

OHIOANS TO
STOP EXECUTIONS 

Beyond Reasonable Doubt:
*Confronting the Wrongful Conviction
Crisis in the State of Ohio*

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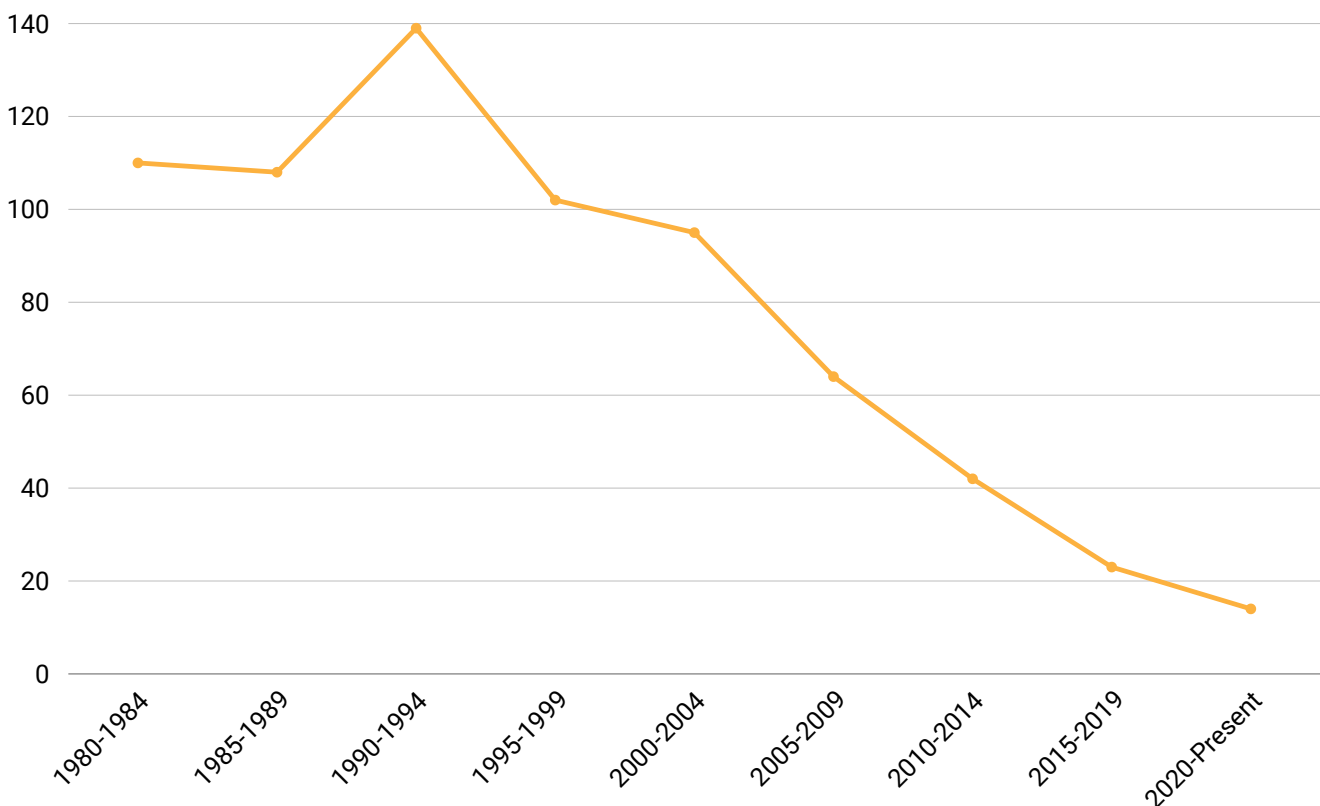
Introduction

Since Ohio reinstated the death penalty in 1981, the State has executed 56 individuals. In the same period, another 12 individuals were exonerated from Ohio’s death row. Said another way, for every 5 people that Ohio executes, one is exonerated. To paraphrase an analogy made by Bryan Stevenson, Executive Director of the Equal Justice Initiative, if one out of every five airplanes that took off crashed, Ohioans would refuse to fly.

It is not surprising, then, that Ohioans have grown skeptical of the death penalty in recent years. Polling consistently indicates that a majority of voters disapprove of capital punishment. Other indicators of this change come in both the number of capital indictments--the kickoff to death penalty cases--and in the actual number of new death sentences handed down by juries.

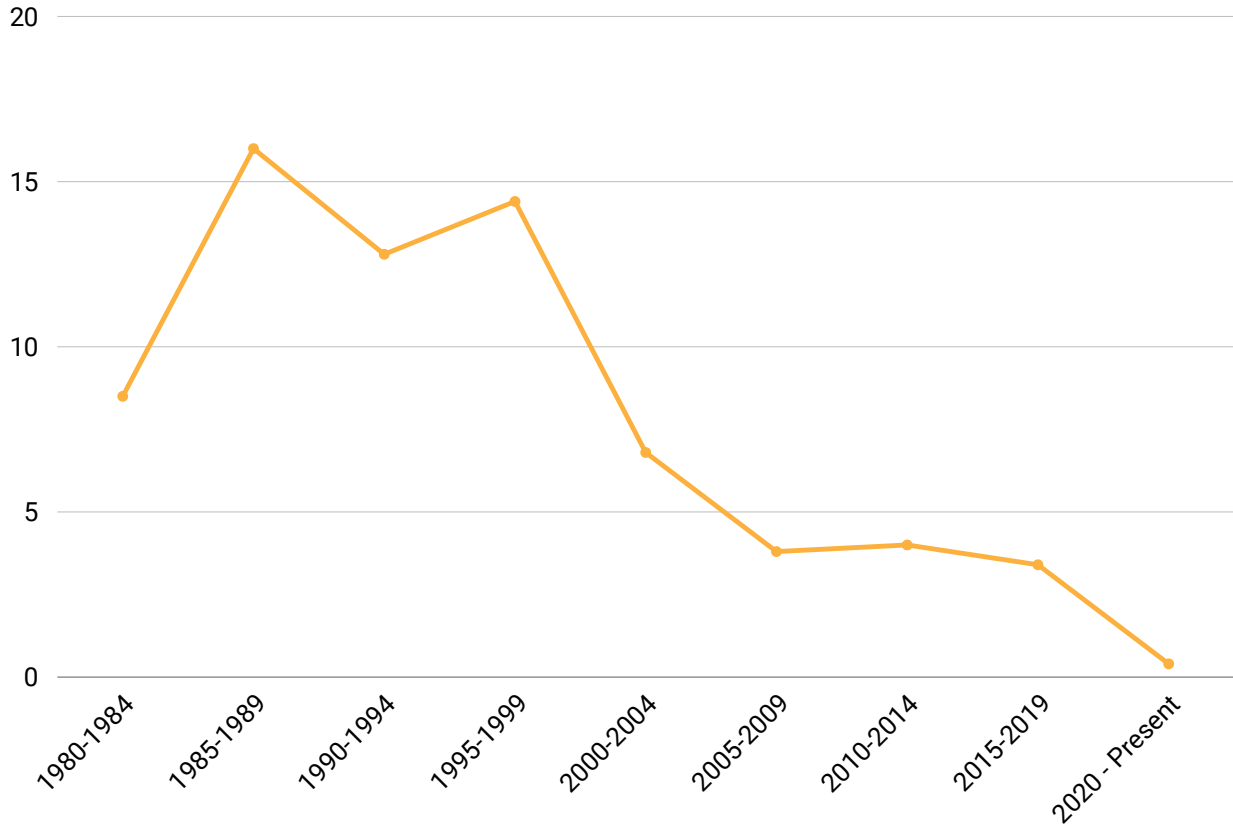
Capital indictments have plummeted to historic lows in recent years. They peaked in 1984 with prosecutors seeking the death penalty against 171 criminal defendants. By the late 1980s that number was down to an average of 108 capital indictments a year. After another brief spike in the 1990s, Ohio experienced a marked and continued decrease in capital indictments. By the late 2000s prosecutors indicted an average of 64 new capital cases each year. That number continued to drop, and in the past 5 years, the State has averaged just 14 new capital indictments a year.

Average Number of Capital Indictments Over Time



With respect to the number of new death sentences, the declining trend followed a similar path, peaking in the late 1990s with an average of 14.4 death sentences handed down by juries each year. In the past 5 years, that average is down to less than one (0.4) new death sentences per year. The decline in capital indictments and new death sentences demonstrates the extent of Ohioans' distrust in the death penalty system—an understandable attitude given the enormous costs associated with the death penalty, the geographic and racial disparities among death penalty defendants, and the death penalty's traumatic impact on victims and corrections staff.

Average Number of Death Sentences



Of all the egregious and monumental flaws in the system, one factor is perhaps the most responsible for dampening Ohioan's appetite for state-sanctioned murder: Ohio's history of sentencing innocent people to die.

In Ohio, the death penalty is only pursued in cases where a murder is committed along with another aggravating factor. When someone is murdered, finding the responsible perpetrator is paramount. Law enforcement and prosecutors have a duty to protect the public and hold the responsible party accountable. But none of that happens when an innocent person is convicted of a crime they did not commit.

Wrongful convictions stem from systemic weaknesses and failures within the criminal justice system, including:

- **Misconduct by investigators or prosecutors;**
- **Perjury or false accusations;**
- **False or misleading forensic evidence;**
- **Mistaken eyewitness identification;**
- **False confessions; and**
- **Inadequate defense representation.**

Across death row exonerations nationwide, official misconduct by police or prosecutors appears in the clear majority of cases, with 70.5% of exonerations involving such misconduct.¹ The rate is even higher when the exoneree is Black, with 78.8% of those cases involving official misconduct.² In Ohio, official misconduct was present in eleven of the twelve cases in which an individual was exonerated from death row.³

This report explores Ohio's wrongful conviction crisis by examining cases in which the State pursued the death penalty against individuals who were later exonerated or whose convictions are in serious doubt. Each case tells a story of loss, years stolen, families fractured, and collective trust eroded. These stories underscore what the data alone cannot: when the system fails in capital cases, the consequences are profound and can be irreversible. Confronting these failures is not optional; it is essential to restoring integrity and public confidence in our justice system.

[1] "The 200th Exoneration Underscores Critical Flaws in the U.S. Criminal Legal System; Other Innocent Prisoners Remain on Death Row." DPIC. 3 July 2024, <https://deathpenaltyinfo.org/the-200th-exoneration-underscores-critical-flaws-in-the-u-s-criminal-legal-system-other-innocent-prisoners-remain-on-death-row>. Accessed 26 Mar 2026.

[2] "DPIC Special Report: The Innocence Epidemic." DPIC. 18 Feb. 2021, <https://deathpenaltyinfo.org/research/analysis/reports/special-reports/dpic-special-report-the-innocence-epidemic>. Accessed 26 Mar 2026.

[3] Ibid.

2025 at a Glance

Capital indictments (8)

Ohio prosecutors initiated 8 new capital filings in 2025. Records kept by the Ohio Supreme Court show the most recent indictments continue a trend of historically low use. By comparison, only 2024 had fewer indictments (n=5) in the past 45 years.

New death sentences (0)

There were no new death sentences in Ohio in 2025.

Over the previous five years, just two new death sentences were adjudicated in Ohio. One came from Warren County in 2020 and another in Butler County in 2024.

Death row removals (3)

Three individuals were removed from Ohio's death row last year. **Abdul Awkal**, who came within hours of execution in June 2012, was removed from death row in April 2025. Mr. Awkal was ruled ineligible for death under Ohio's severe mental illness law. He was convicted in Cuyahoga County in 1992 for the murder of his estranged wife and brother-in-law.

Warren Waddy died of natural causes in October 2025. The Ohio Attorney General's 2024 capital crimes report noted Waddy's case as one where no meaningful action had taken place in the previous 10 years. He was convicted of murdering 22-year-old Paula Mason in Columbus in 1986.

Elwood Jones, in December 2025, became the 12th man exonerated from Ohio's death row. Jones spent more than 26 years on death row for a crime he did not commit.

