



LETHAL INDIFFERENCE
APPENDICES

Appendix

Review of State Habeas Applications on File with the Texas Court of Criminal Appeals

CATEGORY	NUMBER	%
Number of initial habeas corpus applications filed with and decided by the Texas Court of Criminal Appeals, 9/1/95–12/31/01	263	N/A
Number of initial applications reviewed ³²¹	251	95%
Number of initial applications unavailable for review	12	5%
Applications under 30 pages in length / % of total reviewed	76	30%
Applications under 15 pages in length	37	15%
Applications under 10 pages in length	22	9%
Number of cases where discovery motions filed	30	12%
Number of cases where discovery motions not filed	221	88%
Number of cases where no extra-record claim presented	71	28%
Number of cases where no extra-record material filed	97	39%
Number of case files where trial court's and state's findings of fact and conclusions of law available for review	211	N/A
Number of cases where trial court's findings of fact and conclusions of law identical or virtually identical to those filed by the state / % of 211 cases where available for review	189	90%
Number of cases where evidentiary hearings held by trial court	55	22%

³²¹ The following 12 habeas corpus applications were unavailable for review. The files or initial petitions were either checked out, missing, or destroyed. Ex parte Michael Blair, Writ No. 40,719, Ex parte Gabriel Gonzales, Writ No. 44,073, Ex Parte Jeffrey Doughtie, Writ No. 36,790, Ex parte Kenneth Parr, Writ No. 48,257, Ex Parte Robert Neville, Writ No. 48,694, Ex parte Damon Richardson, Writ No. 48,696, Ex parte Derrick Frazier, Writ No. 49,164, Ex parte Arnold Prieto, Writ No. 49,954, Ex parte Kimberly McCarthy, Writ No. 50,360, Ex parte Kenneth Mosley, Writ No. 50,421, Ex parte Jeffrey Williams, Writ No. 50,662, and Ex parte Lionell Rodriguez, Writ No. 50,773.

In cases where evidentiary hearing held, number where trial court's findings of facts and conclusions of law identical or virtually identical to those filed by the state (of those where findings of fact available, 38)	31	82%
In cases where evidentiary hearing held, number where trial court's findings of facts and conclusions of law different from those filed by the state (of those where findings of fact available, 38)	7	23%
Number of cases where CCA Order available for review	242	N/A
In cases where CCA Order present, number of cases where CCA adopted trial court's findings of fact and conclusions of law	231	92%
In cases where CCA Order present, number of cases where CCA made changes to the trial court's findings of fact and conclusions of law	9	4%
Number of cases where state and trial court's findings identical or virtually identical (189), and CCA order available	184	97%
Number of cases where state and trial court's findings identical or virtually identical, CCA order available (184) and CCA adopts state and trial court's findings	180	98%
Number of cases where state and trial court's findings available for review (211) and CCA order available (204), number of cases in which CCA adopts state and trial court's findings	180	88%
Number of cases where trial court recommended relief (1) and CCA did not adopt findings of trial court and denied relief	1	100%
Number of cases that CCA filed and set for submission	1	—

