

Good afternoon mr. chairman and members of the board. My name is Justin Johnson and I have come here today with conflicting interest and concerns about house bill 411. I am familiar with representative Seitz recent efforts to amend the wrongful imprisonment statute 2 or 3 times before house bill 411. And while I respect his efforts to correct the vague wording ofTHE ALREADY EXISTING ENTRYfor due process and constitutional rights violations in this statute, house bill 411 doesn't quite sit right with me

I am sure that if we take the time to think about the circumstances, we can agree that wrongful imprisonment is one of the most heinous and injurious crimes that can be committed against someone, rivaled only by crimes of violence. It is so serious in fact that, if it weren't for the fact that it is a crime committed by the state, it would be considered kidnapping or abduction.

Rep. Seitz's recent attempts To clarify the section of 2743.48 dealing with constitutional rights violations were thwarted by the strong unopposed opinions of its opponents namely prosecutors, conservative citizens, and other politicians.

I'm obviously here at this objection hearing to say that house bill 411 in its current state does not belong in the revised code.

I say that as an individual who has had my constitutional rights violated in a criminal trial and sent to prison for a crime THAT I DID NOT COMMIT as a result.

I did however agree with representative Seitz original bills to amend wrongful imprisonment because they clarified the wording in this statute pertaining to procedural errors and encompassed the protection of ALL OF OUR constitutional rights during trial

In my situation I was charged with a crime that I had not committed.

I proved my innocence and was found not guilty by a jury of my peers

and still sentenced to prison for 2 years by a judge

with total disregard to the jury's verdict and in violation of my 6th amendment right to jury in a criminal trial.

I WAS AT A PARTY ONE NIGHT ARGUING WITH THIS GUY WHO HAD QUITE A BIT TO DRINK. HE PULLED A GUN ON ME DURING THIS ARGUMENT AND MY COUSIN SHOT HIM. WHEN HE AWOKE IN THE HOSPITAL HE EITHER HAD NO RECOLLECTION OF WHAT HAD HAPPENED OR HE WANTED TO SEE ME IN PRISON BECAUSE HE NAMED ME AS THE PERSON WHO CAUSED HIS INJURIES. I WAS ARRESTED AND STOOD TRIAL ON THESE CHARGES AND PROVED MY INNOCENCE TO A JURY OF MY PEERS ON THE CHARGES RELATING TO HIS INJURIES. THEY FOUND ME NOT GUILTY OF THESE CHARGES AND BEFORE THEY COULD DECIDE MY GUILT OR INNOCENCE ON THE WEAPONS POSSESSION CHARGE, THE JUDGE DISMISSED THEM AND FOUND ME GUILTY OF WEAPONS POSSESSION AND SENTENCED ME TO TWO YEARS IN PRISON.

I appealed my conviction and was released 18 months into my unlawful and unjust 2 year sentence. So that's Time stolen from me, in a place of punishment, for a crime I didn't commit, with no access to remedy or retribution.

The fact of the matter is that I will never be afforded a fair trial on these charges. I will never be allowed to prove my innocence and remedied for the time I served under an illegal conviction even though I am supposed to be presumed innocent until proven guilty.

The statute of limitations for me to be afforded a fair trial on this charge is on December 28th if this year.

It will never be retried but I did the time for this crime already. I was taken away from my family and my everyday life without due process of the law.

So my point is to let you know that Brady violations aren't the only constitutional rights violation that can wrongfully imprison a citizen of Ohio.

I was released from prison June 26th of this year a few days before representative Seitz original changes to W.I. in house bill 49 were rejected.

These changes were thought to be too inclusive. Opponents to this bill cited that it would allow people to be compensated who had escaped criminal liability on technicalities.

To which I say, is it better for the state to avoid righting those it has wronged so as to not accidentally award money to those who have "avoided criminal liability"!!

And also how have you avoided criminal liability when having to have been incarcerated without equal protection of the law and due process and then released.

"unfortunately....it is my opinion that if a conviction is obtained illegally and in violation or absence of an individual's legal rights the conviction and imprisonment is wrong and thus wrongful rather the person was guilty or not because proof of guilt is the burden of the state. The state should not get to break laws in order to enforce the law.