Severe mental illness (SMI) petitions pending (28)

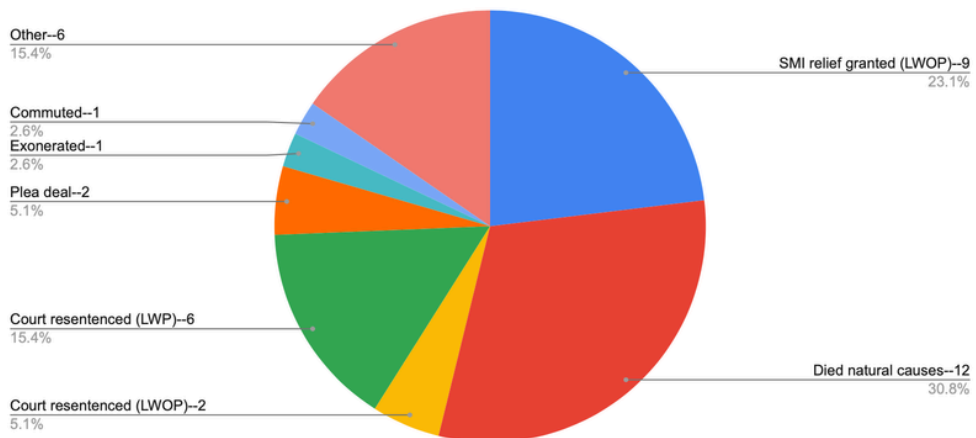
As of December 31, 2025, there were 28 petitions pending before Ohio courts for individuals on death row raising claims they should be exempt from execution due to severe mental illness. Since Ohio law changed in 2021, 10 individuals have been removed from death row under the SMI law. The most recent was Anthony Belton in February 2026.

The following individuals have been removed from death row due to severe mental illness:

Name	County	Death Sentence	Date Removed
Anthony Belton	Lucas	04/04/2012	02/12/2026
Abdul Awkal	Cuyahoga	12/11/1992	04/03/2025
Marvin G. Johnson	Guernsey	06/04/2004	08/28/2024
Stanley Fitzpatrick	Hamilton	02/15/2002	05/06/2024
Timothy Dunlap	Hamilton	02/01/1993	10/30/2023
Michael Ray Turner	Franklin	12/20/2002	10/30/2023
Bobby Sheppard	Hamilton	05/30/1995	09/12/2023
David Allen Sneed	Stark	07/30/1986	01/31/2022
Donald Ketterer	Butler	02/04/2004	09/24/2021
David Braden	Franklin	06/16/1999	06/23/2021

Since Ohio's last execution in 2018, 40 individuals have been removed from death row. The chart below shows the outcomes or reasons for removal from death row.

Removed from death row since last execution (2018)



Executions pending (30)

As of March 30, 2026, thirty (30) execution dates are scheduled from August 2026 through the year 2029.

Name	County	Execution date	Notes
James Derrick O'Neal	Hamilton	08/19/2026	
Jerome Henderson	Hamilton	10/21/2026	pending SMI claim
Melvin Bonnell	Cuyahoga	11/18/2026	innocence claim
Keith Lamar	Lawrence	01/13/2027	innocence claim
Scott A. Group	Mahoning	02/17/2027	
Davel Chinn	Montgomery	03/18/2027	innocence claim
Gregory Lott	Cuyahoga	04/14/2027	favorable clemency recommendation
John Stojetz	Madison	05/19/2027	
Archie J. Dixon	Lucas	06/16/2027	
Timothy Hoffner	Lucas	07/14/2027	
John David Stumpf	Guernsey	08/18/2027	
Lawrence A. Landrum	Ross	10/13/2027	
Sean Carter	Trumbull	11/17/2027	pending SMI claim
Warren K. Hennes	Franklin	12/15/2027	
Tori Drain	Warren	01/11/2028	
Stanley T. Adams	Trumbull	02/16/2028	

Name	County	Execution date	Notes
John E. Drummond	Mahoning	03/15/2028	
James G. Hanna	Warren	04/19/2028	
Percy Hutton	Cuyahoga	06/21/2028	innocence claim
Samuel Moreland	Montgomery	07/19/2028	pending SMI claim; died March 2026
Douglas Coley	Lucas	08/15/2028	
Timothy Coleman	Clark	09/13/2028	
Kareem M. Jackson	Franklin	10/11/2028	
Quisi Bryan	Cuyahoga	11/15/2028	
Von Clark Davis	Butler	01/09/2029	
Antonio Franklin	Montgomery	02/15/2029	pending SMI claim
James Trimble	Portage	03/14/2029	pending SMI claim
Gerald R. Hand	Delaware	04/18/2029	
Cleveland Jackson	Allen	06/13/2029	
Danny Lee Hill	Trumbull	07/18/2029	pending SMI claim; innocence claim; intellectual disability claim

Legislation Introduced

HB 36: Introduced in January 2025 by Reps. Phil Plummer (R-Dayton) and Brian Stewart (R-Circleville). The bill adds nitrogen gas suffocation as a method of execution. The bill also prohibits the disclosure of execution identifying information (personnel, suppliers, manufacturers, etc.) and makes that information confidential (not subject to public disclosure). The bill adds criminal penalties for disclosure of execution identifying information. During hearings, sponsors told the House Judiciary Committee nitrogen gas suffocation executions had not experienced any issues. In contrast, media coverage, including reporting from the *New York Times*, noted that victim families witnessed violent deaths. “Mr. Sennett says he has been unable to get the violence of Mr. Smith’s last moments out of his mind,” the *Times* reported.[4] The bill had sponsor and proponent hearings in 2025.

HB 72: Introduced in February 2025 by Reps. Adam Mathews (R-Lebanon) and Jean Schmidt (R-Loveland). The legislation repeals Ohio’s death penalty law and prohibits State funding for abortion, euthansia and lethal injection drugs. The bill had a sponsor hearing in 2025.

HB 457: Introduced by Reps. Jack Daniels (R-New Franklin) and Josh Williams (R-Sylvania Township) in September 2025. The bill sponsors noted the legislation was brought in response to the Utah killing of conservative activist Charlie Kirk one week after the murder. The bill expands the aggravated murder statute to include causing the death of an elected official or another person if the offense is politically motivated. Hearings on the bill began in 2026.

SB 133: Introduced by Sens. Nickie Antonio (D-Lakewood) and Stephen Huffman (R-Tipp City) in February 2025. The bill repeals Ohio’s death penalty. No hearings on the bill took place in 2025.

SB 134: Introduced by Sens. Nickie Antonio (D-Lakewood) and Stephen Huffman (R-Tipp City) in February 2025. The bill is a companion to HB 72. No hearings on the bill took place in 2025.

[4] Bogel-Burroughs, Nicholas. *New York Times*. “A Select Few Witnessed Alabama’s Nitrogen Execution. This Is What They Saw.” February 1, 2024. Available at <https://www.nytimes.com/2024/02/01/us/alabama-nitrogen-execution-kenneth-smith-witnesses.html>

Below is an excerpt from a February 2024 New York Times article about Alabama's use of nitrogen gas to execute a prisoner. The victim's family witnessed the execution. Lawmakers in Ohio are attempting to add the same execution method to Ohio law via HB 36.

A Select Few Witnessed Alabama's Nitrogen Execution. This Is What They Saw.

There are contrasting accounts of the first U.S. execution by nitrogen gas, but most witnesses agreed on one thing: It did not go as Alabama had promised.

The media witnesses said Mr. Smith's breathing was no longer visible at 8:08 p.m.

In the room where the Sennett family was seated, there was near silence, Mike Sennett said, as they watched Mr. Smith convulse. Mr. Sennett said he, too, believed that Mr. Smith had initially tried to hold his breath. As Mr. Smith continued to shake, Mr. Sennett said he began to think, "How long is this going to take?"

We were told by some people that worked [in the prison system] that he'd take two or three breaths and he'd be out and gone. That ain't what happened. After about two or three breaths, that's when the struggling started. Other people kept saying he was trying to raise himself up. Yeah, he was. I'd probably try and do the same, try and get off the table.

Mr. Sennett says he has been unable to get the violence of Mr. Smith's last moments out of his mind.

With all that struggling and jerking and trying to get off that table, more or less, it's just something I don't ever want to see again.

Ohio's Death Row Exonerations: Key Findings

Official misconduct is the driver of exonerations from Ohio's death row. Misconduct contributed to the wrongful convictions in 11 of Ohio's 12 death row exonerees. These actions, taken by police and prosecutors, demonstrate a pattern where the desire to secure a conviction superseded the search for the truth. The misconduct identified in the case details that follow can be categorized as:

- **Brady violations:** This is the single most common form of misconduct, found in 6 of the 11 cases where misconduct was cited. It involves intentionally hiding evidence that points to innocence. These violations tend to take the form of failing to disclose information about other suspects, alibi statements, or evidence that discredits key State witnesses. Relevant examples:
 - Elwood Jones: Hamilton County prosecutors withheld nearly 4,000 pages of evidence, including witness statements about other suspects and details about the victim's medical status.
 - Ricky Jackson, Kwame Ajamu, and Wiley Bridgeman: Cleveland police hid evidence of another suspect's vehicle and did not inform the defense that the key 12-year-old witness tried to recant before the trial.
 - Dale Johnston: Hocking County didn't provide evidence about another suspect infatuated with one of the victims.
 - Derrick Jamison: Prosecutors hid witness descriptions of suspects that contradicted Jamison's physical appearance.
 - Joe D'Ambrosio: Cuyahoga County prosecutors withheld 10 pieces of exculpatory evidence, including other suspects and alibi statements.
- **Coercion and witness manipulation:** This involves law enforcement actively pressuring or intimidating individuals to provide false testimony. It may also occur when vulnerable witnesses (who are minors) are pressured or when co-defendants are threatened with the death penalty to secure a plea deal and fabricated testimony. Relevant examples:
 - Ricky Jackson, Kwame Ajamu, Wiley Bridgeman: Police pressured a 12-year-old boy to testify. When he later recanted, he revealed this initial intimidation.
 - Tim Howard, Gary James: A detective handling the case was found to have egregiously falsified evidence.
 - Derrick Jamison, Joe D'Ambrosio: Co-defendants were given reduced sentences specifically to testify against them, providing a strong motive to lie.
- **Knowingly presenting perjury:** This occurs when the State proceeds with testimony it knows to be false, unreliable or contested. It may occur by presenting only one characterization of evidence, inconsistent with others found in an investigation. Relevant examples:
 - Elwood Jones: Prosecutors offered testimony about the victim's pendant that they knew was contradicted by other family members. about the unique nature of the item.
 - Gary Beeman: Defense attorneys were prohibited from calling a witness to prove the State's key witness (Clair Liuzzo) had confessed to the crime himself.

Ohio's Death Row Exonerations

Elwood Jones

Factors Contributing to Wrongful Conviction:

- False or Misleading Forensic Evidence
- Perjury or False Accusation
- Official Misconduct

Jurisdiction:
Hamilton County

Years Lost:
30

Elwood Jones was convicted in 1997 of the murder and robbery of Rhoda Nathan in her hotel room in Blue Ash, Ohio. In 2022, Jones's motion for a new trial was granted after a hearing in which the court found that prior to trial, Hamilton County Prosecutor Joe Deters's office failed to provide defense counsel with nearly 4,000 pages of investigative materials containing impeaching and exculpatory evidence. The notable withheld evidence included uninvestigated statements from a witness reporting seeing a man running from the hotel and others describing two men leaving Nathan's hotel room around the time of the murder. Additionally, prosecutors failed to disclose that Nathan had a highly contagious Hepatitis B infection at the time of her death. Testing showed that Jones, however, has never been exposed to the virus. This fact contradicts the State's theory that Jones punched out Nathan's tooth during the assault, causing an injury to his hand that became infected with bacteria the State argued came from her mouth. Police and prosecutors also withheld pertinent information about the victim's stolen necklace which they claimed to have found in Jones's car. Rather than continuing to try to overturn the grant of a new trial, under the leadership of the new Hamilton County Prosecutor Connie Pillich, the State dismissed all the charges with prejudice against Elwood Jones in December 2025.

Ricky Jackson Kwame Ajamu Wiley Bridgeman

Factors Contributing to Wrongful Conviction:

- Perjury or False Accusation
- Official Misconduct

Jurisdiction:
Cuyahoga County

Years Lost:
Ricky Jackson - 39
Kwame Ajamu - 28
Wiley Bridgeman - 38

Ricky Jackson, Wiley Bridgeman, and Kwame Ajamu were convicted of the aggravated attempted murder of Ann Robinson and the aggravated murder and aggravated robbery of Harold Franks outside of a grocery store in Cleveland in 1975. With no forensic evidence tying them to the crimes, the three men were convicted based on the inconsistent eye-witness testimony of a 12-year old boy named Edward Vernon. In 2013, Vernon recanted his testimony. Attorneys for Jackson also found evidence that Vernon had tried to recant his identification of the defendants prior to trial but was pressured by police to testify, which the defendants were not informed of prior to trial. Jackson’s attorneys also learned for the first time that police had another suspect whose license plate matched a vehicle that was seen speeding away from the crime scene. However, police failed to investigate other suspects after Jackson, Bridgeman, and Ajamu were identified. Due to these revelations, the convictions of the three men were vacated, and Cuyahoga County prosecutors dismissed the charges against them. At the time of Jackson’s release, he had the distinction of serving the longest prison sentence of any exonerated person in U.S. history.

