

ATTORNEY STATEMENT: ST. LOUIS COUNTY PROSECUTING ATTORNEY CONCEDES CONSTITUTIONAL ERROR IN MARCELLUS WILLIAMS' CASE

(August 28, 2024) Today, the office of St. Louis County Prosecuting Attorney Wesley Bell conceded that it had committed constitutional errors contributing to Marcellus Williams' unreliable murder conviction and death sentence. These errors included mishandling a key piece of evidence that could have exonerated Mr. Williams.

PA Bell had filed a motion to vacate Mr. Williams' conviction in January 2024, after conducting a comprehensive review of the case, including new DNA analysis that excluded Mr. Williams as the source of male DNA on the murder weapon. Despite the fact that no reliable evidence has ever connected Mr. Williams to the 1998 murder of Felicia Gayle and that Ms. Gayle's family has made clear they do not support his execution, Attorney General Andrew Bailey has vigorously fought to prevent the court from vacating Mr. Williams' conviction and to execute him on September 24.

The circuit court had set a hearing on PA Bell's motion for August 21, but on the eve of the hearing, PA Bell discovered that the murder weapon had been mishandled by members of the trial prosecution team, whose DNA was identified on the knife. As a result of this development, the parties reached a consent decree where, in order to prevent his execution, Mr. Williams agreed to enter an Alford plea and accept a sentence of life imprisonment without possibility of parole. The victim's family supported this resolution, which would have brought closure to the legal proceedings while ensuring Mr. Williams remains alive if new, reliable evidence of his innocence is revealed in the future.

AG Bailey, however, opposed this agreement and filed a writ of prohibition in the Missouri Supreme Court. That court granted a preliminary writ, ordering the circuit court to proceed with a hearing on PA Bell's motion to vacate. The circuit court held that hearing today.

In addition to acknowledging that his office was responsible for mishandling the murder weapon, PA Bell also conceded error resulting from the State's destruction of bloody fingerprints left at the crime scene, and from the trial prosecutor's improper removal of Black prospective jurors on the basis of their race. These serious constitutional errors, PA Bell acknowledged, undermine the fairness and reliability of Mr. Williams' conviction and death sentence and require that they be vacated.

Below is a statement from Tricia Rojo Bushnell, an attorney for Marcellus Williams:

“Today, we saw two different approaches to prosecution, one committed to serving justice, the other intent on winning at any cost. Prosecuting Attorney Wesley Bell's office acknowledged that Marcellus Williams' conviction and death sentence are unreliable, that their own office's mishandling of evidence has foreclosed Mr. Williams' ability to conclusively prove his innocence at this moment in time, and that under these circumstances, it would be unconscionable to allow his execution. Meanwhile, Attorney General Andrew Bailey continues to make every effort to try to kill this innocent man, including fighting the proposed resolution that would have brought finality to the proceedings while respecting the wishes of the victim's family.

“We hope the circuit court will agree with PA Bell that the admitted constitutional errors in this case require Mr. Williams’ conviction and death sentence be vacated.”

- *Tricia Rojo Bushnell, attorney for Marcellus Williams*
- *August 28, 2024*

A photograph of Marcellus Williams, courtesy of Marcellus Williams’ legal team, is available here: <https://tinyurl.com/4auxszme>

More Information about Marcellus Williams’ Case:

DNA Evidence Proves Marcellus Williams is Innocent and the Prosecuting Attorney Seeks to Vacate His Wrongful Conviction, Yet Missouri has Scheduled His Execution for September 24

Marcellus Williams is scheduled to be executed on September 24 for a crime DNA proves he did not commit. The St. Louis County Prosecuting Attorney reviewed these DNA results and filed a [motion to vacate](#) Mr. Williams’s conviction because he believed the DNA results proved by clear and convincing evidence that Mr. Williams did not commit this crime. No reliable evidence ever connected Mr. Williams to the crime – bloody footprints and hairs at the crime scene were not his.

Jailhouse informant testimony like that leading to Mr. Williams’s conviction is one of the leading contributing factors of wrongful convictions nationally, playing a role in [15% of DNA exoneration cases](#). Eleven of the 54 individuals exonerated in Missouri were convicted with the use of informant testimony.