2

Appendix

Texas Executions since 1976

No.	Name	Date	Race/ Sex	County	No.	Name	Date	Race/ Sex	County
1	Brooks, Jr., Charlie	12/7/82	BM	Tarrant	31	McCoy, Stephen	5/24/89	WM	Harris
2	Autry, James	3/14/84	WM	Jefferson	32	Paster, James "Skip"	9/20/89	WM	Harris
3	O'Bryan, Ronald	3/31/84	WM	Harris	33	De Luna, Carlos	12/7/89	HM	Nueces
4	Barefoot, Thomas	10/30/84	WM	Bell	34	Butler, Jerome	4/21/90	BM	Harris
5	Skillern, Doyle	1/16/85	WM	Lubbock	35	Anderson, Johnny Ray	5/17/90	WM	Jefferson
6	Morin, Stephen	3/13/85	WM	Jefferson	36	Smith, James	6/26/90	BM	Harris
7	De La Rosa, Jesse	5/15/85	HM	Bexar	37	Derrick, Mikel	7/18/90	WM	Harris
8	Milton, Charles	6/25/85	BM	Tarrant	38	Buxton, Lawrence	2/26/91	BM	Harris
9	Porter, Henry	7/9/85	HM	Tarrant	39	Cuevas, Ignacio	5/23/91	HM	Harris
10	Rumbaugh, Charles	9/11/85	WM	Potter	40	Bird, Jerry Joe	6/17/91	WM	Cameron
11	Bass, Charles Wm.	3/12/86	WM	Harris	41	Russell, James	9/19/91	BM	Fort Bend
12	Barney, Jeffery	4/16/86	WM	Harris	42	Green, G. W.	11/12/91	WM	Montgomery
13	Pinkerton, Jay	5/15/86	WM	Nueces	43	Cordova, Joe Angel	1/22/92	HM	Harris
14	Esquivel, Rudy	6/9/86	HM	Harris	44	Garrett, Johnny	2/11/92	WM	Potter
15	Brock, Kenneth	6/19/86	WM	Harris	45	Clark, David	2/28/92	WM	Brazos
16	Woolfs, Randy	8/20/86	WM	Tom Green	46	Ellis, Edward	3/3/92	WM	Harris
17	Smith, Larry	8/22/86	BM	Dallas	47	White, Billy	4/23/92	BM	Harris
18	Wicker, Chester	8/26/86	WM	Galveston	48	May, Justin	5/7/92	WM	Brazoria
19	Evans, Michael Wayne	12/4/86	BM	Dallas	49	Romero, Jr., Jesus	5/20/92	HM	Cameron
20	Andrade, Richard	12/18/86	HM	Nueces	50	Black, Jr., Robert	5/22/92	WM	Brazos
21	Hernandez, Ramon	1/30/87	HM	El Paso	51	Johnson, Curtis	8/22/92	BM	Harris
22	Moreno, Eliseo	3/4/87	HM	Fort Bend	52	Demouchette, James	9/22/92	BM	Harris
23	Williams, Anthony	5/28/87	BM	Harris	53	Griffin, Jeffery	11/19/92	BM	Harris
24	Johnson, Elliott	6/24/87	BM	Jefferson	54	Lincecum, Kavin	12/10/92	BM	Brazoria
25	Thompson, John R.	7/8/87	WM	Bexar	55	Santana, Carlos	3/23/93	HM	Harris
26	Starvaggi, Joseph	9/10/87	WM	Montgomery	56	Montoya, Ramon	3/25/93	HM	Dallas
27	Streetman, Robert	1/7/88	WM	Hardin	57	Stewart, Darryl	5/4/93	BM	Harris
28	Franklin, Donald Gene	11/3/88	BM	Nueces	58	Herrera, Leonel	5/12/93	HM	Cameron
29	Landry, Raymond	12/13/88	BM	Harris	59	Sawyers, John	5/18/93	WM	Harris
30	King, Leon Rutherford	3/22/89	BM	Harris	60	Duff-Smith, Markum	6/29/93	WM	Harris