Gary Beeman

Factors Contributing to Wrongful Conviction:

- Perjury or False Accusation

Jurisdiction:
Ashtabula County

Years Lost:
3

Gary Beeman was sentenced to death in 1976 for the murder of Robert Perrin, who was killed in his home during a robbery. Beeman’s conviction was based on the perjured testimony of a prison escapee named Clair Liuzzo. At trial, Beeman testified that Liuzzo was furious with Beeman for failing to get money from Perrin. Beeman testified that Liuzzo then went to Perrin’s home alone and without Beeman’s knowledge of his intent to commit murder. Defense attorneys were prohibited from calling a witness to testify that Liuzzo confessed to murdering Perrin. Additionally, defense attorneys were prohibited from recalling Liuzzo and fully cross-examining him. The appellate court reversed Beeman’s conviction and remanded the case for a new trial without the restricted cross-examination of Liuzzo. At retrial, five witnesses testified that Liuzzo said he was the murderer and that Beeman was not involved. Beeman was acquitted in 1979.

Dale Johnston

Factors Contributing to Wrongful Conviction:

- Perjury of False Accusation
- Official Misconduct

Jurisdiction:
Hocking County

Years Lost:
7

Dale Johnston was convicted of murdering and dismembering his stepdaughter, Annette Cooper, and her fiancé, Todd Schultz, in Hocking County in 1982. Johnston was sentenced to death in 1984. Investigators theorized that Johnston killed the couple in a jealous rage, because he allegedly did not want them to marry. At trial, a witness testified that he saw an unknown male forcing two unknown teenagers into a vehicle. Only after undergoing hypnosis did the witness identify the teenagers to be Cooper and Schultz and the male with whom they were arguing to be Johnston. The Court of Appeals overturned Johnston’s conviction, finding the testimony of the hypnotized witness was unreliable and inadmissible. Additionally, the court found Johnston’s attorneys were not provided exculpatory evidence relating to another suspect who was allegedly infatuated with Cooper. The charges against Johnston were dismissed in 1990. Two men confessed to the crimes in 2008. Chester McKnight pled guilty and received two life sentences. Kenneth Linscott pled to misdemeanor abuse of a corpse.

Derrick Jamison	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Hamilton County
	Years Lost: 20

Derrick Jamison was convicted of being one of two men who beat Gary Mitchell to death in downtown Cincinnati in 1984 during a robbery of a bar. Charles Howell confessed to the robbery and murder of Mitchell and told police that Jamison was the primary actor. Howell agreed to testify against Jamison in exchange for a lesser sentence. He pled to 10 years for aggravated robbery while Jamison was sentenced to death. Jamison’s conviction was overturned when his attorney found exculpatory evidence that had not been turned over by Prosecutor Mark Piepmeier prior to trial. Police interviewed several witnesses who saw two men running from the scene of the murder, one was about 5 feet, 6 inches tall and the other about 6-feet tall. Additionally, one of the men was seen carrying a brass pipe. Howell is approximately six-foot tall, and Jamison is approximately 6-foot, 4 inches. Additionally, Howell’s account of the murder did not involve a brass pipe or any weapon. Jamison was released from prison in 2005 after murder charges were dismissed. During his incarceration, six death warrants were issued. At one point, Jamison came within 90 minutes of execution.

On March 5, 2026, a Hamilton County court declared that Jamison was wrongfully imprisoned, a legal status Jamison had been fighting for since his exoneration in 2005. The declaration allows Jamison to pursue compensation related to his wrongful conviction.

**Tim Howard
Gary James**

Factors Contributing to Wrongful Conviction:

- False or Misleading Forensic Evidence
- Perjury or False Accusations
- Mistaken Eyewitness ID
- Official Misconduct

Jurisdiction:
Franklin County

Years Lost:
Tim Howard - 26
Gary James - 26

Tim Howard and **Gary James** were convicted of killing Bernie Davis during a bank robbery in Columbus in 1976. Despite the fact that both had alibis, and there was no physical evidence against them, they were convicted and sentenced to death based on false eyewitness accounts. A private investigator working on behalf of Howard and James uncovered evidence of egregious police corruption. The detective handling the case falsified evidence and suppressed evidence indicating the two men were innocent, including eyewitness statements and the existence of a fingerprint at the crime scene that did not match Howard or James. In 2002, the new evidence was presented to the court, and the judge and prosecutor encouraged Howard to take a plea deal to lesser charges that would result in his release with time-served. Howard refused. In 2003, Howard’s conviction was overturned and he was released. Later that same year, James was released after passing a polygraph test regarding his claims of innocence. All charges against both men were dismissed in July 2003.

Joe D’Ambrosio

Factors Contributing to Wrongful Conviction:

- False or Misleading Forensic Evidence
- Perjury or False Accusations
- Official Misconduct

Jurisdiction:
Cuyahoga County

Years Lost:
22

Joe D’Ambrosio was convicted in 1989 of killing Tony Klann in Cleveland. According to police and prosecutors, D’Ambrosio abducted and then killed Klann with two other men, Thomas Keenan and Edward Espinoza. Espinoza agreed to testify against D’Ambrosio and Keenan in exchange for a plea to the lesser charge of manslaughter. Both Keenan and D’Ambrosio were sentenced to death. In 2006, a federal court ruled that prosecutors withheld 10 pieces of exculpatory evidence, including evidence of another suspect with a motive to kill the victim and witness statements that D’Ambrosio was passed out in his home at the time of the murder. After prosecutors disclosed additional biological evidence that was not previously provided to D’Ambrosio and admitted that Espinoza—the key witness—died in Chicago, the court took

an extraordinary step of barring the prosecution from retrying D'Ambrosio. In 2012, the United States Supreme Court refused the prosecution's appeal. D'Ambrosio was exonerated after over two decades on death row. Michael Keenan's case is detailed below in the dark pleas section.

Charles Tolliver	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none">• Official Misconduct	Jurisdiction: Cuyahoga County
	Years Lost: 2

In April 1986, **Charles Tolliver** was convicted of the drug-related murders of two men in Cleveland and sentenced to die in the electric chair. However, the conviction was immediately overshadowed by allegations of systemic bias, as Tolliver's defense team argued that his constitutional rights were violated by the empaneling of an all-white jury.

The subsequent appeal exposed egregious prosecutorial misconduct during jury selection. It was revealed that Prosecutor Robert Housel used 11 of his 12 peremptory challenges to strike Black prospective jurors. Housel defended his actions with overtly biased arguments, claiming Black jurors were "less likely to be able to comprehend" the case and suggesting that white jurors possessed a higher "educational level." Evidence also surfaced that Housel became visibly upset when a Black juror was eventually seated as an alternate, telling the defense he had "blown it." In late 1988, a judge ruled that this constituted purposeful discrimination, leading to the vacating of Tolliver's death sentence and the granting of a new trial.

In November 1988, Tolliver's retrial ended in a full acquittal. While the State attributed the "not guilty" verdict to a key witness's failing memory, the court's intervention remained a landmark correction of a racially biased proceeding. Tolliver's legal saga saw a final chapter decades later when he was charged in a 1978 cold-case murder. He was acquitted of that charge, but was convicted of conspiracy in 2000, that conviction was overturned in 2002 because the statute of limitations had expired sixteen years before he was even charged. Following this final appellate victory, Tolliver was ordered released from custody.

Thomas Pearson

Factors Contributing to Wrongful Conviction:

- Perjury or False Accusation

Jurisdiction:
Cuyahoga County

Years Lost:
4

Thomas Pearson was sentenced to death in 1978 for the 1975 robbery and murder of Joseph Witcraft. His conviction rested entirely on the testimony of an accomplice, Avila Chambliss, who claimed that Pearson fired the fatal shots while Chambliss acted as the getaway driver. Despite consistently maintaining his innocence throughout the trial and appeals, the psychological weight of the death sentence led Pearson to make the haunting request that his execution be scheduled for his birthday. His sentence was later commuted to life imprisonment after Ohio's death penalty statute was found unconstitutional.

In August 1979, the Ohio 8th District Court of Appeals overturned Pearson's conviction, ruling it legally invalid. The judges determined that the State had failed to meet the requirements of the Ohio Revised Code, which mandates that the testimony of an accomplice must be corroborated by independent evidence to sustain a conviction. Because Chambliss's claims were entirely uncorroborated, the Court vacated the conviction, and Pearson was slated for release within days of the ruling. His mother, who had spent years praying for his freedom, celebrated the news as a divine answer to her pleas, and highlighted the devastating impact the wrongful conviction had on the family.

Below: Excerpts from opinion and order granting Elwood Jones a new trial in 2022.

ENTERED
DEC 20 2022

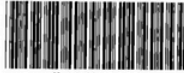
COURT OF COMMON PLEAS
CRIMINAL DIVISION
HAMILTON COUNTY, OHIO

ENTERED

DEC 20 2022

wcc
HON. WENDE C. CROSS

STATE OF OHIO,	:	CASE NO. B95-08578
	:	
Plaintiff,	:	Judge Wendé Cross
	:	
v.	:	DECISION AND ENTRY GRANTING
	:	DELAYED MOTION FOR NEW
	:	TRIAL; NOTICE OF HEARING
ELWOOD H. JONES, JR.		
Defendant.		



D136940352

This matter comes before the Court on the Defendant's Delayed Motion for New Trial pursuant to Ohio Rule of Criminal Procedure 33, filed on February 25, 2019. Upon consideration of the motion, responsive memoranda, evidence presented at the hearing held on August 24, 25 & 26, 2022, and arguments of the parties, the Court finds said motion well taken and a new trial is hereby **GRANTED** for reasons stated herein.

IV. CONCLUSION

The police investigation of the murder of Ms. Rhoda Nathan was mishandled by the Blue Ash Police Department in 1994. By the evidence, there are many unanswered questions about the events that occurred at the Embassy Suites Hotel in Blue Ash, Ohio during the weekend when Ms. Nathan was killed. Unfortunately, this mishandling resulted in the jury considering evidence based on an incomplete police investigation and flawed circumstantial evidence. Additionally, the jury did not have the benefit of considering material evidence which was known to the BAPD and the State prior to trial but not disclosed to the Defense.

When prosecutors withhold evidence that they are duty-bound to turn over, they undermine the Constitution, the Supreme Court's case law, and the premise of justice. *Brady* violations not only send potentially innocent people to prison, but they reinforce a win-at-all costs mentality that undermines the pursuit of justice. As noted by the U.S. Supreme Court, a prosecutor should not be the "architect of a proceeding that does not comport with standards of justice." *Brady*, 373 U.S. at 87-88. Such failures violate a defendant's rights to due process of law under the Fifth and Fourteenth Amendments and thwart the various protections that together constitute the fundamental right to a fair trial under the Sixth Amendment.

Below: Excerpt from the Sixth Circuit Court of Appeals' opinion and order in 2011 in the case of Joe D'Ambrosio. The Court upheld the U.S. District Court's order barring re-prosecution because of the extraordinary actions by the State of Ohio to conceal favorable evidence of D'Ambrosio's innocence.

This court remanded the case and on March 3, 2010, the district court granted D'Ambrosio's Rule 60(b) motion, vacating a portion of its original judgment and barring D'Ambrosio's re-prosecution. *D'Ambrosio v. Bagley*, 688 F. Supp. 2d 709, 735 (N.D. Ohio 2010). The district court reasoned that the state's actions were of the "extraordinary" nature required to bar re-prosecution:

For 20 years, the State held D'Ambrosio on death row, despite wrongfully withholding evidence that "would have substantially increased a reasonable juror's doubt of D'Ambrosio's guilt." Despite being ordered to do so by this Court during the extensive habeas proceedings before it, the State still failed to turn over all relevant and material evidence relating to the crime of which D'Ambrosio was convicted. Then, once it was ordered to provide D'Ambrosio a constitutional trial or release him within 180 days, the State did neither. During those 180 days, the State engaged in substantial inequitable conduct, wrongfully retaining and delaying the production of yet more potentially exculpatory evidence. And, as the 180-day deadline approached, certain of the State's counsel baselessly attacked the state trial judge, came before this Court and supplied testimony that, charitably, only can be described as "strain[ing] credulity," and showed startling indifference to D'Ambrosio's rights. Because the state failed to retry D'Ambrosio within 180 days, moreover, the critical State's witness—the man around whom the entire theory of the State's case revolved—is no longer available for trial, a fact the State knew but withheld from D'Ambrosio, the state court, and this Court. To fail to bar

No. 10-3247 *D'Ambrosio v. Bagley*

Page 6

retrial in such extraordinary circumstances surely would fail to serve the interests of justice.

Below: Headlines from 2021 and 2026 regarding compensation to death row exonerees.

OHIO POLITICS

Ohio to pay ex-Death Row inmate Joe D'Ambrosio \$1 million for two decades of wrongful imprisonment

Updated: Aug. 30, 2021, 6:30 p.m. | Published: Aug. 30, 2021, 4:19 p.m.