Some of These are rights older than everybody in attendance today and are structural to our judicial system. If our state prosecutors and judges can not prosecute and judge without violating them then they obviously need to take the bar exam again. And if we are asserting the cost of the state doing the right thing as a defense, it raises the question of the integrity of the opposition and a question of how often an individual's rights are violated and that a person is railroaded yearly.

I've copied all of this case law about jury trial alone and how it is "fundamental to the American scheme of justice" "ranks high in the catalogue of due process safe guards" how it's a "substantive right" etc and yet here 411 is going omit it and our other rights of equal importance

The due process clause itself says that No state shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

as far as payouts costing the state millions, well currently, the payout is a measly \$52,000 PER YEAAAAR OF WRRRONNGGFUULL IMPRISONMENT. THAT AMOUNT IS A SLAP IN THE FACE TO SOMEBODY WHO IS INNOCENT OF A CRIME AND RAILROADED NoT EVEN MENTIONING THE ATROCITIES, the filth, the food,,

the fights, rapes,, stabbings, correctional officer disrespect, forced labor, loss of freedom, emotional distress, cost of family visits phone calls etc. it should cost millions. At least 1 million for each year.

The state obviously has no problem undeservingly giving somebody the title "criminal" so it should be fine with giving the injured party the title of "millionaire" for such an egregious injury caused on its part by paying out at least 1 million dollars for each year of illegal confinement.

Ohio's biennial budget for 2017 and 18 is 63.7 billion dollars. If wrongful imprisonment claims can scratch that at 2 million dollars per year we have a problem

How much is your time worth to you and how much more is that time when you factor in prison conditions to the equation?

the amount is only \$52,000 per year of wrongful imprisonment so if it supposedly already cost Ohio,,,millions how often does this happen and or how long does it take to release the individual?

I would imagine that the amount of times convictions are reversed and dismissed is heavily outweighed by the amount of times they are sustained and upheld

After doing some extensive research into the court of claims's wrongful imprisonment cases, I found that the only way Ohio pays out millions of dollars to individuals is if they have done more than 10 years in prison or they manage to file a federal suit against agents of law Enforcement other than the judge or prosecutors because they have immunity to these kinds of suits. I found a few cases where people were awarded around \$2 million dollars after serving up to 20 years in prison. Now I don't know about you, but life is too short for the state of Ohio to award me 2 million dollars after serving 20 years for a crime I did not commit. In fact I don't believe there is any amount of money to compensate somebody for that amount of time.

Ask yourselves is there any amount of money for you to do 20 years in prison right now!

Now obviously the money can remedy certain situations. For instance, I would do a year in prison for 1 million dollars but there is no amount of money for me to do 20 years not even 20 million. My suggestion is making the payout relate to the punishment as close as we can. If a person serves 20 years or more than 1 million dollars per year, between 5 and 10 years under a wrongful conviction then compensation should be 500,000 per year of confinement and less than 5 years should receive 250,000 per year. Keep in mind that the wrongful imprisonment statute does not include remedy for emotional damages or any event occurring during confinement even though it vaguely mentions it.

Furthermore, the decision of rather to do the right thing shouldn't be stopped by the outcome if it can and should be prevented at the source.

It is my opinion and the opinion of many others who I have discussed this issue with that money is the issue. The current provision for constitutional rights violations in Ohio's wrongful imprisonment statute is vague. It says that the error in procedure would have to have occurred after sentencing. Anybody who has ever been to trial or works in the criminal justice Department knows that there are very few if any violations that can occur after sentencing. The use of the word subsequent causes this issue.

It has also been the pot hole that individuals run into when trying to file a claim. I am here today with a Mr Omar James who had served 9 out of 13 years under an unconstitutional and invalid sentence.

Mr James was released from prison on appeal and tried to file a claim under wrongful imprisonments and was going to be awarded the compensation he deserved until the decision was appealed by the prosecutor in his case.

From there, this matter went to the Supreme Court to be decided by 7 judges. Naturally 6 of them upheld the prosecutor's argument which was simply that an error occurred but it happened during the trial rather than after sentencing. Even though they are supposed to interpret the law and they know that these errors rarely happen after sentencing.