No.	Name	Date	Race/ Sex	County	No.	Name	Date	Race/ Sex	County
61	Harris, Curtis	7/1/93	BM	Brazos	109	Barefield, John	3/12/97	BM	Harris
62	Harris, Danny	7/30/93	BM	Brazos	110	Herman, David	4/2/97	WM	Tarrant
63	Jernigan, Joseph	8/5/93	WM	Navarro	111	Spence, David	4/3/97	WM	McLennan
64	Holland, David	8/12/93	WM	Jefferson	112	Woods, Billy	4/14/97	WM	Harris
65	Kelly, Carl	8/20/93	BM	McLennan	113	Gentry, Kenneth	4/16/97	WM	Denton
66	Cantu, Ruben	8/24/93	HM	Bexar	114	Boyle, Benjamin	4/21/97	WM	Potter
67	Wilkerson, Richard	8/31/93	BM	Harris	115	Baldree, Ernest	4/29/97	WM	Navarro
68	James, Johnny	9/3/93	WM	Chambers	116	Washington, Terry	5/6/97	BM	Brazos
69	Bonham, Antonio	9/28/93	BM	Harris	117	Westley, Anthony	5/13/97	BM	Harris
70	Cook, Anthony	11/10/93	WM	Milam	118	Belyeu, Clifton	5/16/97	WM	McLennan
71	Phillips, Clifford	12/15/93	BM	Harris	119	Drinkard, Richard	5/19/97	WM	Harris
72	Barnard, Harold	2/2/94	WM	Galveston	120	Lackey, Clarence	5/20/97	WM	Tom Green
73	Webb, Freddie	3/31/94	BM	Nueces	121	Callins, Bruce	5/21/97	BM	Tarrant
74	Beavers, Richard	4/4/94	WM	Harris	122	White, Larry	5/22/97	WM	Harris
75	Anderson, Larry	4/26/94	WM	Harris	123	Madden, Robert	5/28/97	WM	Leon
76	Rogeanu, Paul	5/3/94	BM	Harris	124	Rogers, Patrick	6/2/97	BM	Collin
77	Nethery, Stephen	5/27/94	WM	Dallas	125	Harris, Kenneth	6/3/97	BM	Harris
78	Crank, Denton	6/14/94	WM	Harris	126	Johnson, Dorsie	6/4/97	BM	Scurry
79	Drew, Robert	8/2/94	WM	Harris	127	Losada, Davis	6/4/97	HM	Cameron
80	Gutierrez, Jessie	9/16/94	HM	Brazos	128	Behringer, Earl	6/11/97	WM	Tarrant
81	Lott, George	9/20/94	WM	Potter	129	Stoker, David	6/16/97	WM	Hale
82	Williams, Walter	10/5/94	BM	Bexar	130	Johnson, Eddie	6/17/97	BM	Aransas
83	Bridge, Warren	11/22/94	WM	Galveston	131	Montoya, Irineo	6/18/97	HM	Cameron
84	Clark, Herman	12/6/94	BM	Harris	132	West, Robert	7/29/97	WM	Harris
85	Kinnamon, Raymond	12/11/94	WM	Harris	133	Davis, James	9/9/97	BM	Travis
86	Jacobs, Jesse	1/4/95	WM	Walker	134	Turner, Jessell	9/22/97	WM	Harris
87	Marquez, Mario	1/17/95	HM	Bexar	135	Stone, Benjamin	9/25/97	WM	Harris
88	Russell, Clifton	1/31/95	WM	Taylor	136	Cockrum, John	9/30/97	WM	Bowie
89	Williams, Willie	1/31/95	BM	Harris	137	Adanandus, Dwight	10/1/97	BM	Bexar
90	Motley, Jeffrey	2/7/95	WM	Harris	138	Green, Ricky	10/8/97	WM	Tarrant
91	Gardner, Billy	2/16/95	WM	Dallas	139	Ransom, Kenneth	10/28/97	BM	Harris
92	Hawkins, Samuel	2/21/95	BM	Travis	140	Lauti, Aua	11/4/97	AM	Harris
93	Mays, Noble	4/6/95	WM	Denton	141	Fuller, Aaron	11/6/97	WM	Dawson
94	Mann, Fletcher	6/1/95	WM	Dallas	142	Sharp, Michael	11/19/97	WM	Crockett
95	Allridge, Ronald	6/8/95	BM	Tarrant	143	Livingston, Charlie	11/21/97	BM	Harris
96	Fearance, John	6/20/95	BM	Dallas	144	Lockhart, Michael	12/9/97	WM	Bexar
97	Hammond, Karl	6/21/95	WM	Bexar	145	Tucker, Karla Faye	2/3/98	WF	Harris
98	Sattiewhite, Vernon	8/15/95	BM	Bexar	146	Renfro, Steven	2/9/98	WM	Harrison
99	Johnson, Carl	9/19/95	BM	Harris	147	Hogue, Jerry	3/11/98	WM	Tarrant
100	Lane, Harold	10/4/95	WM	Dallas	148	Cannon, Joseph	4/22/98	WM	Bexar
101	Amos, Bernard	12/6/95	BM	Dallas	149	Gosch, Lesley	4/24/98	WM	Victoria
102	Vuong, Hai	12/7/95	AM	Jefferson	150	McFarland, Frank	4/29/98	WM	Tarrant
103	Banda, Esequel	12/11/95	HM	Hamilton	151	Carter, Robert	5/18/98	BM	Harris
104	Bridle, James	12/12/95	WM	Harris	152	Muniz, Pedro	5/19/98	HM	Williamson
105	Jenkins, Leo	2/9/96	WM	Harris	153	Boggess, Clifford	6/11/98	WM	Clay
106	Granviel, Kenneth	2/27/96	BM	Tarrant	154	Pyles, Johnny	6/15/98	WM	Dallas
107	Gonzales, Joe	9/18/96	HM	Potter	155	Narvaiz, Leopoldo	6/26/98	HM	Bexar
108	Brimage Jr., Richard	2/10/97	WM	Kleberg	156	Camacho Jr., Genaro	8/26/98	HM	Brazos