LOCAL

Former death row inmate can seek compensation from the state

Kevin Grasha Cincinnati Enquirer

Updated March 5, 2026, 10:17 p.m. ET



Key Points

- A Cincinnati man who spent 20 years on death row has been declared wrongfully incarcerated by a judge.
- Derrick Jamison was wrongfully convicted of murder in 1985 and faced six execution dates.
- A federal judge threw out his conviction in 2000 after finding prosecutors withheld key evidence.

Ohio's shadow death cases: capital charges, life sentences then exoneration

This section of the report highlights a critical, often overlooked, category of injustice: cases where the State sought the death penalty, but the defendant was sentenced to life in prison before their innocence was later proven. When death is on the table, the possibility of execution casts a long shadow over the trial and ratchets up pressure on everyone involved. The death penalty's shadow extends to 12 more cases that were indicted for the death penalty. While these individuals were not technically "on death row," they faced the same systemic failures as the death row exonerees, often with fewer rights of appeal and the added trauma of having the death penalty used as a tool for coercion. A recurring theme in these cases is the use of the death penalty as leverage, inevitably leading to coerced confessions and plea deals on top of the pervasive problems of official misconduct.

Key Factors in Shadow Death Case Exonerations

Factor	Description	Notable Cases
Official Misconduct	Withholding exculpatory evidence or fabricating reports.	Dwayne Brooks (Hidden police reports); Eric Misch (114 pages of suppressed documents).
Perjury / False Accusations	Reliance on "jailhouse informants" or coerced witnesses.	Walter Zimmer & Thomas Siller (Actual killer pinned crime on them); Michael Belcher (Informants traded testimony for deals).
False/Misleading Forensics	Misrepresenting biological evidence or failing to test DNA.	Robert Gondor & Randy Resh (Sweat vs. blood error); Clarence Elkins (DNA eventually matched a neighbor).
Mistaken Witness ID	Reliance on unreliable or traumatized eyewitnesses.	Clarence Elkins (6-year-old niece's initial identification); Kim Hairston (Witness lied due to personal history).

Case Snapshots: The High Cost of Error

- The longest incarcerations: **Dwayne Brooks** (34 years) and **Eric Misch** (26 years) spent decades in prison due to hidden police reports and coerced "bragging" that were later revealed to be entirely fabricated or contradicted by evidence.

Case Snapshots: The DNA Breakthroughs

- In the cases of **Clarence Elkins** and **David Ayers**, DNA evidence eventually proved their innocence, but only after years of legal battles against prosecutors who refused to relent even when science pointed elsewhere.

These cases show that Ohio's wrongful conviction problem is twice as large as the official death row exoneration list suggests. Whether the sentence is death or life, the underlying causes—official misconduct and a reliance on uncorroborated testimony—remain the same. These stories underscore the irreversible danger of seeking the ultimate penalty in a system prone to such deep procedural failures.

Ohio's shadow death cases: capital charges, life sentences then exoneration



THE SUPREME COURT *of* OHIO

CAPITAL INDICTMENT CASE NUMBER		
CAPITAL INDICTMENT CASE NUMBER	DEFENDANT'S NAME	COUNTY
CC 82-9	ERNEST HOLBROOK, JR.	WAYNE COUNTY
CC 82-10	HERMAN RAY RUCKER	WAYNE COUNTY
CC 88-23	DWAYNE BROOKS	CUYAHOGA COUNTY
CC 90-44	ROBERT GONDOR	PORTAGE COUNTY
CC 90-45	RANDY RESH	PORTAGE COUNTY
CC 93-15	KIM HAIRSTON	FRANKLIN COUNTY
CC 93-52	ERIC MISCH	LUCAS COUNTY
CC 99-041	THOMAS SILLER	CUYAHOGA COUNTY
CC 99-042	WALTER ZIMMER	CUYAHOGA COUNTY
CC 98-074	MICHAEL DEWITT BELCHER	FRANKLIN COUNTY
CC 98-047	CLARENCE A. ELKINS	SUMMIT COUNTY
CC00-056	AYERS, DAVID	CUYAHOGA COUNTY

**Ernest Holbrook
Herman Rucker**

<p>Factors Contributing to Wrongful Conviction:</p> <ul style="list-style-type: none"> • Perjury or False Accusation 	<p>Jurisdiction: Wayne County</p>
	<p>Years Lost: Ernest Holbrook - 2 Herman Rucker - 1</p>

Ernest Holbrook and Herman Rucker faced the death penalty in Wayne County for the 1981 sexual assault and murder of 12-year-old T.H. The men were tried separately in 1982 and each were sentenced to life in prison. There was no physical evidence connecting either to the crime. The prosecutors were able to secure convictions based on the testimony of two witnesses who claimed Holbrook confessed to them and implicated Rucker. One of the witnesses was later proven unreliable after she was convicted of filing a false rape claim and it was discovered that she lied on her marriage license. The other witness was an intellectually disabled relative of Holbrook's. The relative claimed he was pressured by police into his false testimony when they used his probation as leverage against him. The witness's recantation helped Rucker win a new trial where he was acquitted. In 1984, Robert Buell was sentenced to death for the murder of 11-year-old K.H. The investigators matched rare carpet fibers found in Buell's van to fibers found on the bodies of both girls. As a result, Ernest Holbrook's conviction was vacated and the charges against him were dismissed in 1984.

Dwayne Brooks

<p>Factors Contributing to Wrongful Conviction:</p> <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	<p>Jurisdiction: Cuyahoga County</p>
	<p>Years Lost: 34</p>

Dwayne Brooks faced the death penalty for the 1987 murder of Clinton Arnold, who was shot while playing basketball in Cleveland in a drive-by shooting that injured two others. Brooks was alleged to have committed the murder in retaliation for a fight over drug territory. Kelly Wingo and Samuel Philpot were also capitally indicted in the murder. Brooks was convicted and sentenced to life in prison despite there being little evidence against him except for testimony from Wingo, who received a lighter sentence in exchange for cooperating with police and prosecutors. Brooks's repeated efforts to obtain a new trial were denied, despite providing three alibi witnesses and sworn affidavits from Wingo and another trial witness recanting

testimony against Brooks. In 2020, pursuant to a public records request, Brooks' attorneys received previously undisclosed police reports that showed witnesses to the crimes identified Philpot and Wingo, but not Brooks. Additionally, the police reports stated that Wingo was under FBI surveillance for suspected involvement with drug trafficking. Brooks was freed from prison on April 24, 2023, and his case was dismissed later that same year.

Robert Gondor Randy Resh	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • False or Misleading Forensic Evidence • Perjury or False Accusation • Ineffective Assistance of Counsel 	Jurisdiction: Portage County
	Years Lost: Robert Gondor - 16 Randy Resh - 16

Robert Gondor and Randy Resh were wrongfully convicted in Portage County for the 1988 murder of Connie Nardi. Portage County prosecutors sought the death penalty for both men. Prosecutors also sought the death penalty for a third defendant, Tony Busta, who witnesses saw leaving a bar with Connie Nardi. However, Busta's charges were reduced in exchange for his testimony against Gondor and Resh. Gondor and Resh were convicted in 1990 in separate trials. In 2006, the Ohio Supreme Court set their convictions aside and ordered new trials after it was discovered that prosecutors withheld the report of a DNA expert. Prior to trial, the DNA expert determined that it was sweat, not blood, found in the bed of Gondor's truck. This finding was inconsistent with Busta's testimony that the defendants transported Nardi's body in the bed of the truck. The State also withheld information about inconsistent statements made by Busta regarding the night of the murder. Randy Resh was retried in 2007 and acquitted of the murder. The State dismissed the case against Gondor the following week.

Kim Hairston	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Franklin County
	Years Lost: 2

Kim Hairston was convicted in Franklin County for the 1992 murder of Arthur Worrix, a convenience store employee. Hairston was sentenced to 30 years to life in prison after the jury failed to vote unanimously for the death penalty. Prosecutors claimed that Hairston left his palm print on a meat case in the store when he killed Worrix. However, Hairston had been in the store several times in the days leading up to the murder. The State’s theory was that only Hairston could have committed the murder because his palm print was found in the store after it had been cleaned the night before. But prosecutors failed to disclose evidence that another store employee was asked to re-clean the store because the employee who cleaned the store the night before the murder did not do an adequate job. The Court awarded Hairston a new trial in 1994, citing the withheld evidence. At his retrial, the prosecution’s star witness revealed that she had been in a romantic relationship with Hairston, and due to her unresolved issues with him, she lied in her testimony. The prosecution dismissed the charges.

Eric Misch	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • Perjury or False Accusation • False or Misleading Forensic Evidence • Official Misconduct 	Jurisdiction: Lucas County
	Years Lost: 26

Eric Misch was just 16 years old in 1992 when 31-year-old Vernon Huggins was found murdered in Toledo. A Crime Stoppers tip led police to question local gang members who alleged that Huggins was attacked because he was Black. Although their stories were full of inconsistencies, they told police Misch had bragged about the murder. Originally, Misch said he didn’t know anything, but police threatened Misch, saying they would put him in prison until he was 50 years old if he didn’t cooperate. Misch recited back to police information about the investigation that they fed to him. Misch was capitally charged and convicted in 1993 and sentenced to 20 years to life in prison. Four co-defendants were also convicted, but none faced the death penalty. In 2018, Misch’s attorneys filed a public records request and received 114 pages of previously undisclosed documents. The records revealed that at the time of the investigation, police had a plethora of evidence implicating Huggins’s girlfriend’s family in the murder. The evidence suggested the killing was retribution for the way Huggins allegedly treated her. The prosecution dismissed the case against Misch after the Court granted Misch’s motion for a new trial, calling the undisclosed documents “a bombshell in the case.” In January 2025, Lucas County prosecutors finally dismissed the cases against Misch’s four co-defendants as well.

**Walter Zimmer
Thomas Siller**

<p>Factors Contributing to Wrongful Conviction:</p> <ul style="list-style-type: none"> • Perjury or False Accusation • False or Misleading Forensic Evidence 	<p>Jurisdiction: Cuyahoga County</p>
	<p>Years Lost: Walter Zimmerman - 13 Thomas Siller - 13</p>

Walter Zimmer and Thomas Siller were accused of assaulting 74-year-old Lucy “Alice” Zolkowski in her home in Cleveland. Zimmer and Siller were convicted in 1998. Months later, Zolkowski died as a result of her injuries. Prosecutors then charged Zimmer and Siller with her murder. Both Zimmer and Siller had done work for Zolkowski, and their fingerprints were found in her home. Jason Smith’s fingerprints were also found, although he did not have a legitimate reason to be in her home. Smith agreed to testify against Zimmer and Siller in exchange for the State dropping the death penalty against him. While detained in jail awaiting trial, multiple people heard Smith saying he committed the crime alone and pinned the murder on two innocent men. In 2005, retesting of evidence determined that Zolkowski’s blood was present on Smith’s pants. In 2009, the Court of Appeals vacated the murder conviction as a result of additional DNA evidence that excluded both Siller and Zimmer but could not rule out Smith. In 2011, Siller entered a new plea unrelated to the murder of Zolkowski and was released immediately. Zimmer entered a similar plea and was released. Smith pled to perjury for his false testimony against Siller and Zimmer and was sentenced to 5 years in prison.

Michael Belcher

<p>Factors Contributing to Wrongful Conviction:</p> <ul style="list-style-type: none"> • Ineffective Assistance of Counsel • Official Misconduct 	<p>Jurisdiction: Franklin County</p>
	<p>Years Lost: 2</p>

Michael Belcher was convicted of killing Glenn Brown, who was murdered in 1997. The crime went unsolved for about a year before police investigated information from a friend of Brown’s who said that Belcher was with the victim the day before the murder. In January 1998, police interviewed Belcher who told them he was an alcoholic and could not recall the night of the murder. By August, prosecutors decided to charge Belcher and sought the death penalty. Two men in jail with Belcher told authorities that Belcher confessed to them. They testified in exchange for favorable deals in their own criminal cases. In 2000, the Court of Appeals vacated the conviction and awarded Belcher a new trial, partly because Franklin County

prosecutors violated Belcher’s Fifth Amendment rights when they improperly criticized him in front of the jury for not testifying. During his second trial, defense attorneys learned that 19 different sets of fingerprints were found in Brown’s apartment, and Belcher’s previous lawyers failed to present that evidence in his first trial. Additionally, fingerprints found on the murder weapon did not match Belcher. In March 2001, the jury acquitted Belcher.

