

# Texas Supreme Court Rules Billy Frederick Allen Is Entitled To \$2 Million Compensation

The Texas Supreme Court has ruled that Billy Frederick Allen is entitled to compensation for his 26 years of wrongful imprisonment for two Dallas County murders. Under Texas' wrongful conviction compensation statute Billy Allen is now eligible for \$80,000 for each year of his incarceration plus a lifetime annuity.

In 1983 Allen was charged with murdering a man and a woman in their University Park, Texas home in 1983. There was no physical, forensic or eyewitness evidence linking Allen to the crime, and he wasn't found with any of the victim's possessions that had been stolen from their house. The State's two key pieces of evidence were a palm print of Allen's on the roof of the car owned by one of the victims, and a detective testified that one of the victims told him his killer was "Billy Allen" before he died.

During Allen's 1984 jury trial his defense regarding the palm print was that he had sold some scraps of gold to the man one or two days before his murder. Allen's wife testified that as he stood next to the man's car she saw Allen lean on its roof while the man was inside counting the money he was going to pay Allen. The State's fingerprint expert testified the palm print could have been made on the car two days before the murder. Allen's lawyer didn't investigate before trial if there were any other men named Billy Allen who could be considered suspects in the crime, but instead he tried to create doubt during the detective's cross-examination that he may have misunderstood what the victim said.

After Allen's conviction he was sentenced to two concurrent 99-year sentences.

Allen discovered post-conviction that the day of the murder a man named Billy Wayne Allen had been considered a suspect, that he lived in the area of the murder, and he had a record of drug and robbery convictions.

Allen also discovered post-conviction that one of the paramedics in the ambulance clearly heard the victim say his attacker was "Billy Wayne Allen."

Allen filed a writ of habeas corpus in 2004 that made a claim of actual innocence based



Billy Frederick Allen at his lawyers office on January 31, 2012 (Tony Gutierrez, AP)

was told the name "Billy Allen" by the victim, admitted that before Allen's arrest three men named Billy Allen were considered as suspects in the case. The detective testified Billy Wayne Allen was one of those three men, but he didn't investigate him or the other man because Billy Frederick Allen's palm print was found on the roof of the victim's car.

The judge found that the new evidence identifying Billy Wayne Allen as the murderer's name was credible, and that it was unlikely a jury would have convicted Allen based only on the palm print evidence that had an innocent coincidental explanation for being on the victim's car. The judge granted Allen's habeas petition and ordered a new trial. The State appealed.

In February 2009 the Texas Court of Criminal Appeals affirmed the granting of Allen's writ of habeas corpus based on his counsel's ineffective assistance of counsel for failing to investigate for other possible suspects named Billy Allen. The Court ruled in *Ex parte Allen*, Nos. AP-75580, AP-75581, 2009 WL 282739 (Tex. Crim. App. 2-4-2009):

"In short, it is unlikely that the State would have been able to gain applicant's conviction based on the palm print alone. In light of this state of the evidence, it is not surprising that the habeas court found that the newly discovered evidence "of innocence [was] so strong that [it could not] have confidence in the outcome of the trial." We agree; and because it was the trial counsel's deficient performance that prevented such evidence from being presented to the jury in the first place, we hold that such deficient performance prejudiced applicant's defense."

Allen was released on bail after 26 years of imprisonment, and in January 2011 the Dallas County DA's motion to dismiss the charges [was granted](#).

Allen then filed a claim under Texas'

on ineffective assistance of his trial counsel for failing to conduct an adequate pre-trial investigation

regarding the identity of "Billy Allen." The judge held an evidentiary hearing during which the detective who testified he

wrongful conviction compensation law. His claim was denied by the State Comptroller on the rationale his charges were dismissed due to the ineffectiveness of his trial counsel, and he had not been found "actually innocent" as required by the statute.

Allen filed for a writ of mandamus with the Texas Supreme Court. The State argued the compensation statute only applied to people proven "actually innocent" by clear and convincing "new evidence," which normally would only apply to a case involving DNA evidence. Allen argued the statute's wording also intended the awarding of compensation to any defendant who had been proven "actually innocent" by a probability of the evidence, which is the standard a defendant has to meet to be granted a new trial for ineffective assistance of counsel. ([Click here to see a video](#) of the oral arguments on January 12, 2012 before the Texas Supreme Court.)

On May 18, 2012 the Court ruled in agreement with Allen, that the overturning of a conviction on an "actual innocence" claim based on ineffective assistance of counsel is legally the same under the compensation statute as having a conviction overturned on the basis of "actual innocence" based on new evidence. The Court's ruling opens the door to other people in Texas to apply for compensation who have had their charges dismissed after being awarded a new trial based on their "actual innocence" being proven by ineffective assistance of counsel. The Court's ruling is *In Re Billy Allen*, No. 10-0886 (TX Sup Ct, 5-18-2012).

The ruling makes Allen eligible for more than \$2 million in compensation plus a lifetime annuity.

## Sources:

*In Re Billy Allen*, No. 10-0886 (TX Sup Ct, 5-18-2012)

*In Re Billy Allen*, No. 10-0886 (TX Sup Ct), Video of oral arguments to the court

*Ex parte Allen*, Nos. AP-75580, AP-75581, 2009 WL 282739 (Tex. Crim. App. 2-4-2009) (unpublished opinion)

*State v Billy Frederick Allen*, No. F8386548, 195th Judicial Court of Dallas County, Texas, January Term, 2011, Motion to dismiss charges granted by the court



## Visit Justice Denied's Facebook Page

Justice Denied's Facebook page has information related to wrongful convictions. Justice Denied's homepage has a link to the Facebook page, [www.justicedenied.org](http://www.justicedenied.org)