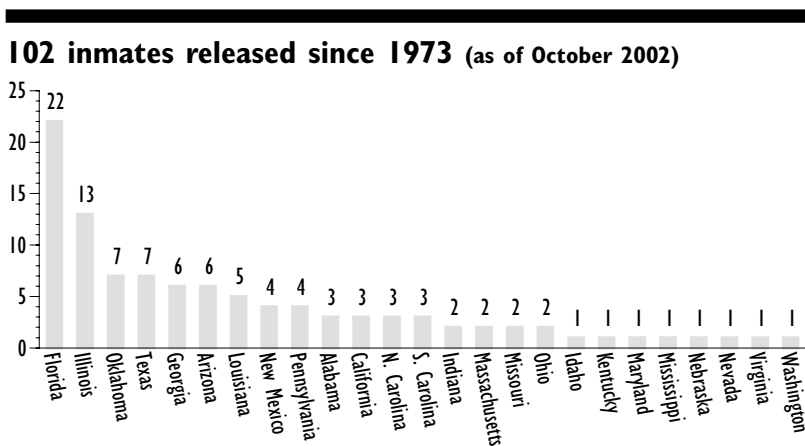
No.	Name	Date	Race/ Sex	County	No.	Name	Date	Race/ Sex	County
157	Teague Jr., Delbert	9/9/98	WM	Tarrant	204	Hughes, Billy	1/24/00	WM	Matagor
158	Castillo, David	9/23/98	HM	Hidalgo	205	McGinnis, Glen	1/25/00	BM	Montgomery
159	Cruz, Javier	10/1/98	HM	Bexar	206	Moreland, James	1/27/00	WM	Henderson
160	Nobles, Jonathan	10/7/98	WM	Travis	207	Goss, Cornelius	2/23/00	BM	Dallas
161	McDuff, Kenneth	11/17/98	WM	Harris	208	Beets, Betty	2/24/00	WF	Henderson
162	Corwin, Daniel	12/7/98	WM	Montgomery	209	Barnes, Jr., Odell	3/1/00	BM	Lubbock
163	Emery, Jeff	12/8/98	WM	Brazos	210	Wilkerson, Ponchai	3/14/00	BM	Harris
164	Meanes, James	12/15/98	BM	Harris	211	Gribble, Timothy	3/15/00	WM	Galveston
165	Moody, John	1/5/99	WM	Taylor	212	Jackson, Tommy	5/4/00	BM	Williamson
166	Farris, Troy	1/13/99	WM	Tarrant	213	Kitchens, William	5/9/00	WM	Taylor
167	Vega, Martin	1/26/99	HM	Caldwell	214	McBride, Michael	5/11/00	WM	Lubbock
168	Cordova, George	2/10/99	HM	Bexar	215	Richardson, James	5/23/00	BM	Navarro
169	Barber, Danny	2/11/99	WM	Dallas	216	Foster, Richard	5/24/00	WM	Parker
170	Cantu, Andrew	2/16/99	HM	Taylor	217	Clayton, James	5/25/00	BM	Taylor
171	Green, Norman	2/24/99	BM	Bexar	218	Carter, Robert	5/31/00	BM	Burleson/ Bastrop
172	Rector, Charles	3/26/99	BM	Travis	219	Mason, Thomas	6/12/00	WM	Smith
173	White, Robert	3/30/99	WM	Collin	220	Burks, John	6/14/00	BM	McLennan
174	Foust, Aaron	4/28/99	WM	Tarrant	221	Nuncio, Paul	6/15/00	HM	Hale
175	De La Cruz, Jose	5/4/99	HM	Nueces	222	Graham, Gary	6/22/00	BM	Harris
176	Coleman, Clydell	5/5/99	BM	McLennan	223	San Miguel, Jessy	6/29/00	HM	Dallas
177	Little, William	6/1/99	WM	Liberty	224	Joiner, Orien	7/12/00	WM	Lubbock
178	Faulder, Joseph	6/17/99	WM	Gregg	225	Soria, Juan	7/26/00	HM	Tarrant
179	Tuttle, Charles	7/1/99	WM	Smith	226	Roberson, Brian	8/10/00	BM	Dallas
180	Fuller, Tyrone	7/7/99	BM	Grayson	227	Cruz, Oliver	8/10/00	HM	Bexar
181	Blackmon, Ricky	8/4/99	WM	Shelby	228	Satterwhite, John	8/16/00	BM	Bexar
182	Boyd, Charles	8/5/99	BM	Dallas	229	Jones, Richard	8/22/00	WM	Tarrant
183	Dunn, Kenneth	8/10/99	BM	Harris	230	Gibbs, David	8/23/00	WM	Montgomery
184	Earhart, James	8/11/99	WM	Lee	231	Caldwell, Jeffrey	8/30/00	BM	Dallas
185	Trevino, Joe	8/18/99	HM	Tarrant	232	McGinn, Ricky	9/27/00	WM	Brown
186	Jones, Raymond	9/1/99	BM	Jefferson	233	Dillingham, Jeffery	11/1/00	WM	Wichita
187	Barnes, Willis	9/10/99	BM	Harris	234	Flores, Miguel	11/9/00	HM	Collin
188	Davis, William	9/14/99	BM	Harris	235	Lawton, Stacey	11/14/00	BM	Smith
189	Smith, Richard	9/21/99	WM	Harris	236	Chambers, Tony	11/15/00	BM	Smith
190	Crane, Alvin	10/12/99	WM	Denton	237	Miller, Garry	12/5/00	WM	Jones
191	McFadden, Jerry	10/14/99	WM	Bell	238	Hittle, Daniel	12/6/00	WM	Dallas
192	Cantu, Domingo	10/28/99	HM	Dallas	239	Jones, Claude	12/7/00	WM	San Jacinto
193	Jennings, Desmond	11/16/99	BM	Tarrant	240	Clark, Jack	1/9/01	WM	Lubbock
194	Lamb, John	11/17/99	WM	Hunt	241	Goodwin, Alvin	1/18/01	WM	Montgomery
195	Gutierrez, Jose	11/18/99	HM	Brazos	242	Alexander, Caruthers	1/29/01	BM	Bexar
196	Long, David	12/8/99	WM	Dallas	243	Hernandez, Adolph	2/8/01	HM	Lubbock
197	Beathard, James	12/9/99	WM	Trinity	244	Dowthitt, Dennis	3/7/01	WM	Montgomery
198	Atworth, Robert	12/14/99	WM	Dallas	245	Massey, Jason	4/3/01	WM	Ellis
199	Felder, Sammie	12/15/99	BM	Harris	246	Goff, David	4/25/01	BM	Tarrant
200	Heiselbetz, Earl	1/12/00	WM	Sabine	247	Wheat, John	6/13/01	WM	Tarrant
201	Goodman, Spencer	1/18/00	WM	Fort Bend	248	Richardson, Miguel	6/26/01	BM	Bexar
202	Hicks, David	1/20/00	BM	Freestone	249	Wilkens, James	7/11/01	WM	Smith
203	Robison, Larry	1/21/00	WM	Tarrant					

