

The BLACK C o M M e n t a t o r

An independent weekly internet magazine
dedicated to the movement for economic justice,
social justice and peace - Providing commentary,
analysis and investigations on issues affecting
African Americans and the African world.

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Oct 11, 2012 - Issue 489

Terry Williams Case Highlights The Need for Death Penalty Moratorium

**The Color of Law
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When Common Pleas Court Judge M. Teresa Sarmina stayed the execution of Terry Williams, she dealt a blow to the death penalty in Pennsylvania. Now the public has caught a glimpse of prosecutorial misconduct and evidence suppression in the application of the death penalty, and it isn't pretty.

In her order, Judge Sarmina - a former prosecutor - issued a scathing indictment of the prosecutor in that case for hiding evidence that Amos Norwood was a sexual predator who had molested Williams and other children. Sarmina said "evidence has plainly been suppressed," and accused former assistant D.A. Andrea Foulkes of engaging in "gamesmanship" and "playing fast and loose." The judge also said Foulkes "had no problem disregarding her ethical obligations" in an attempt to win.

Given these developments, it is baffling that any governor or district attorney would want to hitch their wagon to the execution of Terry Williams. The tainting of capital cases - the handiwork of renegade prosecutors, police officers and other actors in the criminal justice system - is part of the unseemly underbelly of the death penalty.

It is a broken, arbitrary system that discriminates against the poor and people of color. Over 130 capital convictions have been **overturned** in the Keystone state, the highest in the nation. And Pennsylvania's death row population is nearly 70% of color, the highest percentage in the U.S., with the city of Philadelphia providing the bulk of the prisoners.

Executions are barbaric and a violation of international human rights law. And as Martin Luther King, Jr. noted, "Capital punishment is against the better judgment of modern criminology, and, above all, against the highest expression of love in the nature of God." Moreover, innocent people are most certainly put to death.

Since 1973, **141 innocent men and women** across the U.S. have been released from death row. They spent an average of 10 years in conditions that can only be described as torture. Of these, 6 were wrongfully imprisoned on Pennsylvania's death row. And official misconduct played a role in nearly all of their unjust convictions.

Nicholas Yarris, who was sentenced to death for the 1981 rape, abduction and murder of Linda May Craig in Delaware County, spent 22 years on death row before he was exonerated. His wrongful conviction was secured through perjured testimony of a jailhouse informant and the refusal of the prosecution to hand over 20 pages of documents.

Wrongfully convicted of murdering a Philly mobster and a female companion, **Neil Ferber** spent 14 months on death row. He was also the victim of false testimony from a jailhouse informant, and evidence of his innocence that was not handed over to his defense.

Harold Wilson, who was sentenced to death for the murder and robbery of three people in South Philadelphia, was exonerated through DNA evidence after spending 17 years in prison. In 2003, a court ruled that the prosecutor in the original trial had eliminated potential black jurors.

In 2000, **William Nieves** was acquitted by a Philadelphia jury for a 1992 murder someone else committed, yet for which he was convicted in 1994. His original defense lawyer was paid \$2,500 and had no experience handling capital cases. When he was retried, Nieves' new lawyer had access to evidence that had been withheld from the defense. Nieves died of liver problems in 2005 due to improper medical treatment while in prison.

Thomas Kimbell was convicted of four murders in 1998, despite no evidence or eyewitnesses linking him to the crimes. The Pennsylvania Supreme Court overturned his conviction in 2000 because the trial judge had unfairly excluded evidence pointing to his innocence. Kimbell was acquitted of all charges after a retrial in 2002.

Sentenced to die for a 1979 triple murder, **Jay C. Smith** was released in 1992. The state's high court found that the D.A. had committed "egregious" misconduct by withholding crucial evidence.

According to the **National Registry of Exonerations** - a database of 983 of the 2,000 criminal exonerations over the past 23 years, including 32 exonerations in Pennsylvania - official misconduct was the second most common factor associated with murder exonerations in America, occurring in 56 percent of cases. Perjury and false accusations were found 64 percent of the time, followed by mistaken witness identification (27 percent), false confessions (25 percent) and false and misleading forensic evidence (23 percent).

With **200 people condemned to death**, Pennsylvania has the fourth largest death row in America. With no voluntary executions in the state in half a century, the tragic story of Terry Williams has reopened the debate on capital punishment. We do not know how many death row inmates would be free or serving a lesser sentence but for an ethically challenged prosecutor who believed in winning over seeking justice. Given what we know, now is as good a time as any to shut down Pennsylvania's broken death machine.

BlackCommentator.com Executive Editor and Columnist, David A. Love, JD, is the Executive Director of [Witness to Innocence](#), a national nonprofit organization that empowers exonerated death row prisoners and their family members to become effective leaders in the movement to abolish the death penalty. He is, is a graduate of Harvard College and the University of Pennsylvania Law School. and a contributor to [The Huffington Post](#), [the Griot](#), [The Progressive Media Project](#), [McClatchy-Tribune News Service](#), [In These Times](#) and [Philadelphia Independent Media Center](#). He also blogs at [davidalove.com](#), [NewsOne](#), [Daily Kos](#), and [Open Salon](#). Click [here](#) to contact Mr. Love.



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