

# U.S. Supreme Court Rules Prosecutor Cannot Later Be Judge In Case

The U.S. Supreme Court ruled on June 9, 2016 that the Fourteenth Amendment's Due Process Clause [requires the recusal](#) of a judge who was previously involved in the prosecution of a case.

Terrance Williams was 18 in 1984 when he was charged along with Marc C. Draper in the beating death of Amos Norwood in Philadelphia. They were both facing a possible death sentence if convicted after a trial. Draper confessed during his interrogation, and he agreed to a plea deal for life in prison in exchange for testifying as a prosecution witness. During Williams' trial Draper's testimony suggested that the motive for killing Norwood was to rob him. That testimony provided evidence for an aggravating factor in Norwood's death necessary for the prosecution to seek the death penalty.

Williams did not confess, and testified in his own defense that he was not involved in the crime and did not know the victim. Williams was convicted of first-degree murder by the jury. The trial prosecutor submitted a memorandum to her supervisors supporting her request to seek the death penalty against Williams. Ronald D. Castille was the then-district attorney of Philadelphia, and [he wrote](#) at the bottom of the memorandum: "Approved to proceed on the death penalty."

The prosecution relied on Draper's testimony about the alleged robbery motive during the sentencing hearing, that resulted in Williams being sentenced to death.

Williams' conviction and sentence were affirmed on direct appeal, and he filed a number of state post-conviction petitions that were denied, as well as federal habeas corpus petitions that were denied.

In 2012 Williams filed a successive state post-conviction petition that didn't challenge his conviction, but sought to vacate his death sentence. The petition was based on new evidence provided by Draper when 28 years after the crime he agreed to talk for the first time to Williams' attorneys. Draper admitted that he committed perjury during Williams' trial. [Draper told](#) Williams' attorneys "that he had informed the Commonwealth before trial that Williams had been in a sexual relationship with Norwood and that the relationship was the real motive for Norwood's murder. According to Draper, the Commonwealth had instructed him to give false testi-



Terrance Williams  
(PA DOC)

mony that Williams killed Norwood to rob him. Draper also admitted he had received an undisclosed benefit in exchange for his testimony: the trial prosecutor had promised to write a letter to the state parole board on his behalf. At trial, the prosecutor had elicited testimony from Draper indicating that his only agreement with the prosecution was to plead guilty in exchange for truthful testimony. No mention was made of the additional promise to write the parole board."

The Philadelphia Court of Common Pleas (PCCP) ordered the prosecution to produce all previously undisclosed documents, and held an evidentiary hearing regarding Williams' allegation that the prosecution deliberately procured false testimony from Draper and suppressed exculpatory evidence. Based on the new evidence [the court found](#) "that the trial prosecutor had suppressed material, exculpatory evidence in violation of *Brady v. Maryland*, 373 U. S. 83 (1963), and engaged in "prosecutorial gamesmanship." The court stayed Williams' execution and ordered a new sentencing hearing."

The State submitted an emergency application to the Pennsylvania Supreme Court to vacate the stay of execution.

Castille had been elected to the State Supreme Court in 1994, and in 2012 was serving as serving as its chief justice. The documents disclosed in the PCCP included the sentencing memorandum in which Castille had authorized the death penalty for Williams.

Williams filed a motion for Castille to recuse himself for bias, which the State opposed. Castille summarily denied the motion.

After briefing, the Supreme Court [vacated the stay](#) of execution and reinstated Williams' death sentence on December 15, 2014. Castille authored a 10-page concurring opinion that was longer than the Court's 8-page ruling. Castille opinion was a vitriolic defense of the prosecution's trial tactic of concealing from Williams' lawyers the deal with Draper, and he asserted it wasn't discovery evidence under *Brady*. Castille conveniently ignored Draper's perjury about the deal elicited by the prosecution during Williams' trial. Castille [castigated the PCCP's judge](#) for taking the "lawless step of essen-

tially opening the prosecutor's files to appellate's counsel..." Of course, it was the judge's order that resulted in the discovery of Castille's personal involvement in Williams' case and his approval of seeking the death penalty for Williams. Castille also asserted the judge stayed Williams' death sentence "for no valid reason." Castille was almost foaming at the mouth in expressing his disdain for the Federal Community Defenders Office, and what he described as its "obstructionist anti-death penalty agenda" in defending death row prisoners.

The U.S. Supreme Court accepted Williams' writ of *certiorari* to determine if Castille's denial of his recusal motion and Castille's participation in the Pennsylvania Supreme Court's ruling violated Williams' right to due process under the Fourteenth Amendment.

On June 9, 2016 the Supreme Court issued its majority opinion in *Williams v. Pennsylvania*, 579 U.S. \_\_\_\_ (2016) vacating the Pennsylvania Supreme Court's reinstatement of Williams' death sentence. The 5 to 3 [ruling stated](#):

"The Court now holds that under the Due Process Clause there is an impermissible risk of actual bias when a judge earlier had significant, personal involvement as a prosecutor in a critical decision regarding the defendant's case." [5-6]

...  
Of particular relevance to the instant case, the Court has determined that an unconstitutional potential for bias exists when the same person serves as both accuser and adjudicator in a case. ... This objective risk of bias is reflected in the due process maxim that "no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome."

The due process guarantee that "no man can be a judge in his own case" would have little substance if it did not disqualify a former prosecutor from sitting in judgment of a prosecution in which he or she had made a critical decision." [6]

Regarding the almost 30 years that passed from Castille's approval of the death penalty for Williams when Castille was Philadelphia's DA, and him voting as a supreme court justice to reinstate Williams' death sentence, the Court's majority stated:

"The involvement of multiple actors and the passage of time do not relieve the former prosecutor of the duty to withdraw in order to ensure the neutrality of the judicial process in determining the

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## Man Acquitted Of Rape After Completing Prison Sentence Wants Euthanasia If Not Compensated

On June 10, 2015 the High Court of Bombay acquitted Gopal Shete [of raping a girl](#) in 2008 -- three months after he had completed his prison sentence.

