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Criminal Justice Issues and Prisoners' Rights

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Campaign and Advocacy

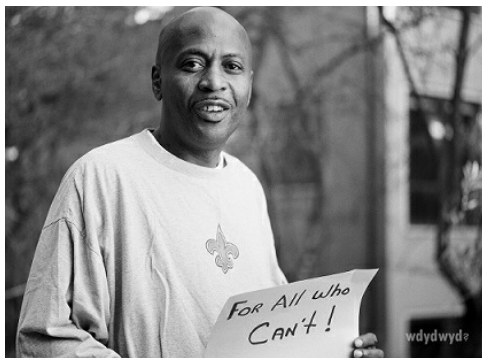
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by [James Ridgeway and Jean Casella](#) | October 5, 2010



The model electric chair sitting on the desk of New Orleans prosecutor Jim Williams was like a piece of stranger-than-fiction Louisiana Gothic. But for John Thompson, it was all too real. Seated in the electric chair were photographs of five African American men that the Orleans Parish District Attorneys office had proudly sent to death row. Thompsons picture was dead center. They were trying to kill me, he said last week.

That plan was thwarted, but not until Thompson had spent 14 years on death row at Louisianas notorious Angola prison. His appeals were exhausted and his execution just weeks away before his legal team uncovered evidence that had been intentionally suppressed by the prosecution. Granted a retrial, Thompson was exonerated. So was another of the men in the prosecutors model electric chair. Of the remaining three, one was granted a new trial, while two others had their sentences commuted to life in prison.

All in all, the prosecutors bloodthirsty desk ornament has become an emblem of the faulty prosecutions that took place under the 28-year reign of Orleans Parish District Attorney Harry Connick, Sr., the father of the singer-actor and a Louisiana icon in his own right. In the past decade, fully a quarter of the men sentenced to death during Connicks tenure have had their convictions overturned every one of them based on evidence that cast doubt on their guilt, but was hidden from the defense by prosecutors.

Thompson is determined that the prosecutors conduct, which nearly cost him his life, should not go unpunished. I am not going to let those motherfuckers get away with it, he declares. Its been a long haul, but on Wednesday, Thompson will be sitting in the Supreme Court, watching his lawyers argue that the New Orleans DAs office must pay millions of dollars in restitution for railroading John Thompson into what they thought would be certain death in Angolas lethal injection chamber.

At 11 a.m. on October 6, two days into its new session, the U.S. Supreme Court will hear oral arguments in *Connick v. Thompson*. After they hear from lawyers representing Thompson, the justices will listen to representatives of the District Attorneys office, who will argue that the office cant be blamed for Thompsons faulty conviction, and shouldnt have to pay the unprecedented \$14 million in damages awarded to him by a New Orleans jury in a civil case one million for each year he spent on death row.

Thompson's story which involves deathbed revelations and last-minute stays of execution is compelling enough that Matt Damon and Ben Affleck at one time had plans to make it into a feature film, in which they would play his lawyers. (The project is currently in limbo.) There's also a new book out on Thompson's experience, called [Killing Time](#). But the implications of *Connick v. Thompson* reach far beyond John Thompson's life and even beyond New Orleans. The justices decision in the case will determine how far a district attorneys office can be held responsible for the misconduct of its own prosecutors. In other words, they will decide whether local governments are legally and publicly accountable for certain miscarriages of justice committed by their employees and in their name.

In person, John Thompson, now 48, has a steady, intense gaze behind wire-rimmed glasses. Interviewed by *Mother Jones* last spring in New Orleans and again last week by phone, Thompson, who goes by JT, speaks in a calm, measured way. But flashes of anger break through from time to time, when he talks about how close he came to being killed at the hands of the state. He has called what New Orleans prosecutors tried to do to him an attempt at [premeditated murder](#).

Thompson was 22 years old and the father of two young sons when he was convicted of murdering a white New Orleans hotel executive. Because he had previously been convicted of attempted armed robbery a crime in which he also contended his innocence JT was advised not to testify on his own behalf at his murder trial. The jury found him guilty and sentenced him to death.

In 1985, JT arrived on death row at the notorious Louisiana State Penitentiary at Angola and set about the business of trying to survive. He was helped by his faith and by his friendship with the members of the Angola 3 three former Black Panthers who had been placed in solitary confinement. I was like baby-sitted by them. They took me on like a big son or something Who I am now was molded by them, he said. I was blessed to be on the tier around them.

Thompson also believes that he was blessed in finding the lawyers who would eventually represent him on appeal. Like many condemned inmates, he began writing letters to attorneys, and received what he told us were about a hundred rejections. Then help came through the Capital Defense Project at Loyola University in New Orleans. In 1998, lawyers from the project began working on his case, together with two pro bono attorneys, Michael Banks and Gordon Cooney, from Morgan, Lewis & Bockius, a venerable old Philadelphia firm that had become a huge international powerhouse in corporate law.

