brady v. Maryland](#) nearly 50 years ago.

Ginsburg also wrote that Connick's deliberately indifferent attitude created a tinderbox in which Brady violations were nigh inevitable. As we wrote in October, many other convictions have also been overturned, all due to suppression of evidence, said New Orleans Defense Attorney Nick Trenticosta. They all try to portray it as rogue prosecutor; a fluke, he continues, but Harry Connick used to give awards to prosecutors for successfully convicting people.

Connick, Trenticosta said, created a culture where convictions were won at any cost. The office's zeal for sending people to death row was such that a New Orleans prosecutor kept on his desk a model electric chair holding photos of five condemned men, John Thompson among them. Trenticosta has called the prosecutors' actions [calculated measures to take people's lives away](#).

Findings by the Innocence Project of New Orleans back up this assessment. In a [2008 report](#), the Project reviewed the record of Connick's 28-year tenure, and found that the practice of suppressing evidence was so prevalent that it could be called a legacy in New Orleans.

According to available records, favorable evidence was withheld from 9 of the 36 (25%) men sentenced to death in Orleans Parish from 1973-2002. Four of those men were eventually exonerated, having been released only after serving a collective 43 years on death row. In other words, one in every four men sent to death row by the New Orleans District Attorneys office from 1973-2002 was convicted after evidence that could have cast doubt on their guilt was withheld from them at trial. Four men, about 11%, were completely innocent.

None of this kept Justice Antonin Scalia from concluding that Thompson spent 14 years on death row at Angola Prison because of the actions of a single miscreant prosecutor.

Thompson, who went on to found the organization [Resurrection After Exoneration](#), has called what New Orleans prosecutors tried to do

to him an attempt at [premeditated murder](#). In an [interview with the Times-Picayune](#) today, Thompson said, This fight started for me 18 years ago, and it feels like its going to go on some more. Theres a lot of innocent guys whos still on death row because of this corrupt system.

The implications of the Supreme Courts decision in *Connick v. Thompson* reach far beyond John Thompsons life and even beyond New Orleans. A majority of the justices have concurred that a district attorneys office cannot be held responsible for the misconduct of its own prosecutors. As it stands, there are no deterrents to these prosecutors, said Nick Trenticosta. If they get caught withholding evidence so what? Nothing happens to them.



James Ridgeway (1936-2021) was the founder and co-director of Solitary Watch. An investigative journalist for over 60 years, he served as Washington Correspondent for the Village Voice and Mother Jones, reporting domestically on subjects ranging from electoral politics to corporate malfeasance to the rise of the racist far-right, and abroad from Central America, Northern Ireland, Eastern Europe, Haiti, and the former Yugoslavia. Earlier, he wrote for The New Republic and Ramparts, and his work appeared in dozens of other publications. He was the co-director of two films and author of 20 books, including a forthcoming posthumous edition of his groundbreaking 1991 work on the far right, Blood in the Face. Jean Casella is the director of Solitary Watch. She has also published work in The Guardian, The Nation, and Mother Jones, and is co-editor of the book Hell Is a Very Small Place: Voices from Solitary Confinement. She has received a Soros Justice Media Fellowship and an Alicia Patterson Fellowship. She tweets @solitarywatch.

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by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

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It is true that prosecutors can act w/impunity when it comes to any number of transgressions against a defendants constitutional rights. There are no sanctions imposed on them for rights violations of the accused. This is so wrong I know of nowhere else that someone can intentionally, willfully & deliberately indulge in professional misconduct, & suffer no repercussions for it. I think that a prosecutor who has withheld evidence that could exonerate a defendant should have his state bar license suspended, if not revoked, depending on the seriousness of the evidence withheld.

Of course they had to protect the DA. God forbid they do the moral thing and let this incident be a message to other prosecutors that withholding evidence especially in a capital punishment case will result in very severe consequences. Theyll let a possibly innocent man go to the execution chamber just to cover everyones hind end. This is why the death penalty needs to be abolished forever. Prosecutors are politicians with ambitions, and have no problem using every trick in the book to gain a conviction, so that they can later run for another office and brag about their success in criminal courts. And we have some very blood thirsty justices at the top that will just sit back and let it happen.

I am not surprised. This has gone on forever. I have worked in the court system many years and, especially since former District Atty. Connick is retired, the Court saw no reason to find wrong-doing. I believe conservatives believe they are setting an example of being tough on crime [and criminals] in keeping with their political rhetoric. It is shameful. All the people can do is watch out for District Attorneys who seem to have won more than their fair share of cases and start to ask serious questions. Persons accused of crimes need to participate fully in their defense, ask alot of questions, have a good support system of people who will also ask questions, and we, as American citizens, must vote in laws that can protect the accused from this type of abuse. I say again, I am not surprised.

why do they even bother to hold court if they are gonna do whatever they please and prosecute to the death at any cost .justice need not be present.

the whole thing makes me sick beyond sick.

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