In capital cases, false testimony from incentivized witnesses is the leading cause of wrongful convictions, with informant testimony present in 49.5% of wrongful convictions since the mid-1970s (Source: Warden, R. 2005. The snitch system: How snitch testimony sent Randy Steidl and other innocent Americans to death row. Center on Wrongful Convictions.)

A crime scene covered with forensic evidence contained no link to Mr. Williams

Mr. Williams has been seeking to prove his innocence throughout the 24 years he has spent on Missouri’s death row. On August 11, 1998, Felicia Gayle, a former reporter for the *St. Louis Post-Dispatch*, was found stabbed to death in her home. The perpetrator left behind considerable forensic evidence, including a bloody shoe print, hair, and trace DNA on the murder weapon, a knife from Ms. Gayle’s kitchen. ***None of this forensic evidence matches Mr. Williams.***

A case built on snitch witnesses

The case against Mr. Williams turned on the testimony of two unreliable witnesses who were incentivized by promises of leniency in their own pending criminal cases and reward money. The investigation had gone cold when a jail inmate named Henry Cole, a man with a lengthy record, claimed that Mr. Williams confessed to him, while they were both locked up in jail, that he committed the murder. Cole directed

police to Laura Asaro, a woman who had briefly dated Mr. Williams and had an extensive record of her own.

Both of these individuals were known fabricators; neither revealed any information that was not either included in media accounts about the case or already known to the police. Their statements were inconsistent with their own prior statements, with each other's accounts, and with the crime scene evidence, and none of the information they provided could be independently verified. Aside from their testimony, the only evidence connecting Mr. Williams to the crime was a witness who said Mr. Williams sold him a laptop taken from the victim's home, but the jury did not learn that Mr. Williams told the witness he had received the laptop from Laura Asaro.

New DNA testing confirms Mr. Williams is innocent yet no court has considered that evidence

As he has fought to prove his innocence, Mr. Williams has repeatedly faced imminent execution. To date, no court has given substantive consideration to the evidence exonerating him; the August 21 hearing will be the first time a court engages in that review.

Nine years ago, the Missouri Supreme Court stayed Mr. Williams's execution and appointed a special master to review DNA testing of potentially exculpatory evidence. *This testing showed that Mr. Williams was not the source of male DNA found on the murder weapon.*

However, in 2017, after the testing was completed but without conducting a hearing or making any findings based on the outcome of the testing, the appointed special master sent Mr. Williams's case back to the Missouri Supreme Court. That court, also without considering the DNA testing results, again scheduled Mr. Williams's execution.

Recognizing that the new evidence raised serious doubts about Mr. Williams's guilt, on August 22, 2017, mere hours before his execution and after his last meal, then-Governor Eric Greitens stayed the execution and convened a Board of Inquiry to investigate the case. Under Missouri law, the stay was to remain in place until the Board of Inquiry concluded its review and issued a formal report.

Yet in June 2023, while the Board of Inquiry's review remained ongoing, Governor Mike Parson without warning or notice dissolved the Board without a report or recommendation from the Board. Missouri Attorney General Andrew Bailey then promptly sought a new execution date. Mr. Williams sued Governor Parson because the dissolution of the Board without a report or recommendation violated the law and Mr. Williams's constitutional rights. The Governor tried to dismiss the lawsuit, but a Cole County civil judge denied that request. The Governor then asked the Missouri Supreme Court to intervene. The Missouri Supreme Court agreed to do so and on June 4, 2024, it dismissed the lawsuit and immediately scheduled Mr. Williams's execution for September 24, 2024.

The St. Louis County Prosecuting Attorney has concluded that Mr. Williams is actually innocent and moved to vacate his conviction

After the exculpatory DNA evidence was brought to his attention, St. Louis County Prosecuting Attorney Wesley Bell appointed a special prosecutor to review Mr. Williams's case. The special prosecutor reviewed the findings of three independent DNA experts. All three concluded that Mr. Williams *was not the source of male DNA on the weapon*, and therefore could not have killed Ms. Gayle. Mr. Williams's exclusion from the murder weapon is consistent with his exclusion from other forensic evidence collected from the crime scene including a bloody shoeprint and hairs found near the victim's body.