Thompson's lawyers stuck with his case through 11 years of appeals and seven execution dates. In April 1999, the Supreme Court rejected Thompson's case, and they had to tell their client that the appeals process had been exhausted. An eighth execution date was set for the following month.

We had to get back into court said Nick Trenticosta, who worked on JT's case as director of the Louisiana Capital Defense Project (now renamed the Center for Equal Justice). So we got an investigator and she was able to spend days at the police department going through all kinds of old records. Through that painstaking research she finally found documents showing the state had the [perpetrators] blood type as the result of an analysis of the victim's pants, and clearly showing it was not John's, Trenticosta explained in an interview last week.

This was a couple of weeks before the date for his execution, Trenticosta continues. We moved for a stay of execution. The Louisiana Supreme Court vacated Thompson's robbery conviction, and a state district court changed his death sentence to life in prison because the armed robbery evidence was not reliable. Four years later, his murder conviction was overturned as well. At his retrial in 2003, Thompson testified in his own defense. The jury took 15 minutes to find him not guilty. After 18 years, JT was a free man at the age of 40.

But the story was far from over, because the exculpatory evidence the blood test clearly favorable to Thompson's defense had been hidden not by any simple mistake or oversight. Prosecutor Gerry Deegan had deliberately suppressed the blood evidence that could have cleared Thompson of the robbery charge, and profoundly affected his murder trial as well. We found the prosecutor in the armed robbery case had taken the bloody pants out of the evidence property room and never returned them, said Trenticosta. It was an intentional hiding of the evidence. The law requires prosecutors to turn over to the defense any evidence that might be favorable to the accused; instead, Deegan had buried it.

John Thompson had been on death row for more than a decade when Gerry Deegan, dying of liver cancer, finally confessed to his transgression. But instead of making his misconduct public, he told a colleague in the DAs office, Mike Riehlmann. Riehlmann himself sat on the knowledge for almost five more years, until the private investigator came across the telling lab report. Then Riehlmann came forward with Deegan's revelation, and signed an affidavit describing what the dying prosecutor had told him. JT's convictions began to unravel.

At the time, District Attorney Harry Connick, Sr. [told the Associated Press](#) that the Thompson case was an isolated example of prosecutorial misconduct. We follow the rules, Connick said. We have an ongoing and continuing obligation to turn over exculpatory evidence and we do. But in fact, many other convictions have also been overturned, all due to suppression of evidence, said 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. Like Thompson, 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.

One of those innocent men was 16-year-old Shareef Cousin, sent to death row for murder in 1995. He stayed there until the prosecutor in the case was shown to have both encouraged witnesses to lie on the stand and withheld a videotape that proved Cousin was playing basketball at the time of the murder.

The following year, another New Orleans jury sentenced Dan Bright to death for murder. Attorneys later discovered a statement from the FBI, suppressed by prosecutors at the time of Bright's trial, indicating that a confidential informant had identified another man as the killer. These guys were perpetrating a fraud on the public, the forewoman of Bright's jury said of the prosecutors, and let me sentence an innocent man to death.

Yet there have been few, if any, consequences for the New Orleans prosecutors who transgressed professional ethics, broke the law, and sent innocent men to death row. In 2005, a prosecutor in the Cousin case was found guilty of withholding evidence; the Louisiana State Supreme Court gave him a three month suspended sentence. Jim Williams is now in private practice. Thompson's prosecutor, Gerry Deegan, died of cancer. Mike Riehlmann, who sat on the deathbed confession, was also briefly suspended by the Louisiana Supreme Court; he is now a defense attorney. Harry Connick Sr. rests on his laurels and his sons' fame and fortune.

What really angers me, [Thompson said after his exoneration](#), is when these people, [the prosecutors] are found out. When those on death row are found to be innocent, nobody in the prosecutors office ever faces charges, nobody has to pay. A slap on the wrist for malfeasance and then they're back at work doing the same old thing. Nick Trenticosta agrees. As it stands, there are no deterrents to these prosecutors, he said. If they get caught withholding evidence so what? Nothing happens to them.

But with the help of his lawyers, Thompson has sought to achieve justice through a different route. In 2005, they sued the Connick, Williams, current District Attorney Leon Cannizzaro, and the office of the DA. The state refused to settle the case, so it went to a jury, which awarded JT a record \$14 million in damages. The state of Louisiana quickly appealed the verdict, which it claims will bankrupt the DAs office. State and federal appeals courts ruled in Thompsons favor, up to the federal Fifth Circuit Court of Appeals, which handed down a split decision. Last spring, the U.S. Supreme Court agreed to hear *Connick v. Thompson* in its fall 2010 session.

