

MEDIA PRESS STATEMENT

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On August 11, 1981 i was illegally arrested by political police and accused of killing a police officer during an armed bank robbery. False evidence was invented and used as a ruse against me, calculated to provide a wrongful conviction and death sentence, cloaked with improper acts with the state prosecutorial machinery and resources to give it the appearance of propriety.

Two jury trials were rigged against me, in addition to false material evidence was planted against me by police. Even though DNA has gained credibility as a tool in criminal investigations, even in decades-old cases, my case does not involve DNA testing.

Both all-white (with one Mexican woman) jury trials were rigged and corrupt evidence was falsified against me, in gross violation of my human right. Even though they've been caught lying, they'll merely fabricate more lies to cover up for being found out. The deputy prosecuting attorney whom had obtained the original death sentence against me admitted in writing on April 18, 1986 that "There was no pre-trial identification procedure utilized with respect to Rufus Averhart (as i was known then) in connection with the August 11, 1981, robbery of the Gary National Bank." Moreover, a police administered paraffin gunshot residue test showed i had not fired a gun.

The Indiana Supreme Court threw out the first death sentence in 1993, citing ineffective assistance of counsel. A new judge and jury penalty phase was held in 1996 in Fort Wayne, Allen County, Indiana, where the original trial had been held because of pre-judicial prejudice and pre-trial media coverage in Lake County. The new jury again recommended the death penalty and the judge sentenced me to be murdered by lethal injection.

Six months after i was sentenced to die and long after the county public defender had begged court administrators and the Chief Judge to figure out why Black people were being underrepresented in every courtroom in the building, Allen County finally checked the system and publicly admitted the underrepresentation. All criminal defendants with pending cases were given the opportunity to postpone their trials until a new system was put in place because, as the Chief of the Board of Judges of the Superior Court testified last year, 2001, it would have been "absolutely unfair" for anyone to have proceeded to trial under that jury selection system. Yet no one notified me who was sentenced to the penalty of death by a jury chosen from the exact same system a few months earlier. Despite all of this, the Attorney General of Indiana maintains that i, who had contemporaneously moved to strike my venire, should be executed.

A Black man name James Charles McGrew was prodded to identify me at trial as the man he saw place some items in some bushes. James, now a college teacher in Illinois, testified in a 2001 videotape at a successive post-conviction relief hearing in Allen County that after repeatedly telling prosecutors that he could not identify who it was he saw place the objects in the bushes, that turned out to be a pistol and jacket. James was placed in a small room prior to testifying when a large, red-haired law enforcement officer entered the room, told him to identify me, and pointed to me in the courtroom. James further testified that he never saw the face of the man running from the police and that he identified me in court because of fear for his own safety. Indeed, James' hesitation in making the critical identification of me in the courtroom was so apparent that it is noted in the trial transcript. Given the critical nature of James' identification testimony and the fact that none identified me in any of the 308 bank camera photographs taken during the armed robbery, i should be granted a new trial.

On Friday, November 22, 2002, in a 3-2 ruling, the Indiana Supreme Court overturned the death sentence for the second time. They agreed with my appeal claim that the jury pool selection process was fundamentally flawed when I was sentenced to death for the second time in 1996; but they rejected the false testimony claim. The state's highest court has twice stopped short of overturning the entire conviction. They sided with the prosecution that the evidence against me was overwhelming. That isn't true because there was never any pre-trial identification of me in this case by anyone.

James Charles McGrew, the sole identification witness for the prosecution honestly recanted his testimony and finally admitted that the police told him to lie on me. But the court on November 22nd said that "Captain Michael Nardini interviewed McGrew the day after the murder in an interview room at the Gary police station. Nardini testified that McGrew told him McGrew could identify the man who placed the objects in the bushes....This issue turns on credibility of witnesses. The successive post-conviction court viewed McGrew and the other post-conviction witnesses and found that his recantation was not credible. That finding is not clearly erroneous, and is accordingly affirmed."

The policeman, Captain Nardini lied under sworn oath because James did not say that.

Truth is often bitter to the taste of those who live on falsehoods and shams and profit by them. They hate the truth, and plot against it.

So now I'm in the process of preparing for another jury trial on the death sentence part only. I wanted the whole case to be thrown out of court, or at least be granted a complete new trial! Even though I'm happy to receive some measure of relief from the court, they did not render a good opinion because they've gotten the facts of my case screwed up. They will not listen to me as a lone individual. They only respect the power of the people, organized in unity.

I would like to receive your support to garner attention for my plight in any way that you are able and willing to offer or provide. Injustice is an abuse of power. Some people are afraid to stand up for what is right and speak truth to power. If you fail to help me then who's next? You may not be in jail now, but tomorrow you could be arrested and placed in front of a judge, and then what? Some people are reluctant to get involved because they erroneously think it doesn't concern them. But they need to think again. If you don't step forward it could be you next! What has befallen me can easily happen to you or to your loved ones. People generally want to give a helping hand to those in need, but are often physically and financially unable or unsure exactly what to do. Others don't care and look the other way.

We are asking you to write or call the Lake County Prosecuting Attorney and request that he not refile for the death penalty. Send copies of your letters to my defense team, and to anyone else who may help. The news media needs to hear your voice about this. Thank you very much.

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