Clarence Elkins	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • Mistaken Eyewitness ID 	Jurisdiction: Summit County
	Years Lost: 7

Clarence Elkins was convicted of murdering his mother-in-law, Judith Johnson, and attacking his young niece, B.S., in June 1998. After the six-year-old B.S regained consciousness, she called for help then went to a neighbor’s house. When police interviewed the girl, she said that the person “looked like her Uncle Clarence.” The investigation found no physical evidence to connect Elkins to the crime, and the evidence that was recovered did not match Elkins. Regardless, Elkins was convicted of attempted aggravated murder, three counts of rape, and felonious assault in 1999. Despite B.S. later recanting her testimony, testing of DNA found on the victim’s body excluding Elkins, and DNA evidence recovered at the crime scene matching Earl Mann - a neighbor with prior convictions for child rape - prosecutors would not relent and left Elkins to remain in prison. In 2005, Elkins was finally freed after the Ohio Attorney General Jim Petro publicly called on Summit County prosecutors to drop the charges against him. In 2007, prosecutors charged Earl Mann with the rapes and murder. Mann pled guilty and was sentenced to life in prison without parole.

David Ayers	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Cuyahoga County
	Years Lost: 11

David Ayers was convicted of the 1999 murder of Dorothy Brown, a 76-year-old woman living in Cleveland in a building for elderly and disabled people. Police focused the investigation on Ayers, who was a live-in police officer for the housing community. None of the crime scene evidence matched Ayers, but prosecutors found a jail house informant who claimed Ayers confessed to the murder after his trial had started. The new star witness initially had no information about the offense, but after meeting with police, he told the jury that Ayers used an iron to kill Brown and stole \$700. Ayers was convicted in 2000 and sentenced to life without parole. In 2004, lawyers for the defense requested DNA testing. After a lengthy legal battle, the test results excluded Ayers. In 2011, charges were dismissed and he was freed from prison. In a federal lawsuit filed by Ayers, the jury found that two detectives had fabricated and hid exculpatory evidence. The lawsuit was later settled in 2020 with the City of Cleveland agreeing to pay Ayers nearly \$5 million.

According to records and information maintained by the National Registry of Exonerations, some of the individuals whose wrongful convictions are noted above have been compensated. Costs of civil lawsuits resulting from wrongful convictions are not calculated as part of death penalty costs. Taking those costs into account, Ohio death penalty system costs have been underreported by at least \$50 million, attributable to wrongful incarceration awards.

Additional wrongful incarceration claims are pending or anticipated. The additional \$50 million in costs will further increase death penalty costs as exonerated individuals are granted compensation.

The "Fail-Safe" of Clemency—Ohio's Near Misses

The cases detailed in this section represent the most terrifying threshold of the criminal justice system: individuals who reached the brink of execution despite overwhelming evidence of innocence or systemic failure. These five men were not saved by the traditional appeals process, but by the "fail-safe" of gubernatorial intervention via clemency. While these cases have not yet resulted in full exonerations, the State's decision to commute their death sentences to life in prison may be viewed as an implicit admission that the original convictions were too fragile to justify an irreversible act.

The "near-miss" cases share the same DNA as the 12 full exonerations previously discussed, specifically:

- The "Ignore for Now" Culture: In the case of **Kevin Keith**, police literally wrote "ignore for now" on subpoenas for records that eventually contradicted the State's theory. This highlights a culture where evidence-gathering is secondary to conviction-holding.
- The Co-Defendant Bargain: In the cases of **Arthur Tyler** and **William Montgomery**, the State relied almost exclusively on co-defendants who "flipped" to avoid the death penalty themselves—only for those witnesses to later confess to being the sole perpetrators or to have their timelines debunked by forensics.
- Documented Bias: The case of **Shawn Hawkins** revealed a lead detective's recorded racist remarks, which remained hidden from the defense for years.

Name	Total Years Incarcerated	Commuted by (year)	Notable factors
John Spirko	43+	Strickland (2008)	Execution postponed 7 times; co-defendant proved to be in another state at the time of murder.
Kevin Keith	32+	Strickland (2010)	Discovery of "ignore for now" notes on police logs and manipulated forensic evidence
Shawn Hawkins	36+	Kasich (2011)	Hidden audio of racist detective notes; key witness was found with the murder weapon type.
Arthur Tyler	41	Kasich (2014)	Accomplice signed an affidavit confessing to the murder alone; paroled in 2025.
William Montgomery	40+	Kasich (2018)	Seven witnesses saw the victim alive days after the state's alleged time of death. Forensic medical expert proved murders could not have occurred when and as the State claimed.

These cases underscore a chilling reality: wrongful convictions persist to the very steps of the execution chamber. If not for the intervention of governors, Ohio would likely have executed five men whose guilt is now in profound doubt. These individuals remain incarcerated (with the recent exception of Arthur Tyler), spending an average of 39 years behind bars. They represent a "living" testament to the fact that the death penalty system is incapable of filtering out innocence on its own.

The "Fail-Safe" of Clemency—Ohio's Near Misses



THE SUPREME COURT *of* OHIO

CAPITAL INDICTMENT CASE NUMBER		
CAPITAL INDICTMENT CASE NUMBER	DEFENDANT'S NAME	COUNTY
CC 83-23	ARTHUR TYLER	CUYAHOGA COUNTY
CC 83-119	JOHN GEORGE SPIRKO JR.	VAN WERT COUNTY
CC 86-26	WILLIAM T. MONTGOMERY	LUCAS COUNTY
CC 90-97	SHAWN HAWKINS	HAMILTON COUNTY
CC 94-047	KEVIN A. KEITH	CRAWFORD COUNTY

Arthur Tyler

Factors Contributing:

- Perjury or False Accusation
- Official Misconduct

Jurisdiction:

Cuyahoga County

Years Incarcerated:

41

Arthur Tyler was sentenced to death in 1984 for the murder of Sander Leach in Cleveland. Initially, investigators believed that two men were involved in the murder, Tyler and an accomplice named Leroy Head. Head became the State's key witness when he agreed to testify against Tyler in exchange for the State no longer pursuing the death penalty. Leroy Head would later sign an affidavit that he alone killed Sander Leach while Tyler was inside a convenience store. Head was granted parole in 2008. Tyler's application for clemency was supported by the Cuyahoga County Prosecutor's office, a rare move taken by the office. In 2014, Ohio Governor John Kasich commuted Tyler's sentence to life without parole, and further commuted it to life with parole in 2018. The Ohio Parole Board finally granted Tyler parole in January 2025 after he had been incarcerated for 41 years. Arthur Tyler maintains his innocence.

John Spirko

Factors Contributing:

- Perjury or False Accusation

Jurisdiction:

Van Wert County

Years Incarcerated:

44

John Spirko was sentenced to death for the 1982 robbery, rape, kidnapping, and murder of Betty Jane Mottinger. Spirko was already involved with the criminal justice system, and he reached out to law enforcement claiming to have knowledge of Mottinger's murder in order to avoid prison in his pending case. Police asked Spirko about his former cellmate Delaney Gibson, Jr. after seeing the cellmate's photo. Spirko told police Gibson was responsible for killing Mottinger. Although Spirko did not match the description of the perpetrators from the witness statements and some of the details Spirko provided about the crime were inaccurate, police indicted both Gibson and Spirko. At trial, prosecutors presented evidence of two jailhouse informants who claimed Spirko confessed to the crimes. After Spirko's trial, it was discovered that Gibson was in North Carolina at the time of the murder. Additionally, the jailhouse informants recanted their statements against Spirko. Due to the doubts regarding his guilt, Spirko's execution was postponed seven times by three different Ohio governors. In 2008, Ohio Governor Ted Strickland commuted Spirko's sentence to life in prison without parole. John Spirko has been incarcerated for over 44 years.

William Montgomery

Factors Contributing:

- Perjury or False Accusation
- False or Misleading Forensic Evidence
- Official Misconduct

Jurisdiction:

Lucas County

Years Incarcerated:

40

William Montgomery was convicted of the double-murder of Debra Ogle and Cynthia Tincher in Toledo in 1986. Co-defendant Glover Heard was a key witness for the prosecution. The State's theory was that the women were murdered by Montgomery on March 8 between 5:00 a.m. and 7:00 a.m.. The State claimed Ogle was murdered first, then Tincher was killed to cover up the crime. Tincher's body was found in her car on March 8 at 7:30 a.m. Prior to trial, the State failed to disclose to the defense that seven witnesses claimed to have seen Ogle on March 12, four days after the State claimed she was murdered. Police found Ogle's wallet in Heard's dresser drawer and her car less than a block away from Heard's residence. But Heard, whose story changed five times, made a deal to testify against Montgomery in order to avoid the death penalty. During the parole board hearing, counsel for Montgomery argued that the State's entire theory of the case was wrong. A pathologist and a forensic analyst showed that Ogle could not have been dead for four days prior to discovery on March 12 as there was no decay or degradation of her body. Ohio Governor Kasich commuted Montgomery's sentence from death to life without parole. He has been in prison for nearly 40 years and maintains his innocence.

Shawn Hawkins

Factors Contributing:

- Perjury or False Accusation
- Official Misconduct

Jurisdiction:

Hamilton County

Years Incarcerated:

37

Shawn Hawkins was sentenced to death for the 1989 double-homicide of Diamond Marteen and Terrance Richard. Governor Kasich commuted Hawkins's sentence to life without parole in 2011. During a clemency hearing, lawyers for the defense presented an audio recording of the lead detective on the case dictating notes in which he described the victims as "two dead n*ggers in Mount Healthy." The audio recording was not provided to Hawkins before trial and was uncovered years after his conviction. The Ohio Parole Board wrote that it was recommending commutation due to concerning aspects of the case, (1) the roles of other individuals who could have been involved but were never investigated, (2) the many conflicting statements made by the State's key witness in the case, and (3) the fact that the key witness was convicted of aggravated robbery using the same type of gun that was used in the murders. The board's decision was unanimous. Shawn Hawkins maintains his innocence, and his lawyers continue to work toward winning him a new trial.

Kevin Keith

Factors Contributing:

- Perjury or False Accusation
- Mistaken Eyewitness ID
- False or Misleading Forensic Evidence
- Official Misconduct

Jurisdiction:

Crawford County

Years Incarcerated:

32

Kevin Keith was sentenced to death for the murders of Marichell Chatman, her daughter Marchae, and her sister Linda Chatman in 1994. Around the time of the murders, police were investigating a string of pharmacy burglaries in the Central Ohio region. Rudel Chatman, the brother of Marichell Chatman, served as a confidential informant in the investigation. The State claimed the victims were murdered to punish Rudel for providing police information related to the pharmacy burglaries. Keith's sentence was commuted to life without parole in 2010 by Governor Ted Strickland because of his concern regarding law enforcement's failure to investigate other suspects. After the commutation, Keith's legal team discovered the State's forensic expert had misled and manipulated evidence to be beneficial to the prosecution. The legal team also discovered that police radio logs, which the State previously claimed did not exist, contradicted the State's theory of the case. In 2017, lawyers for Keith discovered police deliberately concealed evidence. Handwritten on the subpoena order for police logs and records related to the case were the words, "ignore for now." Bucyrus Police failed to provide the records prior to trial. Those records, which were uncovered seven years after Keith's commutation, contradicted the police and prosecution's theory of the case. Keith maintains his innocence and has been incarcerated for more than 30 years. He and his lawyers continue to fight for a new trial.

C19NC
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IN THE CRAWFORD COUNTY COMMON PLEAS COURT, BUCYRUS, OHIO
(Court) 44820

STATE OF OHIO Case No. X38 94CR042

Plaintiff
VS
KEVIN A. KEITH
Defendant

SUBPOENA
CIVIL/CRIMINAL
DUCES TECUM
GRAND JURY

Ignore For Now

TO:
Custodian of Records c/o Chief Baran Bucyrus Police Dept., Bucyrus, Ohio
Name Address

YOU ARE HEREBY COMMANDED TO appear before Judge Kimerline
on the 13 day of May 19 94 at 9:00
o'clock A M.

You are further ordered to:
bring with you all records, including radio dispatch logs, of all call-ins from
February 12, 1994 to the present time.

James H. Banks 0031958 Witness my hand and seal of said Court this 12 day of
Attorney's Name May 19 94
P.O. Box 1950
Attorney's Address By Sherry McAdoo Deputy
Dublin, Ohio 43017 PATRICIA J. CALDWELL, Clerk of Courts

Attorney for: Defendant
Phone No: (614) 866-0666

Bucyrus Police Department's copy of defense subpoena

Above: Subpoena in the case of Kevin Keith, where Crawford County authorities wrote, "ignore for now."

Below: Excerpt from the Ohio Pharmacy Board investigation into pharmacy burglaries suppressed in the case of Kevin Keith. The excerpt indicates investigators knew of alternative, more likely suspects in the murders but chose to focus on Kevin Keith instead.

