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PRESS RELEASE FROM THE INNOCENCE PROJECT

Newly Formed Marshall Project Details New Evidence of Prosecutorial Misconduct Resulting in Likely Wrongful Execution of Cameron Todd Willingham

Story Cites Grievance Urging Discipline for Prosecutor John Jackson, Who New Evidence Shows, Took Extraordinary Steps to Help Jailhouse Informant Johnny Webb Who Now Claims He Was Recruited, Instructed on How to Testify and Promised a Deal by Jackson

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(New York, NY; August 4, 2014) – The newly formed criminal justice journalism group, [The Marshall Project](#), [broke a story](#) in the Washington Post today revealing new allegations of prosecutorial misconduct that likely caused Texas to wrongly execute Cameron Todd Willingham. The story, written by Maurice Possley, who covered Willingham's case as a reporter for the Chicago Tribune, reveals that on behalf of Willingham's surviving relatives, the Innocence Project filed a detailed grievance with the Chief Disciplinary Counsel of the State Bar of Texas urging disciplinary action against former Willingham prosecutor John Jackson. The grievance reveals newly discovered evidence that strongly suggests ethical and possible criminal misconduct by Jackson in covering up a deal with jailhouse informant Johnny Webb, who testified that Willingham, while in jail, confessed to the arson murder of his three children. This supposed confession became indispensable evidence on the eve of Willingham's execution in 2004 when an expert report was filed with courts exposing the arson evidence against Willingham as false. Current and former Navarro County prosecutors were not aware that Jackson had reduced Webb's conviction for Robbery in the First Degree to Robbery in the Second Degree based on cooperation in the Willingham case. If that fact had not been hidden by Jackson prior to the execution, the prosecutor assigned to the case now says he would have disclosed it.

“The Texas Forensic Science Commission and experts around the world concluded years ago that the arson evidence that convicted Todd Willingham was misleading and unreliable and without any scientific basis. But now there is reason to believe that the execution would have never gone forward, and Willingham would be alive today, if John Jackson had played by the rules. The documentary evidence in this grievance strongly supports allegations of criminal and ethical misconduct by Jackson that deprived Todd of his constitutional rights and resulted in his death,” said Barry Scheck, Co-Director of the Innocence Project, which is affiliated with Cardozo School of Law. “We are asking the State Bar of Texas to investigate and prosecute this matter, which we believe is of profound importance to all citizens in this country. Whether one supports or opposes the death penalty, the execution of an innocent man is, as Justice O'Connor has said, a ‘constitutionally intolerable event.’”

Relying on newly discovered court records, documents from the Navarro County District Attorney's files, letters recently obtained from Webb as well as correspondence and affidavits by Jackson himself, the grievance alleges that Jackson illegally and unethically made an undisclosed deal with Webb to reduce his robbery in the First Degree Conviction to Robbery in the Second Degree and has continued to cover it up to this day. At Willingham's trial, Webb, who claimed that Willingham confessed to him, swore he was not offered any incentives for his testimony and Jackson explicitly told Webb in open court, “As a matter of fact, I told you there is nothing I can do for you.”

The grievance makes a strong case that these actions caused Texas to execute an innocent man. In the days leading up to Willingham's execution, a prominent arson scientist, Gerald Hurst, informed the state that the arson evidence relied upon by the fire examiners had been discredited for more than a decade by a series of scientific experiments that had been generally accepted by the National Fire Protection Association and fire

scientists. The prosecutor who was then handling the case for Navarro County, Bill Price, argued that these new revelations were irrelevant because Willingham admitted the crime to Webb. Price now agrees that had he known about the evidence of a deal with Webb, he would have disclosed this information to Willingham's defense team who would have almost certainly been able to stay the execution based on the evidence of Jackson's misrepresentations regarding the agreement with Webb. Since his execution, numerous arson scientists have agreed that the arson science used at his trial had long been repudiated, and after a lengthy investigation, the state's Forensic Science Commission found the evidence to be unreliable and called for an audit of other similar cases in Texas, which is currently underway. The only other evidence against Willingham was the testimony of Webb, who now acknowledges Willingham never confessed.