A mentally challenged girl was raped in December 2008 at the railway station in Ghatkopar, India, outside of Mumbai. The victim told the police that her assailant said his name was "Gopi."

Shete was 32, the married father of two young daughters, and worked in a management position in a hotel in Ghatkopar. Shete's first name Gopal, was similar to Gopi, so the police assumed he was the assailant. Although the victim did not identify Shete as her attacker, he was arrested and charged with her rape.

Shete was jailed without being granted bail, while awaiting his trial.

During Shete's trial the prosecution didn't present any physical, forensic, or eyewitness evidence linking him to the crime, or even being in the vicinity of the railway station at the time of the rape. The prosecution's case



Gopal Shete in Feb. 2016 (Nagpur Today)

was based on the similarity of his first name to that of the victim's assailant.

Shete's alibi defense was he was with his family at the time the rape occurred.

After his conviction following a bench trial, Shete was sentenced to seven years in prison with credit for the time he was jailed awaiting trial.

Nine months was taken off Shete's sentence for his good behavior, and he was released in March 2015 after six years and three months in custody.

Three months after Shete's release his appeal was decided. On June 10, 2015, the Bombay High Court set-aside Gopal Shete's conviction and acquitted him based on the insufficiency of the prosecution's unreliable name similarity evidence the trial court relied on to convict him. The [court's ruling](#) by Justice Abhay Thipsay stated: "In my opinion, this was a case where the identity of the appellant as the culprit had not been satisfactorily established. In my opinion, there was indeed a real and substantial doubt about the identity of the appellant as the culprit."

At the time of his arrest Shete was making the comfortable salary of Rs50,000 (US\$750) a month. While imprisoned Shete's wife divorced him and remarried, his two daughters were forced to live in an orphanage, and his father passed away.

Shortly after his exoneration Shete filed a petition in the High Court to be granted compensation, and he requested interim compensation because he was destitute. In February 2016 the High Court accepted Shete's claim for consideration, but reserved a ruling pending the government's response.

Frustrated at inaction on his petition, in late July 2016 Shete wrote letters to the Bombay High Court, the Chief Justice of India's Supreme Court, the Governor of the State of Maharashtra, India's President, the ministry of Home affairs and India's Chief Minister. Shete's [court's ruling](#) letter stated: "I was falsely implicated and I want compensation, otherwise I am going to end this life. So, if the court cannot give me justice, they better give me permission to end my life."

As of early August there was no report of an official response to Shete's letter.

Sources:

[After 7 yrs in jail for rape he didn't commit, man wants to end his life](#), *Mumbai Mirror*, July 27, 2016

[Youth spends 6 year in Jail now seeks 100 cr as compensation](#), *Nagpur Today* (Nagpur, India), February 23, 2016



## Supreme Court cont. from p. 9

consequences that his or her own earlier, critical decision may have set in motion." [8]

The Court ruled regarding that Castille was only one of the six state Supreme Court justices who voted to reinstate Williams' death sentence:

"... the Court holds that an unconstitutional failure to recuse constitutes structural error even if the judge in question did not cast a deciding vote. ... The fact that the interested judge's vote was not dispositive may mean only that the judge was successful in persuading most members of the court to accept his or her position. That outcome does not lessen the unfairness to the affected party." [12, 13]

The judgment of the Supreme Court of Pennsylvania is vacated..." [14]

Three of the justices thought it was acceptable for Castille to participate in deciding Williams' appeal of his death sentence after

Castille had authorized the seeking of that death sentence when he was Philadelphia's District Attorney.

Two of the dissenters, Justices Roberts and Alito, [argued that](#) Castille acting as a prosecutor and a judge at different stages of Williams' case did not violate his federal right to due process. However, they conceded that it may have violated state ethics rules. "Because the Due Process Clause does not mandate recusal in cases such as this, it is up to state authorities—not this Court—to determine whether recusal should be required." [Roberts dissent, 8]

Justice Thomas dissented [for two reasons](#). First, he argued "The specter of bias alone in a judicial proceeding is not a deprivation of due process." [Thomas dissent, 1] Second, Thomas argued Castille's recusal wasn't required because Williams' post conviction petition challenging his death sentence that was denied by Justice Castille was a civil case distinguishable from his criminal case that resulted in the imposition of his death sentence that had been ap-

proved by then District Attorney Castille. Thomas wrote, "this postconviction proceeding is not an extension of Williams' criminal case but is instead a new civil proceeding." [Thomas dissent, 12]

**The Supreme Court's ruling** in *Williams v. Pennsylvania*, 579 U.S. \_\_\_ (2016) is online at,

[www.supremecourt.gov/opinions/15pdf/15-5040\\_6537.pdf](http://www.supremecourt.gov/opinions/15pdf/15-5040_6537.pdf)

When the Pennsylvania Supreme Court reconsiders Williams' case Castille won't be around to possibly contaminate the proceeding: he stepped down from the court in 2014 after reaching the mandatory retirement age of 70.

Sources:

[Williams v. Pennsylvania](#), 579 U.S. \_\_\_ (2016)

[Com. v. Williams](#), 105 A. 3d 1234 (Pa. Supreme Ct 2014)

[U.S. Supreme Court: Castille should have recused himself from Pa. death-row case](#), *The Inquirer* (Philadelphia), June 10, 2016