Hickman and reported that Rodney had contacted her on this date and told her that he and Maurice were going to assist him with the pharmacy burglary in Columbus and that he wanted her to drive for him. Rodney still was insisting that the CI use his car(which is a 1979 Chevrolet. Impala with a new yellow paint job. Ohio Reg. JKZ218. He also stated that he had been paid \$15,000 to cripple "the man" who was responsible for the raids in Crestline, Ohio last week. After he finishes that and the pharmacy burglary he stated that he is going to Atlanta to take care of some other business. The CI agreed to drive for this burglary and notified Rodney that he had to give her some notice as to when he would need

Excerpt from the Ohio Pharmacy Board Investigative Report

ORIGINAL ORIGINAL

IN THE SUPREME COURT OF OHIO

STATE OF OHIO, Supreme Court No. 1989-0070
 Plaintiff-Appellee,
 vs. On Appeal From The Lucas
 County Court Of Appeals
 Sixth Appellate District
 Court of Appeals No. L-86-395
 WILLIAM T. MONTGOMERY,
 Defendant-Appellant, Death Penalty Case

MOTION TO SET EXECUTION DATE

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FILED
 MAY 18 2012
 CLERK OF COURT
 SUPREME COURT OF OHIO

RECEIVED
 MAY 18 2012
 CLERK OF COURT
 SUPREME COURT OF OHIO

The State of Ohio respectfully requests that the Court set a date for execution of Defendant-Appellant, William T. Montgomery "defendant", who has exhausted his state and federal appellate remedies.

Left: The Lucas County Prosecutor's 2012 motion to schedule the execution date in the case of William Montgomery. The motion was granted. It would take another six years before the case came to the desk of Governor John Kasich, who commuted Montgomery's death sentence.

RECOMMENDATION:

The Ohio Parole Board with ten (10) members participating, by a vote of six (6) to four (4) recommends to the Honorable John R. Kasich, Governor of the State of Ohio, that Executive clemency be granted in the case of William Montgomery.

William Montgomery, A193-871
 Death Penalty Clemency Report

Adult Parole Authority
 Ohio Parole Board Members
 Voting Favorable

Andre Imbrogno
 Andre Imbrogno, Chair

Kathleen Kovach
 Kathleen Kovach

Ellen Venters
 Ellen Venters

Richard Cholach Jr.
 Richard Cholach Jr.

Marc Houk
 Marc Houk

Shirley A. Smith
 Shirley A. Smith

Ohio Parole Board Members
 Voting Unfavorable

R.F. Rauschenberg
 R.F. Rauschenberg

Ronald E. Nelson Jr.
 Ronald E. Nelson Jr.

Alicia Handwerk
 Alicia Handwerk

Tracy Reveal
 Tracy Reveal

Right: The recommendation of the Parole Board made to Governor John Kasich after the March 2018 clemency hearing for William Montgomery.

Dark Pleas and the Illusion of Justice

This section of the report defines and examines "dark pleas"—a controversial legal mechanism used during post-conviction proceedings. These are plea agreements offered to defendants after their convictions have been vacated or when a new trial has been ordered. While they offer the promise of immediate freedom, they come at a devastating legal and personal cost to the wrongfully convicted.

The Impossible Choice

As noted by the University of Cincinnati College of Law, the Ohio Innocence Project, and former Ohio Supreme Court Justice Michael Donnelly, dark pleas present innocent defendants with an impossible choice. For an innocent person who has spent decades on death row, a dark plea represents a cruel dilemma. The benefit: immediate release from prison with "time served," ending the threat of a potential retrial (in the same system that already wrongfully convicted) and a return to death row. The cost: the defendant must **admit guilt** to a reduced charge. This admission bars them from being legally recognized as "wrongfully convicted" and permanently forfeits their right to seek state compensation for the years stolen from them. The public is prevented from learning the full record.

Case Snapshots: Freedom at the Price of Truth

Name	Years on Death Row	County	Turning Point / Primary Issue
Ahmed Fawzi Issa	22 Years	Hamilton	Convicted on hearsay; Sixth Circuit vacated the conviction. Pled to involuntary manslaughter to secure release and was deported.
Lamont Hunter	18 Years	Hamilton	Forensic findings changed from murder to accidental fall; State withheld evidence. Pled to child endangerment and involuntary manslaughter for immediate release.
Thomas M. Keenan	25 Years	Cuyahoga	Co-defendant of exoneree Joe D'Ambrosio. Federal court cited "egregious" misconduct. Pled to burglary to avoid a third trial.
Kenny Richey	21 Years	Putnam	Original "arson" evidence was debunked by modern science. Pled "no contest" to lesser charges for time served.

Key Observations: The Unspeakable Travesty

The case of Thomas Michael Keenan highlights the extreme danger of these proceedings. Former Ohio Supreme Court Justice Paul Pfeifer noted that the misconduct in Keenan's case was so severe that it justified the total abolition of the death penalty. Pfeifer argued that if Keenan had been executed before the evidence of misconduct came to light, there would be no way for the State to "cleanse itself" of the reality of having executed an innocent man.

A Legacy of Uncompensated Loss

The 86 combined years spent on death row by these four men resulted in zero state compensation and no formal legal exoneration. Because they accepted dark pleas to secure their physical freedom, the State of Ohio is shielded from the financial and moral consequences of nearly a century of cumulative wrongful incarceration.

Dark Pleas After Death Sentence



THE SUPREME COURT *of* OHIO

CAPITAL INDICTMENT CASE NUMBER		
CAPITAL INDICTMENT CASE NUMBER	DEFENDANT'S NAME	COUNTY
CC 86-51	KENNETH RICHEY	PUTNAM COUNTY
CC 88-121	THOMAS M. KEENAN	CUYAHOGA COUNTY
CC 90-97	LAMONT HUNTER	HAMILTON COUNTY
CC 98-023	AHMAD FAWZISSA	HAMILTON COUNTY

Kenneth Richey

Factors Contributing:

- Perjury or False Accusation
- False or Misleading Forensic Evidence
- Official Misconduct

Jurisdiction:

Putnam County

Years Incarcerated on Death Row:

21

Kenny Richey was sentenced to death in 1987 for setting a fire that killed 2-year-old C.C. Prosecutors alleged that Richey set the fire to exact revenge on C.C.'s mother. They claimed Richey dismantled the smoke detector and used accelerants to spread the fire. On appeal, two different forensic experts testified that the fire was consistent with an accident. The original arson evidence against Richey was based on "unsound scientific principles." Attorneys for the defense also learned that prosecutors withheld information that during the week leading to the fire, C.C.'s mother claimed that C.C. had started multiple fires and the local fire chief had come to the apartment three times to investigate mysterious smoke. Witnesses claimed that the smoke detector that Richey was alleged to have disabled was previously disabled by C.C.'s mother. After his conviction was overturned in 2007, Richey pled no contest to lesser charges and received time-served for the 21 years he spent on death row. He was released in January 2008. Richey is currently serving a 12-year sentence for making threats against the Putnam County officials who prosecuted him and presided over his trial.

Thomas M. Keenan

Factors Contributing:

- Perjury or False Accusation
- Official Misconduct

Jurisdiction:

Cuyahoga County

Years Incarcerated:

25

Thomas "Mike" Keenan was a co-defendant of Joe D'Ambrosio—one of Ohio's 12 death row exonerees. Prosecutors alleged that D'Ambrosio and Keenan killed Tony Klann with the help of a third man, Edward Espinoza, in 1989. Espinoza agreed to testify against Keenan after prosecutors agreed to remove the death penalty from consideration in his case. Keenan's case was overturned and in 1994 he was retried and convicted a second time and sentenced to death. In 2006, evidence in D'Ambrosio's case showed that Cuyahoga County prosecutors withheld exculpatory evidence. In 2012, a federal court overturned Keenan's second conviction, citing egregious prosecutor misconduct. Keenan's lawyers asked that the State be barred from further prosecution, as was ordered in D'Ambrosio's case, but the Ohio Supreme Court would not go that far. Keenan was released that same year, but he remained under threat of re-prosecution. In exchange for not being prosecuted a third time and risking returning to death row, Keenan agreed to a plea of burglary with time served in 2015. He spent nearly 25 years on death row.

Notably, Ohio Supreme Court Justice Paul Pfeifer said that Keenan’s case was enough of a debacle that it showed the death penalty in Ohio should be abolished. Justice Pfeifer observed that Keenan might have been executed before the evidence of his innocence ever came to light. “It would be an unspeakable travesty if the great State of Ohio were to execute a defendant and then determine that it had done so based on deliberate prosecutorial misconduct...If he had been executed, there would be no way for the State to cleanse itself from the awful reality of having executed a person who had not received his full measure of legal protection,” wrote Justice Pfeifer.

Lamont Hunter	
Factors Contributing to Wrongful Conviction: <ul style="list-style-type: none"> • False or Misleading Forensic Evidence • Ineffective Assistance of Counsel • Official Misconduct 	Jurisdiction: Hamilton County
	Years Incarcerated: 18

Lamont Hunter was sentenced to death in 2007 following the death of three-year-old T.B. Prosecutors alleged that T.B. was forcefully struck in the head or his body had been slammed against something and claimed there were penetration injuries to T.B.'s rectum. Hunter reported that T.B. fell down a flight of stairs leading to a concrete basement floor and he could not revive him. The child never regained consciousness and his mother decided to remove him from life support and donated his organs a few days later. Hamilton County prosecutors charged Lamont with aggravated murder, aggravated rape, and child endangerment. In October 2021, the Hamilton County coroner who performed T.B.'s autopsy changed her opinions as to the cause of T.B.'s death and injuries when Hunter's lawyers presented her with information she had not reviewed before she testified at Hunter's trial. The coroner found that T.B.'s head injuries and external bruising were consistent with the configuration and cinder block edge of the stairs. The coroner also found that the multiple attempts to take T.B.'s temperature with a rectal thermometer at the hospital explained the injuries previously attributed to sexual assault. Additionally, Hunter's lawyers learned of impeaching evidence the State had withheld regarding a witness for the prosecution and that other records in possession of prosecutors cast doubt on the State's theory. In May 2023, Hamilton County prosecutors joined the defense in their motion for a new trial. Hunter agreed to plea to a lesser charge of involuntary manslaughter and child endangerment to avoid a retrial. Hunter spent nearly 18 years behind bars.

Ahmad Fawzi Issa

Factors Contributing:

- Ineffective Assistance of Counsel
- Official Misconduct

Jurisdiction:

Hamilton County

Years Incarcerated:

21

Ahmed Fawzi Issa was sentenced to death in 1997 in Hamilton County in a murder-for-hire scheme. Two men were killed, brothers Maher and Zaid Khriss. Two others were charged in the crime, a woman married to one of the victims, Linda Khriss, and the shooter, Andre Miles. Issa, according to prosecutors, was the middleman in the scheme. While Issa was sentenced to death, Khriss was acquitted and Miles was sentenced to life in prison. In 2018, the Sixth Circuit Court of Appeals vacated Issa's conviction and ordered a new trial. The court found Issa was convicted based on hearsay testimony and his constitutional right to confront witnesses against him had been violated. The court said Issa's trial counsel also failed to call Linda Khriss to testify and that failure constituted ineffective assistance of counsel. Hamilton County Chief Assistant Prosecutor Mark Piepmeier stated Issa's conviction was unjust because he was the least culpable but was the one sentenced to death. Nevertheless, prosecutors still wanted Issa convicted of something. They offered Issa a dark plea to involuntary manslaughter and having weapons under disability. He was sentenced to 13 years in prison and was given credit for the 21 years he already served. Issa was deported to Jordan after his release from death row.

THE STATE OF OHIO, APPELLANT, v. KEENAN, APPELLEE.

[Cite as *State v. Keenan*, 143 Ohio St.3d 397, 2015-Ohio-2484.]

Criminal law—Sanctions for discovery violations—Retrial after issuance of writ of habeas corpus due to suppression of discovery material in violation of Brady v. Maryland—Trial court abused discretion by dismissing case with prejudice without giving parties opportunity to develop the record.

(No. 2013-1731—Submitted September 9, 2014—Decided June 25, 2015.)

APPEAL from the Court of Appeals for Cuyahoga County, No. 99025,

2013-Ohio-4029.

PFEIFER, J.

PFEIFER, J., concurring.

{¶ 14} Although I authored the majority opinion in this case, I write separately to emphasize that this case underscores one reason that the death penalty should be abolished. Over 17 years ago, this court affirmed the sentence of death in this case; I concurred in that decision. *State v. Keenan*, 81 Ohio St.3d 133, 136, 156, 689 N.E.2d 929 (1998). It is possible that Keenan could have been executed before it became known that the prosecution had suppressed exculpatory evidence. It would be an unspeakable travesty if the great state of Ohio were to execute a defendant and then determine that it had done so based on deliberate prosecutorial misconduct.

{¶ 15} The system worked in this case, in that Keenan now has access to information that should have been made available to him years ago. That is encouraging, but it is not a guarantee that the system will work in every instance or that it will always work in time. In this case, because Keenan has not been executed, there is still time for justice to be rendered appropriately. If he had been executed, there would have been no way for the state to cleanse itself from the awful reality of having executed a person who had not received his full measure of legal protection. To ensure that that never happens, the General Assembly should abolish the death penalty.

