

We need to hold prosecutors accountable

By Suruchi Mohan

Prosecutors need to be held responsible for their misconduct.

On Oct. 6, the U.S. Supreme Court heard oral arguments to decide whether a municipality is liable if a district attorney's office fails to train its prosecutors to turn over evidence favorable to the defense.

The case is *Connick v. Thompson*.

John Thompson's troubles began in December 1984, when businessman Raymond Liuzza Jr. was killed outside his home in New Orleans. Three weeks later Jay LaGarde and his two siblings became victims of an attempted armed robbery outside the New Orleans Superdome.

In January 1985, police arrested Thompson and co-defendant Kevin Freeman, charging them with Liuzza's murder. On seeing Thompson's picture in the newspaper, the father of the LaGarde kids called the district attorney's office, wondering if he might also be responsible for the attempted robbery.

So began the trials — first robbery, then murder — that almost led to Thompson's execution. Freeman, the real killer, testified against Thompson after cutting a deal with the prosecutors.

Weeks before Thompson's scheduled execution, one of his attorneys found a report that showed the blood on the pants of one of the LaGarde kids was type B; Thompson's was type O. After the dismissal of the burglary conviction, Thompson was retried for murder and acquitted. Thompson had spent 18 years behind bars — 14 of them in solitary confinement.

Thompson sued district attorney Harry F. Connick, three prosecutors who had worked on the case, and the district attorney's office for deliberately withholding the blood report.

In 2007, a jury awarded him \$14 million: \$1 million for each year he spent in solitary in a 6-by-9 cell. The district attorney's office appealed; the 5th U.S. Circuit Court of Appeals upheld the verdict.

During the oral arguments before the Supreme Court, the justices expressed concern to Connick's attorney about the insidious nature of Brady violations, which can go undetected for years. (The Supreme Court had ruled in *Brady v. Maryland* in 1963

that prosecutors must provide evidence favorable to the defense.) The justices also peppered Thompson's attorney with questions on what would qualify as sufficient training on this obligation: an hour, a month, a year? But all this hair-splitting ignores the larger issue of the prosecutor's duty to serve the cause of justice, not just win a conviction. It devalues human life.

The Supreme Court must uphold the verdict of the appeals court in this case. It must uphold defendants' right to a fair trial. And the best way to do that is to put prosecutors on notice that, where the intent to withhold evidence is deliberate, they shall be liable.

Accountability is what distinguishes us from totalitarian regimes. If a government of, by, for the people is to retain meaning, our nation's prosecutors must be subject to the rule of law.

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