No.	Name	Date	Race Sex/	County	No.	Name	Date	Race Sex/	County
250	Hill, Mack	8/8/01	WM	Lubbock	268	Styron, Ronford	5/16/02	WM	Liberty
251	Doughtie, Jeffery	8/16/01	WM	Nueces	269	Martinez, Johnny	5/22/02	HM	Nueces
252	Knox, James	9/18/01	WM	Galveston	270	Beazley, Napoleon	5/28/02	BM	Smith
253	Mitchell, Gerald	10/22/01	BM	Nueces	271	Baker Jr, Stanley	5/30/02	WM	Brazos
254	Tucker, Jeffery	11/14/01	WM	Parker	272	Reneau, Daniel	6/13/02	WM	Gillespie
255	Rudd, Emerson	11/15/01	BM	Dallas	273	Coulson, Robert	6/25/02	WM	Harris
256	Cooks, Vincent	12/12/01	BM	Dallas	274	Williams, Jeffery	6/26/02	BM	Harris
257	Moore, Michael	1/9/02	WM	Coryell	275	Kutzner, Richard	8/7/02	WM	Harris
258	Arnold, Jermarr	1/16/02	BM	Nueces	276	Jones, T.J.	8/8/02	BM	Gregg
259	Broussard, Windell	1/30/02	BM	Jefferson	277	Medina, Javier	8/14/02	HM	Dallas
260	Hafdahl Sr, Randall	1/31/02	WM	Randall	278	Etheridge, Gary	8/20/02	WM	Brazoria
261	Delk, Monty	2/28/02	WM	Anderson	279	Patterson, Toronto	8/28/02	BM	Dallas
262	Tigner, Gerald	3/7/02	BM	McLennan	280	Walker, Tony	9/10/02	BM	Morris
263	Santella Sr, Jose	4/10/02	HM	Kerr	281	Patrick, Jessie	9/17/02	WM	Dallas
264	Burns, William	4/11/02	BM	Bowie	282	Shamburger, Ron	9/18/02	WM	Brazos
265	Casey, Gerald	4/18/02	WM	Montgomery	283	Mays, Rex	9/24/02	WM	Harris
266	Hernandez, Rodolfo	4/30/02	HM	Comal	284	King, Calvin	9/25/02	BM	Jefferson
267	Reeves, Reginald	5/9/02	BM	Red River	285	Powell, James	10/1/02	WM	Newton