Above: Concurring opinion written by Justice Paul Pfeifer in 2015 in the case of Mike Keenan. The opinion notes an innocent man could have been executed and that the General Assembly should abolish the death penalty.

CONCURRENCE

MERRITT, Circuit Judge, concurring. I agree and concur in Judge Moore’s opinion that the admission of the hearsay testimony of Joshua and Bonnie Willis violated the Confrontation Clause, but the failure to call Linda Khriiss as a witness also constituted ineffective assistance of counsel.

Issa was charged with aggravated murder with prior calculation and design and a death specification of murder for hire. Issa’s codefendant, Linda Khriiss, facing the same charges as Issa, testified in her own trial and denied hiring anyone to kill her husband. She specifically exonerated Issa, testifying at her trial that Issa did not conspire to kill her husband. Linda Khriiss Trial Tr. at 101. She denied the existence of any plan to kill her husband.

- Q. [A]t any time prior to the death of your husband did you and Ahmad Issa conspire or plan to kill your husband?
A. No sir, we never did.

Linda Khriiss Tr. Trans. at 86. Linda Khriiss was acquitted. The state then presented the same theory at Issa’s trial that it relied on at Linda’s: Linda hired Issa to kill her husband, and Issa hired Miles to be the triggerman. Linda Khriiss was available to testify at Issa’s trial—and in fact sat in the courtroom throughout much of his trial. Yet trial counsel failed to call her. Issa therefore did not benefit from the testimony she gave at her own trial. The failure of Issa’s counsel to have Linda testify to disprove Issa’s involvement in the murder constitutes ineffective assistance of counsel.

Above: Concurring opinion and order written by Sixth Circuit Court of Appeals Judge in 2018. The opinion reads Linda Khriiss, “specifically exonerated Issa, testifying at her trial that Issa did not conspire to kill her husband.” But although “Linda Khriiss was available to testify at Issa’s trial—and in fact sat in the courtroom throughout much of his trial,” Issa’s counsel failed to call her to the stand.

The Unexecuted Innocent: Credible Claims on Death Row

While 12 men have walked off Ohio's death row as "official exonerees," many others remain on death row with compelling, documented claims of innocence. Nine of these are presented here as examples but still more or actively pursuing innocence-based relief. These cases are characterized by a recurring trifecta of failure: suppressed evidence (*Brady* violations), incentivized "snitch" testimony, and outdated forensics. In many of these instances, the individuals are not seeking a "get out of jail free" card, but simply the right to a fair trial where the jury sees the evidence the State originally hid.

Technicality Trap – courts have acknowledged that evidence of innocence exists but have refused to overturn convictions due to rigid procedural rules.

- **Anthony Apanovitch** (42 years): DNA testing excluded Apanovitch from the rape that served as the "aggravating factor" for his death sentence. He was freed for two years before being sent back to death row on a stunning technicality: the DNA test was requested by the prosecutor rather than Apanovitch himself, which a court ruled was a "fatal flaw" in the legal filing.
- **Davel Chinn** (36 years): Despite a corroborated alibi and the discovery that the State's star witness had an IQ of 48 and "chemically induced amnesia," federal courts are barred from intervening due to the AEDPA, which requires extreme deference to state court rulings—even when those rulings are criticized by U.S. Supreme Court Justices.

Outdated Science and "Junk" Evidence

- **Danny Lee Hill** (41 years): The State's case relied heavily on "bitemark" analysis, a forensic method now thoroughly debunked and linked to at least 39 wrongful convictions nationwide. Hill, who is intellectually disabled, also faces a case where witness statements contradicting his guilt were suppressed for decades.
- **Jeffrey Wogenstahl** (33 years): 2016 records revealed the FBI stated the hair testimony at trial was overstated and scientifically misleading. Additional *Brady* evidence also found in FBI records indicated additional hairs were discovered on the victim's clothing, including a black hair fragment. This hair was significant because alternate suspects had dark hair, unlike Wogenstahl. No blood was found on Wogenstahl's jacket or in his car. Furthermore, evidence suggested the victim's mother may have sold her daughter to settle drug debts—a narrative the prosecution suppressed while painting Wogenstahl as the sole culprit.

Common Systemic Failures

- **Incentivized Informants:** In the cases of **Keith Lamar**, **Stanley Jalowiec**, and **Davel Chinn**, the State relied on witnesses who were either minors, intellectually disabled, or facing their own charges. These witnesses received early parole, immunity, or physical rewards (like cars) for their testimony.
- **Ineffective Assistance of Counsel:** In the case of **Willie Wilks**, trial lawyers failed to point out that Wilks was a bald man in his 40s, while eyewitnesses described a "kid with dreadlocks."
- **The "Narrow" *Brady* Standard:** Prosecutors, such as those in the **Keith Lamar** case, have admitted to using an improperly "narrow" definition of what evidence must be turned over to the defense, resulting in "bombshell" documents being discovered only decades later via public records requests.

"It would be an unspeakable travesty if the great State of Ohio were to execute a defendant and then determine that it had done so based on deliberate prosecutorial misconduct."

– Justice Paul Pfeifer (Ret.), Ohio Supreme Court



THE SUPREME COURT *of* OHIO

CAPITAL INDICTMENT CASE NUMBER		
CAPITAL INDICTMENT CASE	DEFENDANT'S NAME	COUNTY
CC 84-138	ANTHONY APANOVITCH	CUYAHOGA COUNTY
CC 85	DANNY LEE HILL	TRUMBULL COUNTY
CC 98-16	DAVEL VONTRESS CHINN	MONTGOMERY COUNTY
CC 92-97	JEFFREY A. WOGENSTAHL	HAMILTON COUNTY
CC 94-076	FREDDIE MCNEILL	LORAIN COUNTY
CC 94-090	KEITH LAMAR	SCIOTO COUNTY
CC 95-024	STANLEY JALOWIEC	LORAIN COUNTY
CC 95-081	TYRONE LEE NOLING	PORTAGE COUNTY
CC 13-004	WILKES, JR., WILLIE GENE	MAHONING COUNTY

Anthony Apanovitch

Factors Contributing:

- Perjury or False Accusation
- False or Misleading Forensic Evidence
- Official Misconduct

Jurisdiction:

Cuyahoga County

Years Incarcerated:

38

Anthony “Tony” Apanovitch was sentenced to death for the 1984 murder and rape of Mary Anne Flynn. Apanovitch had worked as a painter for Flynn, and some witnesses claimed he made unwanted sexual advances toward her. Police focused on him immediately. He was convicted within 73 days of being indicted. Over the years of appeals, courts have found that the “State’s conduct was unquestionably improper, and in the context of a capital trial, egregiously so.” However, it was held that the State’s misconduct was not enough to overturn Apanovitch’s conviction. In 1991, an employee of the Cuyahoga County Coroner’s Office found three slides of untested material taken from Flynn’s body. Tony Apanovitch did not learn of the 1991 discovered slides until 2009. After a lengthy legal battle, in 2015, a trial court determined that the swab taken from Flynn’s vagina contained the DNA of two unidentified males and did not contain DNA from Apanovitch. The judge dismissed the rape charge and ordered a new trial on the murder charge. Apanovitch was released from prison and lived on home confinement for two and a half years, even getting married. However, he was sent back to death row when the Ohio Supreme Court ruled that the DNA was tested pursuant to the request of the prosecutor and not at the request of the defendant. Ohio’s statute envisions the DNA test request as coming from the defendant, but since the State withheld the existence of the evidence from Apanovitch, he did not request it. The Court ruled that fact was a fatal flaw in Apanovitch’s innocence claim as the trial court lacked jurisdiction to grant him a new trial. Tony Apanovitch is back on death row due to a technicality in the wording of Ohio’s DNA access statute. The legislature has thus far refused to amend the defect in the statute.

Danny Lee Hill

Factors Contributing:

- False or Misleading Forensic Evidence
- False Confession
- Official Misconduct

Jurisdiction:

Trumbull County

Years Incarcerated:

41

Danny Lee Hill was 18 years old when he was convicted and sentenced to death for the 1985 murder of R.F. Compelling evidence linked 17-year-old Timothy Combs to the murder. Combs bragged at school about committing the crime; he had committed nearly identical assaults in the past; and police found R.F.’s blood on his clothing. But police additionally began to suspect Hill—an intellectually limited teenager—when he came to the station saying he had seen others with R.F.’s bike. After hours of interrogations by his own uncle (who was a detective with Warren police and had admittedly beat Hill in the past), Hill finally confessed that he had witnessed, but not participated in, Combs’ assault on R.F. To prove that Hill did, in fact, actively participate in the crime, the State largely relied on two areas of testimony: (1) testimony from an “expert” who opined that Hill’s teeth, and no others, caused what he called a “bitemark” on R.F.’s penis; and (2) testimony from a teenage witness, Donald Allgood, who claimed that he saw Hill among four people who exited the woods where R.F. was attacked and that Hill was carrying a stick (which the State theorized was used to sodomize R.F.). In the subsequent years, however, “bitemark” testimony has been debunked by four major scientific studies and proved to have contributed to at least 39 wrongful convictions. Hill also discovered that police knew, back in 1985, that a woman named Terri Shellman was walking with Allgood at the relevant time and stated that they did not see anyone exit the woods. Hill currently has innocence and intellectual-disability claims pending in State court and innocence claims pending in federal district court.

Davel Chinn	
<p>Factors Contributing:</p> <ul style="list-style-type: none"> • Perjury or False Accusation • Mistaken Eyewitness ID • Ineffective Assistance of Counsel • Official Misconduct 	<p>Jurisdiction: Montgomery County</p>
	<p>Years Incarcerated: 36</p>

For more than three decades, **Davel Chinn** has maintained his innocence in the 1989 murder of Brian Jones, yet he is currently scheduled for execution in March 2027. The State’s conviction relied almost entirely on the testimony of 15-year-old Marvin Washington, despite significant evidence pointing to Chinn's innocence. Not only did Chinn have a documented alibi—he was attending a midterm exam at Cambridge Technical Institution and was seen by his mother on the night of the crime—but physical descriptions from three separate eyewitnesses also failed to match him. While witnesses described the shooter as being significantly taller than Washington (who was 5 feet, 6 inches tall), and closer to the victim’s height of 5 feet, 10 inches tall, Chinn stands at only 5 feet, 5½ inches tall. Furthermore, the initial identification process was deeply flawed. During a group lineup that violated standard police best practices, neither Washington nor the primary eyewitness present at the murder identified Chinn as the perpetrator.

The integrity of the verdict was further compromised when it was later discovered that the State had suppressed Washington’s juvenile detention records, which contained evidence that severely undermined his credibility. These withheld documents revealed that Washington had an IQ of 48—placing him in the lowest 0.1% of the population—and suffered from profound memory problems and a high susceptibility to the influence of authority figures. Most notably, the records showed that Washington admitted to

experiencing "chemically induced amnesia" on the night of the murder and possessed such poor vision that he required glasses, which he was not wearing at the time of the shooting. Despite this, the jury was never informed of these impairments, and they chose to believe Washington's testimony over Chinn's corroborated alibi.

In the years following the discovery of this suppressed evidence, the legal system has repeatedly declined to overturn the conviction due to the rigid procedural constraints of the Antiterrorism and Effective Death Penalty Act (AEDPA). Although the Ohio Supreme Court initially stated that the conviction "hinged" on Washington's testimony, lower courts later claimed the hidden records were not "material" enough to have altered the trial's outcome. This stance drew a sharp dissent from U.S. Supreme Court Justice Ketanji Brown Jackson, joined by Justice Sotomayor, who argued that the suppressed records would have substantially impeached the State's key witness. Nevertheless, because federal courts must show extreme deference to State court rulings under AEDPA, Chinn remains on death row despite the profound reliability issues surrounding the State's star witness.