"This grievance paints a deeply disturbing picture of a prosecutor who would stop at nothing to defend a conviction that was riddled with errors from the start," said Texas attorney Gerry Goldstein. "Even if you believe, as we do, that Mr. Jackson was really convinced that Todd Willingham intentionally set the fire that killed his daughters, prosecutors have to be held accountable for violating the law and ethical rules or more innocent people will be put to death by our state."

The article details Webb's interactions with Jackson inside his courthouse office. Webb claims that while he was incarcerated in the Navarro County jail on a robbery charge, he was taken to Jackson's office three or four times and that Jackson asked Webb for help in his prosecution of Willingham. According to Webb, Jackson made it clear that in return for Webb's cooperation, Jackson was willing to make the robbery charges pending against him "disappear."

Webb claims that Jackson specifically advised him to say that Willingham told him that he set fires in the corners. This was needed to corroborate the original fire investigators who claimed, based on long discredited arson science, that Willingham had used an accelerant to start the fire. Webb was also very clear in the interview that Willingham never confessed to the murder. (At trial, Webb testified that Willingham told him that he committed the crime to cover up abuse that his wife had inflicted on their daughters.) In fact, Webb filed a hand written motion to recant his trial testimony, which was delivered to Jackson, but never made it into the Willingham file nor was it revealed to Willingham's lawyers.

Webb also described the benefits that he received from a wealthy local businessman, who was a financial supporter of Jackson. According to Webb, this local businessman first approached him after speaking to Jackson about making a deal. Webb also states that he received money from the local businessman the whole time he was in prison and even after his release.

The grievance points to significant documentary evidence to support the allegations of Jackson's misconduct, including the following:

- On October 12, 1992, three months after Webb testified to pleading guilty to Robbery in the First Degree, and just prior to Webb being sent to state prison, Jackson directed Navarro County clerks to falsely tell the Texas Department of Correction that Webb was only convicted of Robbery in the Second Degree, thereby making Webb eligible for early parole.
- Despite emphatically telling Webb in front of the Willingham jury that there was "nothing I can do for you" to help Webb during his incarceration, especially when it came to protection from retaliation for snitching, Jackson took immediate and extraordinary steps with prison officials to ensure, as Jackson put it, Webb's "continued co-operation" including repeated letters and phone calls asking for special placement and Webb's early release.
- Working through his wealthy friend, a local businessman who provided financial benefits to Webb

(including buying Webb a \$7,250 truck and paying his tuition for an expensive diving program that would have helped him find work in the oil industry), Jackson was personally involved in trying to keep Webb from “going public” about the Willingham case and “promises” Webb claimed were made in return for his cooperation.

- Jackson took steps, both as a prosecutor and subsequently as a judge, to keep documents out of public court records that would reveal his undisclosed deal with Webb, and his own direct knowledge of Webb’s threats to recant.
- On October 4, 2010, Jackson provided the Navarro County District Attorney Lowell Thompson a misleading affidavit in connection with the Court of Inquiry brought by Willingham’s surviving relatives that includes the assertion Webb didn’t receive any benefits in exchange of his testimony.

The grievance urges the Chief Disciplinary Counsel to find that there is “just cause” for Jackson to be prosecuted for violating numerous criminal and ethical violations including the criminal acts of tampering with governmental records and tampering with evidence. If there is a finding of “just cause,” the petitioners ask the Chief Disciplinary Counsel to proceed to a full investigation and prosecution of Jackson for misconduct.

In addition to Scheck and Benjet, the lawyers representing Willingham’s family include Gerry Goldstein and Cynthia Orr of Goldstein, Goldstein & Hilley; Neal S. Manne and Alex Kaplan of Susman Godfrey, LLP.

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