3

Appendix

Death Row Exonerations by State³²²



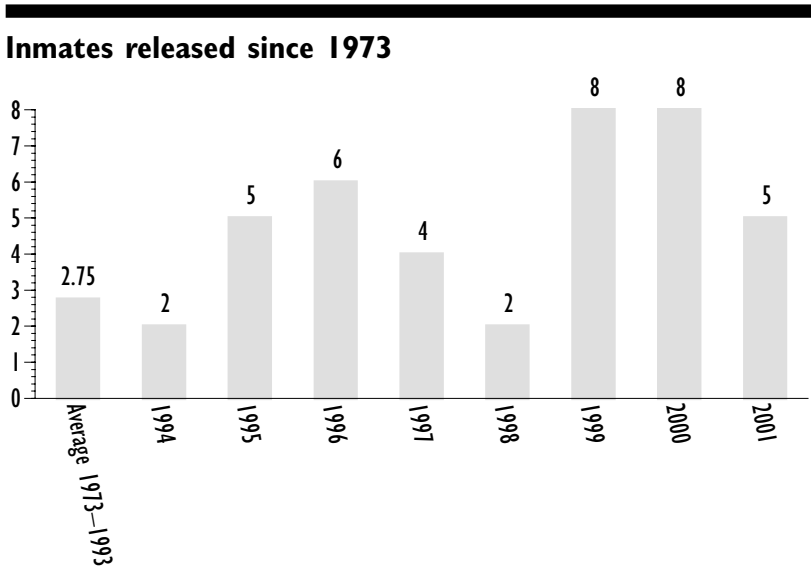
³²² Death Penalty Information Center, Innocence and the Death Penalty, *supra* note 16.

4

Appendix

Death Row Exonerations by Year³²³

Since 1973 there have been 102 death row inmates exonerated in the United States. Between 1973 and October 1993, an average of 2.75 innocent defendants were released. Since then, the average has increased to five per year. As of October, there had been four death row exonerations in 2002.



