

THE INNOCENCE NETWORK

March 29, 2011

The Honorable Eric H. Holder, Jr.
Attorney General of the United States
United States Department of Justice
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Dear Sirs,

Today the U.S. Supreme Court in *Connick v. Thompson* took away most of the only remaining means those of us who have been wrongfully convicted of a crime had for holding prosecutors liable for their misconduct. Although all other professionals, from doctors to airline pilots to clergy, can be held liable for their misconduct, the Supreme Court has effectively given prosecutors complete immunity for their actions. We, the undersigned and our families, have suffered profound harm at the hands of careless, overzealous and unethical prosecutors. Unfortunately, today's ruling only threatens to further embolden those prosecutors who are willing to abandon their responsibility to seek justice in their zeal to win convictions.

Now that the wrongfully convicted have virtually no meaningful access to the courts to hold prosecutors liable for their misdeeds, we demand to know what you intend to do to put a check on the otherwise unchecked and enormous power that prosecutors wield over the justice system.

Former United States Attorney General and Supreme Court Justice Robert H. Jackson once said, "The prosecutor has more power over life, liberty, and reputation than any other person in America."

Unfortunately recent reports have shown that prosecutors are abusing this power at alarming rates and are facing no consequences for their actions. According to *Preventable Error: A Report on Prosecutorial Misconduct in California 1997-2009*, prosecutors were guilty of misconduct 707 times from 1997 to 2009, yet were disciplined only 7 times. A *USA Today* investigation by Brad Heath and Kevin McCoy that was published on Sept. 23, 2010, documented 201 instances where federal prosecutors violated laws or ethics rules since 1997 and noted that only one of those prosecutors was suspended from practicing law - and that was only for one year.

In many of our wrongful conviction cases prosecutorial misconduct was found but later declared "harmless" by the courts. Nothing could be further from the truth. In our cases, each act had profoundly harmful effects on our lives. Together we represent hundreds of years in prison, separated from our wives, husbands, children, parents, brothers, sisters, grandparents and other loved ones, who suffered their own shame and wasted hundreds of thousands of dollars on

lawyers and spent countless sleepless nights worrying about our well being. The misconduct contributed to nearly unbearable depression and unhappiness, loss of jobs and career opportunities, the derailing of educations and forever destroyed hopes and dreams. Each of us has worked long and hard to repair what has happened to us, but we will never regain the lives we had before we were wrongfully convicted at the hands of careless or deceitful prosecutors.

According to the friend-of-the-court briefs submitted in recent Supreme Court cases dealing with prosecutorial misconduct the National District Attorneys Association, the National Association of Assistant United States Attorneys and the Solicitor General claim that there are already plenty of systems in place to cure the problems of misconduct, including: internal disciplinary systems, state bar disciplinary systems, monitoring by the courts, and in extreme cases, criminal prosecution. These systems didn't do a thing to prevent prosecutorial misconduct in our cases. As far as we can tell, none of these systems were brought to bear on the prosecutors in our cases. Our sense is that they do nothing at all.

We demand to know what you are doing to stop these abuses. What has happened to the prosecutors whose knowing acts contributed to our suffering? What have you done to make them understand that they cannot do it again? How have the systems been fixed to prevent future misconduct and errors? What makes you think these solutions have worked when so many people continue to be wrongfully convicted?

The power to charge and prosecute someone with a crime comes with grave responsibility. Now that the Supreme Court has said that prosecutors cannot be held civilly liable for their actions, it's up to you to make sure that prosecutors take that responsibility as seriously as the job demands. As you consider the significance of today's decision, please know that those of us who have been the victims of prosecutorial misconduct are eager to hear what you intend to do to ensure that others don't suffer injustice as we have.

Sincerely,

Kennedy Brewer
Noxubee County, MS

Dennis Fritz
Pontotoc County, OK

Ray Krone
Maricopa County, AZ

Roy Brown
Cayuga County, NY

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Darryl Burton
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Bruce Godschalk
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Gene and Elizabeth Sodersten,
parents of Mark Sodersten,
who died in prison
Tulare County, CA

Kirk Bloodsworth
Baltimore County, MD

Thomas Goldstein
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