Recognizing that "new evidence suggests that Mr. Williams is actually innocent" (p.3), in January 2024 the St. Louis County Prosecuting Attorney filed a [motion to vacate](#) Mr. Williams's conviction. The motion explains: "DNA evidence supporting a conclusion that Mr. Williams was not the individual who stabbed Ms. Gayle has never been considered by any court. This never-before-considered evidence, when paired with the relative paucity of other, credible evidence supporting guilt . . . casts inexorable doubt on Mr. Williams's conviction and sentence." (p.1) The Prosecuting Attorney urged the circuit court "to begin the process of correcting this manifest injustice by [holding] a hearing on the newfound evidence and the integrity of Mr. Williams's conviction." (p.3)

The Missouri Attorney General continues its history of fighting innocence cases

Although the Prosecuting Attorney's motion remains pending and the law requires the circuit court to hold a hearing on it, as that court recognized, the Missouri Attorney General has taken the position that Mr. Williams's innocence does not matter, and the Missouri Supreme Court has scheduled his execution.

On July 18, the Attorney General filed a writ of prohibition asking the state supreme court to block the evidentiary hearing scheduled for August 21.

The Missouri Attorney General's office has argued in other death penalty cases that even DNA evidence of innocence is not enough to stop an execution. In a [2003 oral argument before the Missouri Supreme Court](#), Justice Laura Denvir Stith asked Assistant Attorney General Frank Jung, "Are you suggesting . . . even if we find that Mr. Amrine is actually innocent, he should be executed?" "That is correct, your honor," Jung replied. The Missouri Supreme Court ultimately disagreed, and Amrine was exonerated. But over 20 years later, the same arguments are still being made.

The Missouri Attorney General's Office has opposed every innocence case for the last 30 years, including every attempt made by a local prosecutor to overturn a conviction on the basis of innocence, as the St. Louis County Prosecuting Attorney is doing in Mr. Williams's case. In 2021 and 2023 Kevin Strickland and Lamar Johnson were exonerated despite the Attorney General's attempts to thwart the prosecutors' motions to vacate.

Incentivized informants are a leading cause of wrongful convictions

Jailhouse informant testimony like that leading to Mr. Williams's conviction is one of the leading contributing factors of wrongful convictions nationally, playing a role in [15% of DNA exoneration cases](#). Eleven of the 54 individuals exonerated in Missouri were convicted with the use of informant testimony.

In capital cases, false testimony from incentivized witnesses is the leading cause of wrongful convictions, with informant testimony present in 49.5% of wrongful convictions since the mid-1970s (Source: Warden, R. 2005. The snitch system: How snitch testimony sent Randy Steidl and other innocent Americans to death row. Center on Wrongful Convictions.)

Racial bias contributed to Mr. Williams's wrongful conviction

Mr. Williams, a Black man, was wrongfully convicted of murdering a white woman. His jury was comprised of 11 white people and only one Black person. The prosecutor, whose institutional practice of racially discriminatory jury selection has been widely [documented](#), successfully removed six of seven qualified Black prospective jurors with peremptory challenges. A [recent study](#) of 400 death-eligible cases in St. Louis County over a 27 year period also revealed racial disparity in the use of the death penalty based upon the race of the victim. Defendants were 3.5 times more likely to receive the death penalty if the victim was white, as in this case, compared to if the victim was Black.

Mr. Williams is devoutly religious and an accomplished poet

During his 24 years in prison, Mr. Williams has devoted much of his time to studying Islam and writing poetry. He serves as the imam for Muslim prisoners at Potosi Correctional Center and is known as Khaliifah. He has an exemplary prison record and is widely respected within the prison community and beyond.

Read more about Marcellus Williams's case at www.savemarcellus.org or www.marcelluswilliams.org.

For more information or to speak with one of Mr. Williams's attorneys, please contact Julia Lucivero, jlucivero@innocenceproject.org.

###