³²³ Death Penalty Information Center, *Innocence and the Death Penalty*, *supra* note 16.

5

Appendix

Wrongly Convicted and Others Released

Wrongly Convicted

Randall Adams, whose case drew national scrutiny with the release of the documentary film *The Thin Blue Line*, was wrongly convicted and sentenced to death for the murder of a Dallas Police officer. Adams was freed after the real killer, David Harris, confessed on tape to the crime. Harris, unlike Adams, had an extensive background of violent criminal activity and his false testimony had largely contributed to Adams's conviction. Adams's trial lawyer, a real estate attorney, was not up to the task of refuting the charges against his client. The substantial evidence of Adams's innocence was discovered much later, during the appellate process. After twelve years in prison, Adams, who continually proclaimed his innocence, was released.³²⁴

Wrongly convicted and sentenced to death for murdering an El Paso couple who had once hired him as a gardener, Federico Martinez-Macias lived for nine years on Texas's death row. The evidence against Martinez-Macias was wholly lacking; no fingerprints, bloodstains or physical evidence linked him to the crime. The true murderer, Pedro Levanos—found with property taken from the victims' home and identified by an eyewitness—later confessed to burglarizing the home after being confronted with evidence of his failed polygraph test. A post-conviction investigation revealed that lawyers at trial had been given \$500 total to cover expenses for investigators and expert witnesses. After the Texas Court of Criminal Appeals dismissed his 100-page brief in state habeas within a week of its submission, the Fifth Circuit Court of Appeals granted him relief for ineffective assistance of counsel. The Fifth Circuit chastised the state for supplying such meager funds for Martinez-Macias's defense:

³²⁴ See *Ex parte Adams*, 768 S.W.2d 281 (Tex. Crim App. 1989). See also *Milestones*, TIME, Apr. 17, 1989, at 69; Richard L. Fricker, *Crime and Punishment in Dallas*, 75 AM. BAR ASSOC. J., 52 (July, 1989).

“The state paid defense counsel \$11.84 per hour. Unfortunately, the justice system got what it paid for.”³²⁵ Martinez-Macias’s conviction was overturned, and he was released from prison.

In a bizarre murder case involving three guns and one victim, Ricardo Aldape Guerra was convicted and sentenced to death for the murder of a Houston police officer in 1982. In federal habeas corpus proceedings, after an exhaustive investigation by counsel, the court ruled that the testimony of the state’s witnesses—the only evidence linking Guerra to the crime—was tainted by official misconduct. The federal court ruled that the actions of the police and prosecutors in this case were “outrageous,” “intentional,” “done in bad faith” and “designed and calculated to obtain . . . another ‘notch in their guns.’”³²⁶ Guerra was freed in 1997, after more than twelve years on death row.

Clarence Brandley, a high-school janitor in Montgomery County, was wrongly convicted of the murder and sexual assault of Cheryl Ferguson whose body he found on school premises. When the investigating officers arrived on the scene, they began to question Brandley—an African American—and another of the six janitors—a Caucasian—who were on staff that summer afternoon. The officer conducting the interview said, “One of the two of you is going to hang for this. Since you’re the nigger, you’re elected.”³²⁷ During Brandley’s trial, the state withheld exculpatory evidence and sponsored perjured testimony. An investigation by defense lawyers, the Department of Justice and the FBI, conducted during habeas corpus proceedings, uncovered further misconduct, and in 1989, Brandley’s conviction was overturned.³²⁸

John Skelton was released in 1990 after being imprisoned since 1982. Despite several witnesses who testified that he was 800 miles from the scene of the murder, Skelton was convicted and sentenced to death for killing a man by exploding dynamite in his pickup truck, the Court of Criminal Appeals reversed the conviction, entered a directed verdict of acquittal and found that the purely circumstantial evidence was insufficient to support a guilty verdict.³²⁹

Prosecutors dropped charges in 1990 against Vernon McManus and he was released after serving nearly ten years in prison.³³⁰ Muneer Deeb was wrongly convicted and sentenced to death for allegedly hiring three hitmen to kill his ex-girlfriend. Granted a new trial in 1991 because of improper trial proceedings,

325 *Martinez-Macias v. Collins*, 979 F.2d 1067, 1067 (5th Cir. 1992). *See also* Marcia Coyle, *Old Habeas Law Saved His Life*, NAT’L L. J. May 20, 1996, at A21; University of Massachusetts Alumni Magazine, Spring 1994.