Jeffrey Wogenstahl	
Factors Contributing: <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Hamilton County
	Years Incarcerated: 33

Jeffrey Wogenstahl was convicted and sentenced to death in 1993 for the aggravated murder and kidnapping of ten-year-old A.G. She disappeared from her home in Harrison, Ohio while her mother, Peggy Garrett, was out barhopping and her 16-year-old brother, Eric Horn, was supposed to be babysitting. Several days later, A.G.'s body was found nearby just west of the Ohio-Indiana state line. Both Garrett and Horn pointed to Wogenstahl. While Wogenstahl's case was pending in federal court, defense lawyers learned that Hamilton County Prosecutor Joe Deters was contacted by Harrison police prior to trial because Horn had been picked up for drug trafficking. Despite this, prosecutors knowingly allowed Horn to testify that he did not engage in drug activity and they strenuously objected to any insinuation of such by the defense. In 2016, a public records request turned up an astonishing amount of exculpatory and impeaching information that was not provided to Wogenstahl prior to trial. The information included that (1) the FBI stated the hair testimony at trial was overstated and scientifically misleading; (2) additional evidence in FBI records indicated additional hairs were discovered, including a black hair fragment that did not match Wogenstahl; (3) Garrett was implicated in the disappearance of her daughter; (4) Horn was implicated in the disappearance; (5) during one of Garrett's drug-fueled parties, A.G. was raped by a guest; (6) police contemplated charging

Garrett with child endangerment; (7) Garrett was allegedly indebted to drug traffickers and sold her daughter for \$1,500; (8) two days before her disappearance, Garrett allegedly struck A.G. numerous times on the head; and (9) that Amber was seen alive by a classmate after Wogenstahl had already been arrested. In addition, Indiana State Police records only obtained by court order in 2024 indicate that an “eyewitness” told the police initially that she could not see the man’s face, however she testified later at Wogenstahl’s trial that she got “a good look at him” and that there was no “doubt in her mind” that Wogenstahl was the man she had seen. Wogenstahl’s case is currently awaiting a ruling on a motion for a new trial based on the erroneously withheld evidence.

Freddie McNeill	
Factors Contributing: <ul style="list-style-type: none"> • Mistaken Witness ID • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Lorain County
	Years Incarcerated: 31

Freddie McNeill, then 20-years-old, was convicted and sentenced to death by an all-white jury in 1994 for the aggravated murder of Blake Fulton. No physical or forensic evidence ever linked him to the crime. According to the Lorain Police Department, Blake Fulton and his friend, Robert Rushinsky, were attempting to buy crack cocaine from McNeill. Police say McNeill and Fulton got into an argument over \$20 and that led to McNeill shooting and killing Fulton inside Fulton’s car. Mere hours after the shooting, Rushinsky failed to pick McNeill from a lineup. But the jury never heard that, and at trial Rushinsky confidently identified McNeill. Four children, ranging from ages six to nine, testified that they were playing nearby and witnessed the murder. Their accounts at trial varied significantly from each other and from what Rushinsky, who was in the car when the murder occurred, testified to. One of the children testified that she was only able to identify McNeill because the prosecutor had shown her his picture. The youngest child could not even tell the judge his real name but was still ruled competent to testify against McNeill.

Over the last 31 years, McNeill uncovered pieces of evidence pointing to his innocence and demonstrating that he did not receive a fair trial. Most recently, in 2025, McNeill discovered that the police had previously withheld a note that confirmed they investigated another man for the murder. Since McNeill’s trial, multiple witnesses have come forward who heard that same man confess to the murder of Blake Fulton. That man was also arrested for an armed robbery in which a firearm was recovered two weeks after Fulton’s murder, has a long history of dealing drugs, and lived in the neighborhood. Freddie McNeill’s request for a new trial based on Brady violations and newly discovered evidence is pending in a Lorain County court.

Keith Lamar

Factors Contributing:

- Perjury or False Accusation
- Official Misconduct

Jurisdiction:

Lawrence County

Years Incarcerated:

33

Keith Lamar was sentenced to death for the murders of Darrell Depina, Bruce Vitale, William Svette, Dennis Weaver and Albert Staiano during the Lucasville Prison Riot at the Southern Ohio Correctional Facility in 1993. The State's theory was that 23-year-old Lamar put together a "death squad" that went around the prison murdering snitches. There was no physical evidence tying Lamar to the murders. In fact, all physical evidence not used at the trials related to the riot was destroyed, including burning the clothing of Lamar and the other inmates. Prior to trial, Lamar's attorneys were provided statements from inmates at Lucasville, however, they were not given the name of the individual who made the statement. Lamar was convicted based entirely on testimony from other inmates. After cooperating with investigators, these inmates were given special treatment, early parole, and reduced charges. After Lamar's conviction, Special Prosecutor Mark Piepmeier admitted to using a "narrow" standard for turning over exculpatory and impeaching evidence, which is inconsistent with the standard established in the seminal U.S. Supreme Court case *Brady v. Maryland*. Under oath, Piepmeier also admitted to receiving no training on the *Brady* standard from the Hamilton County Prosecutor's Office where he was employed. Over the years, attorneys and advocates for Lamar have come into possession of statements made to investigators that were not provided to Lamar prior to trial. These statements include a key prosecution witness claiming Lamar was not involved with the death squad, another witness telling prosecutors a week before trial that Lamar was not involved, a confession from an individual admitting to killing Darrell Depina, and an affidavit from another person admitting to killing William Savetti, among other evidence. However, courts have ruled that the new evidence would not have changed the outcome of Lamar's trial. Lamar is scheduled for execution on January 13, 2027--two days into the next governor's term.

Stanley Jalowiec

Factors Contributing:

- Perjury or False Accusation
- Ineffective Assistance of Counsel
- Official Misconduct

Jurisdiction:

Lorain County

Years Incarcerated:

30

Stanley Jalowiec was sentenced to death for the murder of Ron Lally in 1996. Lally had been scheduled to testify in court the following day in a drug trafficking case against Raymond and Danny Smith. The prosecution claimed that Jalowiec and Raymond Smith drove Lally from Elyria to Cleveland and murdered him in a cemetery. Raymond’s other son, Michael, was present at the cemetery and was granted immunity for testifying against Jalowiec. While pending in federal court in 2005, Jalowiec’s attorneys received police files previously kept from the defense. The files contain witness accounts stating Jalowiec was not in the vehicle with Lally on the night of the murder. Other evidence showed that the only person to claim Jalowiec confessed to the murder initially told Detective Leiby that he knew nothing about the murder, but he changed his story after Leiby helped the witness win early release. Other witnesses changed their stories to implicate Jalowiec after Leiby bought one witness a car, new tires and arranged for the car to be removed from an impound lot. Attorneys for Jalowiec say Elyria police were told that Danny Smith killed Lally on confidential informant recordings that were destroyed or withheld from the defense. Both Danny and Raymond Smith have stated in affidavits that Jalowiec was not involved in the murder. Jalowiec has been on death row for close to 30 years.

Tyrone Noling	
Factors Contributing: <ul style="list-style-type: none"> • Perjury or False Accusation • Official Misconduct 	Jurisdiction: Portage County
	Years Incarcerated: 30

Tyrone Noling was sentenced to death for the double homicides of Cora and Bernhardt Hartig in 1996. No physical evidence connected Noling to the crimes. The trial evidence consisted primarily of the testimony of Noling’s three co-defendants. One co-defendant recanted his testimony against Noling prior to trial. The other two recanted later. Evidence came to light that an investigator for the prosecution coerced the confessions from the co-defendants. In 2009, a public records request revealed new exculpatory evidence in Noling’s case, including evidence pointing to an alternative suspect, and DNA testing from a cigarette butt found in the Hartig’s driveway that excluded Noling but not the alternative suspect. In light of this newly discovered evidence, Noling sought a new trial. The trial court denied those efforts, concluding that because the prosecution had an “open file” discovery policy at the time of trial, Noling failed to demonstrate he was unavoidably prevented from discovering the exculpatory evidence at the time of his original trial. In 2014, the Eleventh District Court of Appeals reversed the trial court’s decision and remanded the case to determine whether the evidence at issue was part of the open file or otherwise available at the time of the original trial. Since then, the trial court has refused to comply with the mandate from the appellate court. Noling has been forced to take the issue up on appeal three times. In 2024, the appellate court ordered the trial court to conduct a hearing where prosecution could cross-examine the defense’s forensic document examiner and to issue a ruling within 60 days. In August 2025, Noling filed a request with the trial court for leave to file a motion for new trial. His case is still pending.

Willie Wilks, Jr.

Factors Contributing:

- Perjury or false accusation
- Mistaken Eyewitness ID
- Official Misconduct
- Ineffective Assistance of Counsel

Jurisdiction:

Mahoning County

Years Incarcerated:

12

Willie Wilks, Jr. was convicted and sentenced to death in 2014 for the aggravated murder of Ororo Wilkins and the attempted murders of Alexander Morales and William “Mister” Wilkins in May 2013. The prosecution’s theory was that Wilks drove up to Mister Wilkins’s home, got out of the car, and fired shots at the people on the front porch, killing Ororo Wilkins and injuring Morales. The prosecution’s case was unrebutted by defense counsel at trial, even though witness accounts did not support the evidence. Key pieces of the case that went unchallenged included portions of Mister Wilkins’s testimony, the vehicle Wilks was alleged to be driving, alleged co-defendants, and eyewitness accounts. Had defense lawyers mounted any reasonable defense, they would have shown the jury that Wilks could not have committed the murder.

At trial, the prosecution said that Wilks attempted to kill Mister Wilkins, Ororo’s brother, as he looked out a second-story window of the home. Prosecutors attributed what they described as a bullet hole near the second-story window from where Mister observed the crime. After Wilks’s conviction, new lawyers discovered that the so-called bullet hole in the upstairs exterior of the house was present long before the murder of Ororo in 2013. Google imaging of the home shows the hole being present in 2011. The only eyewitness who placed Wilks at the scene was Mister Wilkins. At trial, Mister admitted that he could not see what was happening on the porch and could not see who was shot and in what order.

Lawyers also learned that the other eyewitness described the assailant as a “kid” with dreadlocks. Wilks was a bald man in his 40s at the time of the murder. One witness—who lived directly across the street from the scene—was on his porch at the time the murder occurred. This witness’s account did not match Mister’s narrative at all. This neighbor was never contacted by the police or the trial attorneys for Wilks. Another potential witness never called by trial counsel was Shalonda Farley, Willie Wilks’s cousin, who told post-conviction investigators that Wilks was at her home at the time of the murder. Because trial counsel was so inadequate, the many inconsistencies in Mister’s account were never addressed nor was Wilks’s alibi ever investigated.

Further, the purple Dodge Stratus that Wilks was alleged to be driving was broken down and inoperable at the time of the shooting. Prosecutors claimed that Wilks had purchased the car days before the murder and hid it afterwards to ensure that no one would associate him with the car used in the murder. This was false; Wilks purchased the vehicle for his child's mother several months earlier and it was sitting along the side of her house. Mister Wilkins claimed that two other people were in the car with Wilks when he committed the murder: Troy Cunningham and Scott Anderson. After the conviction, investigators working on behalf of Wilks learned that Cunningham had lived in Pennsylvania and was working as a poll worker in Pennsylvania when the murder took place. The other alleged participant, Scott Anderson, also had no connection to Wilks and is now deceased. The case against Willie Wilks was extremely weak, and trial counsel never called any witnesses or presented any evidence to contradict the prosecution's case.

Conclusion

The evidence compiled throughout this report leads to a singular, inescapable conclusion: The death penalty in Ohio is a system defined more by its capacity for error than its pursuit of justice. The capital punishment debate is not some abstract concept about high-minded philosophy, the virtues of retributive justice, or some other amorphous reason Ohio should continue to have the death penalty. There is a far more terrifying reality about Ohio's death penalty system: it is a system careening toward executing innocent people. The data from Ohio, that for every five executions the State has carried out, it has discovered at least one innocent person on its death row—shows a catastrophic failure rate that would not be permitted in any other setting. This is what out-of-control big government failure looks like.

The documented error rate of 21.4% (56 executions : 12 death row exonerations) is the best-case scenario baseline. The "one-in-five" metric does not account for the 12 additional individuals who faced capital indictments and were proven innocent only after being sentenced to life, nor the four individuals forced into dark pleas where they traded their legal innocence for physical freedom. It does not account for the near misses saved only by eleventh-hour gubernatorial intervention, nor the many men currently on death row whose claims of innocence are supported by modern DNA, suppressed confessions, or the debunked junk science.

Across these dozens of cases, the same systemic failures appear with haunting regularity. The machinery of death in Ohio does not fail randomly; it fails because of documented, preventable, and often intentional patterns. Official misconduct is present in nearly every exoneration, characterized by the active suppression of exculpatory evidence (*Brady* violations) and a culture where securing a conviction often supersedes the search for truth. Incentivizing perjury has become a norm as heavy reliance on jailhouse snitches and co-defendants who are essentially bribed with immunity or reduced sentences to provide coached, uncorroborated testimony. Technicality traps are fixable, yet the legislature sits on its hands and leaves individuals on death row even after DNA evidence has excluded them from the crime.

Ohio now stands at a crossroads. The records of the 24 men exonerated after capital indictments are not "success stories" of the legal system; they are indictments of it. They prove that in Ohio, the difference between a free man and a dead man is often nothing more than a lucky public records request or the persistence of postconviction counsel.

Justice Paul Pfeifer's warning remains the moral compass for these findings: there is no way for the State to "cleanse itself" from the reality of executing the innocent. As long as these documented failures persist, the death penalty remains an irreversible gamble. If the goal of the law is justice, then a system with a 20% failure rate is not a legal instrument—it is a statistical hazard that Ohio can no longer afford to ignore.

It's time for Ohio to end its death penalty.