

# Twelfth death row prisoner released in Illinois after being proven innocent

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Ronald Jones became the twelfth prisoner released from death row in the state of Illinois when prosecutors in Cook County decided on Monday, May 18, not to try him for a second time.

The Illinois Supreme Court overturned his conviction for the 1985 rape and murder of Debra Smith in Chicago's South Side, on July 30, 1997. However, the prosecutors refused to release the 49-year-old Jones for another two years while they were deciding whether or not to retry him. Jones had been on death row for nearly eight years, until DNA testing of his semen proved that he had not committed the crimes, and the state Supreme Court overturned his conviction and ordered that he get a new trial.

Ronald Jones has steadfastly maintained his innocence, but he was convicted primarily on the strength of a 1987 confession, which he always insisted was beaten out of him by the police.

The brutal conditions in the Cook County jails at the time were exposed in an investigation that resulted in the 1993 firing of the police commissioner for Area 2 in Chicago, Jon Burge. He was fired for torturing more than 40 black men during interrogations in the 1980s. The methods of torture included beatings, electric shocks, kicking, punching, racist comments and Russian roulette.

The use of DNA testing to exonerate falsely convicted prisoners has been pioneered by attorney and law professor Barry Scheck who was called in to assist Jones in this case. In 1992, Scheck organized a student clinic to do this work at the Cardozo Law School in New York City where he teaches. This clinic—The Innocence Project—has been responsible for freeing at least 37 wrongly convicted people.

In a recent speech, Scheck pointed out that the results of DNA testing so far indicates that even by the most

conservative estimates, thousands of innocent people are behind bars in the US. He said that the only scientifically valid study of DNA testing against prosecutorial accusations has been done by the FBI. The findings of this study were that 26 percent of the prosecutors' primary suspects in rape with violence crimes were proven innocent by DNA testing. Lowering this statistic down to the conservative estimate of one half of 1 percent as the rate at which innocent people are convicted, Scheck said, means that thousands of people are wrongly incarcerated across the country.

In his remarks, Scheck also noted that in 70 percent of the cases where inmates write to request the Innocence Project challenge their convictions, the biological evidence which is necessary for DNA comparison, and which is supposed to be kept by the police or prosecutors, has disappeared when they go to investigate and test it.

Ronald Jones's defense attorneys also brought in Northwestern University Journalism School Professor David Protes as a consultant on the case. Protes and his investigative journalism class have been involved in the cases of half of the 12 death row prisoners released in Illinois.

Protes was quoted in the student newspaper, the *Daily Northwestern*, saying, "I was happy to play whatever little role I played." He went on, "What is significant about this case is, once again, it was outsiders who made the difference. It was the public interest community in Chicago and New York that ended up making the difference here.

"The system was forced to admit a mistake when DNA testing was belatedly done. Prosecutors for 18 months, kept the man in jail, refusing to admit that they'd made a mistake until ultimately the evidence was

overwhelming and they no longer had a case."

Protes and six students in his 1998/99 investigative journalism class were responsible for freeing Anthony Porter on February 5 of this year. Porter, who was on death row for 16 years and has an IQ of 51, was two days away from being executed on September 23, 1998. After a four-month investigation by Protes and his class, Porter was released from death row.

The investigation and vindication of Porter by Protes and six journalism students reveals how heavy the hand of the prosecutor and how tenuous the case often is in prosecutions involving the most serious punishment possible—death penalty cases.

The students began their investigation for Porter focusing on his mental capacity and whether this made him incompetent to stand trial. Then they began to suspect he was innocent as he claimed. The class studied the trial record and transcripts, and then held a reenactment of the 1982 double murder Porter had been convicted of, at the actual crime scene. They concluded that the eyewitness to the shootings probably could not have seen what he testified to seeing at the trial. Moreover, the prosecution's witness said Porter was holding the gun in his right hand when he is left-handed.

The class went to confront the eyewitness who recanted his testimony, saying he had only agreed to testify because of police threats. He said the police kept repeating, "Who do you fear more? Porter or us?" Then the students got the ex-wife of the shooter to give an affidavit. And finally they got the man who said he actually did the shooting (in self-defense) to say this on videotape to free Anthony Porter.

At a roundtable discussion at Northwestern after Porter was freed, the reactions of the participating students was a revealing commentary about the state of the criminal justice system today.

One student, Tom McCann said, "Your first instinct is to think, 'I must be wrong.' These are authority figures, and I am just a stupid student." But as the re-enactment demonstrated the eyewitness's testimony did not hold up, he realized that "the evidence was just comical. This case teaches you that the system isn't an almighty thing."

Lori D'Angelo described doing the reenactment as "really shocking. It was like, 'They have to be lying.'"

Another student investigator, Erica LeBorgne,

reported, "Before I considered myself an objective journalist, but now I see how flawed the justice system is. I was so naive before."

A fourth student, Shawn Armbrust, described the class's relationship with the death row prisoner, Anthony Porter. "We all sort of thought he was guilty, and we did not expect to like him." Then they visited him and the first thing he said was, "I want you to know I am innocent." "He was so human," Armbrust said. And when the students left, "He was so grateful—he almost wanted to cry." And he did hug each one of them. Armbrust summed it up, "To go from that to where he lifted us up when he got out of prison, that was pretty amazing."

Richard Cunningham, one of Ronald Jones's attorneys, attended a forum against the death penalty held on the Northwestern campus two days after prosecutors decided not to retry Jones. One of his other death row clients was scheduled to talk to the meeting via a link-up to the jail.

At the forum, Cunningham condemned the death penalty. "The death penalty is a totally dehumanizing device," Cunningham said, "trying to separate them [death row prisoners] from everyone else. It is a totally medieval anachronism that we have to get rid of because it simply cannot be applied in a fair manner."

Cunningham indicated that Jones was happy he won't be retried, but "you cannot make up the 14 years taken away from him."

Returning to the subject of the death penalty, the attorney said, "The motive for the death penalty is to demonstrate to poor people that they will be totally controlled in this society."



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