326 *Guerra v. Collins*, 916 F. Supp. 620 (S.D. Texas, 1995).

327 *See*, DAVIES, *supra*, note 19.

328 *See Ex Parte Brandley*, 781 S.W.2d 886 (Tex. Crim App. 1989). *See also* Pressley, *supra*, note 20.

329 *See Skelton v. State*, 795 S.W.2d 162 (Tex. Crim. App. 1989). *See also* *Conviction Overturned in Fatal ’82 Bombing*, *supra*, note 22.

330 *See McManus v. State*, 591 S.W. 2d 505 (Tex. Crim. App. 1979). *See also* Horswell, *supra* note 23, at 3A.

Deeb was acquitted. After maintaining his innocence and serving eight years in prison, he was released.³³¹

Others Released

Andrew Mitchell was released from death row after thirteen years. He received a reduced sentence after proving that the state had withheld evidence at his trial.³³² The case of Kerry Max Cook, riddled with police and prosecutorial misconduct, is another compelling example of the flaws in the system. In 1978, Cook was convicted for the murder of Linda Jo Edwards. Eleven days before he was to be executed in 1988, the U.S. Supreme Court stepped in when Texas courts had denied relief.³³³ Cook's conviction was overturned in 1991.³³⁴ Eventually, after two hung juries,³³⁵ Cook pleaded no contest to a reduced murder charge and was released. He continues to maintain his complete innocence, but accepted the state's offer to avoid the possibility of another wrongful conviction. Recent DNA tests of evidence taken from the victim matched the genetic profile of an ex-boyfriend, an original suspect in the case, and not that of Cook.³³⁶

The notorious case of Henry Lucas provides another example of the courts' failure to rectify mistakes made by police and prosecutors. Lucas originally confessed to the 1979 murder of a hitchhiker in Texas. Lucas also confessed to hundreds of other murders—including the murder of Jimmy Hoffa and his fourth grade teacher, who is still alive. Two investigations by the Texas Attorney General's Office concluded that he almost certainly did not commit the murder for which he was condemned to die, though no court ever granted Lucas relief. Upon the recommendation of the Board of Pardons and Paroles, the governor commuted his sentence to life.³³⁷

331 See *Deeb v. State*, 815 S.W.2d. 692 (Tex. Crim. App. 1991). See also Kessler, *supra* note 21, at 1A.

332 See *Ex parte Mitchell*, 853 S.W.2d 1 (Tex. Crim. App. 1983). See also David Elliot, *Former Inmate Argues Against Death Penalty: Andrew Lee Mitchell Was Released After a Ruling that Evidence Had Been Suppressed*, DALLAS MORNING NEWS, Aug. 12, 1993, at A1.

333 See *Cook v. Texas*, 488 U.S. 807 (1988).

334 See *Cook v. State*, 821 S.W.2d 600 (Tex. Crim. App. 1991).

335 See *Cook v. State*, 940 S.W.2d 623 (Tex. Crim. App. 1996).

336 See Evan Moore, *No-Contest Plea, 20-Year Credit Let Murder Suspect Cook Go Free*, HOUS. CHRON., Feb. 17, 1999, at A1; Death Penalty Information Center, Released from Death Row: Probable or Possible Innocence, available at <http://www.deathpenaltyinfo.org/innocothers.html#Released>.

337 See *Ex parte Lucas*, 834 S.W.2d 339 (Tex. Crim. App. 1992), *vacated sub nom.*, *Lucas v. Johnson*, 509 U.S. 918 (1993), *aff'd on remand*, *Ex parte Lucas*, 877 S.W.2d 315 (Tex. Crim. App. 1994); *Lucas v. Johnson*, 132 F.3d 1069 (5th Cir.), *cert. denied*, 524 U.S. 965 (1998).