According to the [brief filed by Thompsons lawyers](#), the Court will have to decide whether there is sufficient evidence to find that the district attorney was deliberately indifferent to the need to train, monitor, or supervise his prosecutors regarding their obligations to hand over evidence favorable to the defense. In [simple terms](#), the justices will have to determine whether the DAs office can be held liable for illegal and unethical conduct by one of its prosecutors, on the theory that the office failed to adequately train its employees.

A 1963 Supreme Court case called *Brady v. Maryland* found that the suppression of exculpatory evidence by the prosecution violates the defendants Constitutional right to due process. But *Connick v. Thompson* could determine what kind of recourse defendants have when their established rights under *Brady* are violated. Individual prosecutors already enjoy immunity from lawsuits in most instances; this week, the Court might effectively give local DAs offices immunity as well.

Its not surprising, then, that *Connick v. Thompson* has brought in a slew of amicus briefs in support of Thompsons position. A [joint brief from the ACLU and the Southern Poverty Law Center](#) describes what was done to John Thompson as a shocking and grievous Constitutional injury. If municipal DAs offices are not held liable, it argues, innocent victims of this type of prosecutorial misconduct would have no remedy whatsoever.

If Connick wins on the ground that the DAs office is not responsible when its prosecutors withhold evidence, then it will be impossible to recover damages, because the prosecutors are entitled to absolute immunity under Supreme Court precedent, said Katie Schwartzmann, who is legal director of the ACLU of Louisiana and one of the signatories of the amicus brief, in an email to us last week.

Because the Court is only considering the facts in the Thompson case, and not the full record of the Orleans Parish DAs office, it may also find that there is insufficient proof of negligence. If Connick wins on the ground that one incident is not enough to establish the offices liability although we think there was more of a record than that in this case then future litigation will be difficult but not impossible, said Schwartzmann.

So while the stakes in this case are high for John Thompson, they are higher still for the next accused person to be tried and convicted by a prosecutor who is hiding evidence that might have freed him. A ruling in Connicks favor would deny him any recourse, and send a message to DAs that there are no consequences, even for framing an innocent man.

Thompson is already thinking about the predicament of that next innocent man. When he was freed from prison, he said, he was more fortunate than most. I had a wife, I had a house, I had a job as an assistant at the Center for Equal Justice, working with clients on death row. I worked for two years, said Thompson. I had a solid foundation Most guys did not have that. Guys were coming home struggling. In Louisiana, prisoners lucky enough to be exonerated are released with nothing more than \$10 and a bus ticket, and no support dealing with the material and psychological legacy of wrongful imprisonment.

Following his release, Thompson founded [Resurrection After Exoneration \(RAE\)](#), a group that tries to provide this missing support. At first, RAE focused on providing skills that would help them find jobs. Then, said JT, I decided to have living quarters a residential area where they live for 6 months to get readjusted to society, to help them to take the time and figure things out. Downstairs we have computers, workshops. We try to bring in as much education as we can. Thompson also wants RAE to represent the voice of innocents to be a place where the exonerated can tell their stories. Its amazing how powerful these stories are.

Thompson wants some of RAEs programs to be open to anyone coming home from prison. A settlement of \$14 million would finance his ambitious plans, and then some. But hes gotten some modest grant funding, and is confident that RAE and he will carry on with or without the money thats at stake in *Connick v. Thompson*.

Whatever the Supreme Court rules, said Thompson, Ill be straight with that. But he intends to complete the journey that began on Angolas death row. When the Court hears oral arguments for an hour on Wednesday morning, he said, Ill be there.

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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.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment

system.

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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A district attorneys office cannot be held responsible for failing to properly train its employees when the plaintiff can only prove a single violation of Brady v. Maryland; 5th Circuit reversed

http://en.m.wikipedia.org/wiki/Connick_v._Thompson

What a powerful posting! Thank you for helping to get this story out. Thank you for everything that you do. Please let us know what the Supreme Court rules.

Please visit the Resurrection After Exoneration (RAE) website to make donations that will be used to assist other Louisiana exonerees in their struggle to readjust after years, often decades, of wrongful incarceration. The Voices of Innocence project is a one-act play created and presented by John Thompson and three other exonerees who educate and inspire audiences with their stunning stories of wrongful convictions.

i hope you get every bit of that cash you want from them you know not all the 3 are out you can help them to now maby but yes they really are mother fuckers to do that to others on trial not cool not right but sick my blessing go with you to the trial be for what is this nashions highest tribunal may they rule in your faver may there be light in the darknes of justice

This whole story is so revolting and so indicative of extreme cruelty that it is breathtaking. I have a small foundation and would like to make grants not only to Solitary Watch but also to Resurrection after Exoneration and any efforts to prosecute Connick.

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