

## Pro Bono

# BCLP PRO BONO CLIENT DECLARED ACTUALLY INNOCENT; MISSOURI COURTS ASKED TO FREE HIM

May 12, 2021

A *pro bono* team from Bryan Cave Leighton Paisner (BCLP), working in partnership with the Midwest Innocence Project (MIP), has filed a petition for a writ of habeas corpus to the DeKalb County Court seeking the release and exoneration of client Kevin Strickland. Jackson County Prosecuting Attorney Jean Peters Baker, whose office prosecuted Strickland in 1979, agrees Strickland is innocent and has joined in calling for his release.

The case has brought significant regional and national media attention, including coverage in *The Washington Post*, *People* magazine, the *ABA Journal*, *The Kansas City Star* and the *New York Post*.

Strickland has served more than 42 years in prison for a 1978 triple homicide that claimed the lives of Sherrie Black, John Walker and Larry Ingram, and injured Cynthia Douglas. Strickland has consistently maintained his innocence. Since his conviction, evidence of his innocence has continued to emerge, including sworn statements from the actual perpetrators declaring Strickland's innocence and naming the previously unidentified fourth perpetrator, for whom Strickland was mistaken, and a recantation of an identification of Strickland as one of the perpetrators from the sole surviving victim of the crime, Cynthia Douglas.

Strickland's first trial resulted in a hung jury, but he was convicted at a second trial by an all-white jury based almost entirely on the unreliable eyewitness identification of the surviving victim, Douglas. Although she knew Strickland at the time of the crimes, she did not immediately identify him as a perpetrator. Instead, she named two of the four perpetrators and told police she could not identify the other two. After others suggested to Douglas that they had previously seen Strickland in the company of the two known perpetrators, Douglas provided Strickland's name to police. Modern scientific understanding of cognition and memory deeply undermines the reliability of Douglas' eyewitness identification, and for many years until her death in 2015 she repeatedly expressed both her doubts about her identification of Strickland and her wish to see him exonerated.

In addition to Douglas' recantation, Strickland's innocence is also supported by sworn statements from the true perpetrators, declaring his innocence and, in the case of two of the codefendants, naming the individual for whom Strickland was mistaken.

“The truth of Mr. Strickland’s innocence was known over 42 years ago,” BCLP Partner Bob Hoffman said. “Strickland’s case is yet one more example of how long and difficult it is to overturn a wrongful conviction. It shouldn’t be this hard.”

In November 2020, Strickland, BCLP and MIP submitted his case to the Jackson County Prosecutor’s Conviction Integrity Unit for review. Following a thorough examination of all of the evidence, the Jackson County Prosecutor’s Office concluded in a letter that “[r]eliable, corroborated evidence now proves that Mr. Strickland is factually innocent of the charges for which he was convicted in 1979. In the interests of justice, Mr. Strickland’s conviction should be set aside, he should be promptly released, and he deserves public exoneration.”

The case was initially filed directly in the Missouri Supreme Court because of confusion regarding whether innocence is enough for a defendant to have their conviction overturned if the defendant was not sentenced to death. In 2003, the Missouri Supreme Court declared innocence was a claim for relief when it vacated the conviction of exoneree Joseph Amrine, who had served 17 years on Missouri’s death row, after finding he was actually innocent. In 2016, however, the Western District Court of Appeals declined to do the same for MIP client Rodney Lincoln, who was not sentenced to death, finding, “Because the Missouri Supreme Court has not recognized a freestanding claim of actual innocence in cases where the death penalty has not been imposed, we are not at liberty to expand Missouri habeas jurisprudence to permit consideration of the claim in this case.” Strickland was charged with capital murder and sentenced to life imprisonment without eligibility for probation or parole for 50 years. The Missouri Supreme Court refused to hear the matter and it has since been refiled in Circuit Court.

“Innocence should be enough for an individual to be released from prison, regardless of the sentence,” Hoffman said. “We are asking the Missouri Supreme Court to clarify once and for all that our legal system cannot tolerate the continued incarceration of any innocent person.”

Strickland is represented by BCLP Partner Bob Hoffman, MIP Executive Director Tricia Rojo Bushnell, Attorney Robert Hansen (MIP), and BCLP Associates Logan Rutherford and Ben Ford. The team was assisted by investigators Blair Johnson (MIP), BCLP Paralegal Martin Whitehead, former MIP interns Sarah Duggan, Jordan Kurdi, Robert O’Connor, Maryrachel Durso, and the students in the Drake School of Law 2020 Fundamentals of Investigation Course.

## MEET THE TEAM



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