



# Innocent Lives in the Balance

## The Real Risk of Executing the Innocent

Since 1973, 192 people have been exonerated from death row after evidence emerged of their innocence. That's approximately one innocent person exonerated for every eight executions. While South Carolina has had people vacated off of death row, the state has never had anyone exonerated. Many people (including George Stinney, Jr.) have been executed with innocence claims that went uninvestigated.

"Even if you believe the death penalty is just, knowing that innocent people are being sentenced and sometimes executed should give you pause."

Shane Claiborne, *Executing Grace*

### **Capital trials are not infallible. How can we call it "justice" to support a system that sentences and executes people wrongly?**

Despite the best intentions, we can't be right 100% of the time:

- DNA exonerations have been a window into all the things that can go wrong in a murder case. They have revealed that cases are often riddled with problems like mistaken eyewitnesses, incompetent lawyers, shoddy forensics, unreliable jailhouse snitches, and coerced confessions.
- DNA by itself cannot solve these problems. DNA evidence exists in less than 15% of criminal cases – far fewer than one would think from watching TV crime shows like CSI.
- Of the 375 exonerations for any crimes involving DNA, 21 of those individuals served time on death row (6%)
- Contrary to popular belief, the appeals process is not designed to catch many of these mistakes. These exonerations came only because of the extraordinary efforts of people working outside the system – pro bono lawyers, family members, even students.

**Innocent people have spent decades on death row, or come within hours of execution, before the truth came out. Cutting appeals will only increase the risk that an innocent person will be executed.**

Factors leading to wrongful convictions include: Inadequate defense; Police and Prosecutorial misconduct; Perjured testimony and mistaken eyewitness testimony; Tainted jailhouse testimony; Suppression of mitigating evidence and misinterpretation of evidence; Death qualified juries; Lack of or unreliable eyewitness testimony.

Though death penalty cases may take decades to complete, much of this time is spent waiting for counsel to be appointed or for the courts to review the case, and this review is frequently limited to the trial record. This also means that the appellate courts may not review critical facts such as new evidence of innocence, prosecutorial or police misconduct, the failings of the defense attorney, or new information on the individual's background or mental health history that may have influenced the jury. Because the courts often emphasize finality over fairness and accuracy, the citizens of South Carolina cannot have confidence that the administration of the death penalty will not result in the execution of an innocent person.

**Turn the page for innocence cases in South Carolina's death penalty history**



**George Stinney Jr.** (October 21, 1929 – June 16, 1944), was an African American boy, who at the age of 14 was convicted and executed, for the murders of two young girls in March 1944 in his hometown of Alcolu, South Carolina. The only evidence tying him to the crime was the fact that he was the last person to see the two girls alive (they asked him for directions while passing by his house). He was convicted, sentenced to death, and executed by electric chair on June 16, 1944, thus becoming the youngest American with an exact birth date confirmed to be sentenced to death and executed in the 20th century. The entire process from arrest to execution took 83 days. A re-examination of Stinney's case began in 2004. Stinney's murder conviction was vacated in 2014, seventy years after he was executed, with a South Carolina court ruling that he had not received a fair trial and was thus wrongfully executed.



**Joseph "Jody" Ard** was released in 2012 after serving 16 years on death row. Ard was convicted of murder of his girlfriend and their unborn child in 1996 in Lexington County. Justice 360 attorneys represented Ard in post-conviction with Attorney Bill Nettles. Through investigation of the case, they discovered gunshot residue evidence never presented to the jury supporting Ard's testimony that the killing was an accident. The South Carolina Supreme Court granted Ard a new trial at which he was acquitted of murder and released from prison.



Edward Elmore was released in 2012 after serving nearly 30 years on death row. Elmore was convicted of murder and rape of an elderly white woman in 1982 in Greenwood County and had three death penalty trials over the next three decades. Former Justice 360 attorneys Diana Holt and others became involved in the case in the early 1990s and represented Elmore until he was finally released in 2012. They discovered evidence indicating another person committed the crime had never been presented in trial and determined the State fabricated or over-interpreted other physical evidence. They also proved Elmore is intellectually disabled and ineligible for the death penalty. In November of 2011, the Fourth Circuit Court of Appeals reversed Elmore's conviction and ordered a new trial. Elmore was released March 2, 2012.



Sterling Spann received parole in 2006 after 24 years in prison, including 17 years on death row. Spann was convicted of murder and rape of a white woman in 1982 in York County. Justice 360 attorneys represented Spann in post-conviction proceedings. They uncovered evidence that two similar crimes were committed in the area around the same time—one after Spann was incarcerated. This indicated another person committed all three crimes, including the one for which Spann was sentenced to death. In 1999, the South Carolina Supreme Court granted Spann a new trial based on that evidence. The case was settled and Spann was released on parole in 2006.