

# U.S. Supreme Court Tosses John Thompson's \$14 Million Jury Award For 14 Years On Louisiana's Death Row

John Thompson spent 14 years on Louisiana's death row for a murder prosecutors in the Orleans Parish District Attorney's Office knew he didn't commit. The U.S. Supreme Court ruled on March 29, 2011 that Thompson cannot sue the DA's office under the federal civil rights law (42 USC 1983) for violating his constitutional rights by concealing evidence of his innocence.

In 1984 Thompson was arrested for a New Orleans murder. While awaiting trial he was charged with a robbery. He was tried in 1985 for the robbery and convicted. It was his first felony conviction. When Thompson was tried for the murder he didn't testify because the prosecution would use his robbery conviction to impeach his testimony. Thompson was convicted of first-degree murder and sentenced to death.

Days before his scheduled execution in 1999 a defense investigator discovered that the prosecutors had concealed a lab report that the robber had a different blood type than Thompson. Based on the new evidence Thompson's execution was stayed. Further investigation discovered evidence of Thompson's innocence of the murder that was concealed by his prosecutors.

Thompson's robbery conviction was overturned and the charges dismissed. In 2002 Thompson's murder conviction was overturned.

Thompson was retried in 2003. After hearing the evidence the prosecution concealed during his first trial, the jury acquitted him after deliberating for 35 minutes. Thompson was released in May 2003 after 18-1/2 years of incarceration.

In July 2003 Thompson filed a federal civil rights lawsuit under 42 U.S.C. §1983 alleging that DA Harry Connick, other officials of the Orleans Parish District Attorney's Office, and the Office itself, had violated his constitutional rights by withholding exculpatory (*Brady*) evidence.

The U.S. District Court judge refused to dismiss the lawsuit, and a jury ruled that Connick and DA's Office had been deliber-

ately indifferent to Thompson's *Brady* rights and to the need for training and supervision to safeguard those rights. The jury awarded Thompson \$14 million — \$1 million for each year he was on death row.



John Thompson during news conference after the U.S. Supreme Court's ruling.

The DA's Office appealed to the 5th Circuit Court of Appeals, which upheld the jury award.

The DA's Office filed a writ of *certiorari* with the U.S. Supreme Court, which agreed to review the case. After hearing arguments in October 2010, the Court issued its 5 to 4 ruling on March 29, 2011 that overturned the jury's award and dismissed Thompson's lawsuit. (*Connick v Thompson*, No 09-571 (USSC 3-29-2011)) In the majority opinion written by Justice Clarence Thomas the Court ruled that the prosecutors' failure to disclose the lab report that Thompson's blood didn't match the robbery victim was insufficient to prove the DA's Office "was deliberately indifferent to the need to train the attorneys under his authority," and thus "as a matter of law" they weren't liable.

Justice Ginsburg excoriated the majority's decision in a sharply worded 10,600 word dissent that she read from the bench after the Court's ruling was announced. She wrote:

John Thompson spent 18 years in prison, 14 of them isolated on death row, before the truth came to light: He was innocent of the charge of attempted armed robbery, and his subsequent trial on a murder charge, by prosecutorial design, was fundamentally unfair.

... Throughout the pretrial and trial proceedings against Thompson, the team of four engaged in prosecuting him for armed robbery and murder hid from the defense and the court exculpatory information Thompson requested and had a constitutional right to receive. The prosecutors did so despite multiple opportunities, spanning nearly two decades, to set the record straight. Based on the prosecutors' conduct relating to Thompson's trials, a fact trier could reasonably conclude that inattention to *Brady* was standard operating procedure at the District Attorney's Office.

What happened here, the Court's opinion obscures, was no momentary over-

sight, no single incident of a lone officer's misconduct. Instead, the evidence demonstrated that misperception and disregard of *Brady's* disclosure requirements were pervasive in Orleans Parish. That evidence, I would hold, established persistent, deliberately indifferent conduct for which the District Attorney's Office bears responsibility under §1983.

... The prosecutorial concealment Thompson encountered ... is bound to be repeated unless municipal agencies bear responsibility—made tangible by §1983 liability—for adequately conveying what *Brady* requires and for monitoring staff compliance."

In an article critical of the Court's ruling, Dahlia Lithwick wrote in *Slate.com* that Thomas authored "one of the meanest Supreme Court decisions ever."

Bennett L. Gershman, one of the leading authorities in the United States on prosecutorial misconduct, wrote about the Court's ruling in an article on *Huffington Post*:

Unaccountably, the majority ignored, dismissed, or misstated the massive evidence that the jury heard and accepted that the absence of education and training in Connick's office contributed to a culture of deliberate indifference to the rights of defendants, which produced Thompson's horrific miscarriage of justice.

... Moreover, the culture of misconduct in Connick's office was not unfamiliar to the Supreme Court. A few years earlier, in *Kyles v. Whitley*, the Court, in an influential 5-4 decision, vacated a capital murder conviction prosecuted by Connick's office based on egregious prosecutorial misconduct, especially hiding exculpatory evidence that, as in Thompson's case, provided a vivid example of how an innocent man had been railroaded to the death chamber by unscrupulous prosecutors.

Thompson, now 48, has received no compensation for his 18 years of wrongful imprisonment.

Sources:  
*Connick v Thompson*, No 09-571 (USSC 3-29-2011))  
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<http://www.slate.com/id/2290036/pagenum/all/#p2>  
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