The last judge dissented and told what I believe to be the truth as to why seeking remedy is such an uphill battle. .

If my constitutional rights that are not trial related were violated then I would be able file a claim for remedy with no problem. So why is it so hard for our senators and representatives to figure this matter out.

I recently met with rep. Steve Hambley and one of senate president Larry obhof's aids to thoroughly discuss how constitutional rights violations can lead to wrongful imprisonments and house bill 411 which had not even been introduced yet. I recorded this meeting and forwarded it to every senator holding office.

Now given that this is a matter involving wrongful convictions and constitutional rights, and said rights directly relate to the oaths our senators and representatives took I; I thought this would be a pressing matter that they would be scrambling to collaborate on and resolve regardless of political affiliation.

I was sent to prison for a crime I did not commit

WITH THAT BEING SAID, I know that I came here to debate house bill 411, but Now that this matter has been brought to your attention, with respect for your positions, I would be baffled if you did not leave here with my contact information and pass it along the contents of this hearing to your colleagues to start working on a resolution. It is evident that something has to be done. Obviously because The acknowledgement that violation of ALL of our constitutional due process rights in trial already exist in the revised code. But it is worded wrong. It provides remedy only if the violation happens after sentencing which is next to impossible.

The first step in the legislative process is that a legislator becomes aware of a need for legislation. I don't think there is any change more important to our laws that than wrongful imprisonment reform. OUT OF ALL OF THEM.

So while house bill 411 would correct that to include the duration of the whole trial, it removes remedy for the rest of our trial rights and limits it to Brady violations.

This is a problem because Brady violations aren't the only constitutional rights violation that can cause an individual to be wrongfully convicted.

In my quest to seek remedy I have been seeking counsel from an attorney Mrs. Sandra Finucane who is very knowledgeable on the matter and is in attendance today. She has a few ideas on making these amendments a little more limited to those who should be compensated. She proposed an idea to keep the some of the clearly guilty from getting compensated.....and that would be to not remedy 4th amendment violations dealing with illegal searches and seizures. In situations like 4th amendment violations the evidence is obtained illegally but in some instances the inmate released was clearly guilty.

Not providing remedy for fourth amendment violations like habeas corpus rather than limiting this statute to Brady violations is the ideal solution to this problem

Much like the purpose of a federal 1983 claim, awarding compensation for these violations through this statute can be a deterrent to keep state officials from violating a defendants rights in the future and to provide remedy should such deterrence fail ; Making our judges and prosecutors play by the rules while holding court.

Even though the provision for all procedural errors exist, ,it is worded wrong and means nothing.

And though house bill 411 would fix the flawed wording, it will limit the procedural errors in 2743.48 to only one constitutional right just for the sake of getting it into legislation because of such strong opposition

So it's obviously clear that changes to the include all of constitutional rights violations in the already existing statute need to be made. I mean it already includes all of our constitutional rights but the wording is not particularly clear.

House bill 411 clarifies this wording but removes all of the other constitutional rights from this statutes protection in the process.

Amending house bill 411 to include all of these rights is the fair way to go because wrongful imprisonment is a serious matter.

Now even though I am here speaking out against house bill 411 or speaking in favor of amendments to it, something has to be done now that the nest has been shaken.

Meaning that if a bill that would change Ohio's wrongful imprisonment statute fails again, we may see a spike in wrongful convictions. It is my opinion that if judges and prosecutors see that Ohio is in no hurry to provide remedy for constitutional rights violations during trial, that they will use this to their advantage to get more convictions.

Some of the judges in the county of my illegal conviction have shares in halfway houses and will send 99% of the defendants in their court room there.

so It would not shock me if the same is being done with prisons.

In conclusion house bill 411 SHOULD ONLY BE PASSED IF ITS intended to be amended TO INCLUDE MORE DUE PROCESS RIGHTS IN THE VERY NEAR FUTURE

There are 99 representatives for Ohio. So although I was able to reach out to you here, getting in touch with the representatives and senators can prove difficult sometimes.

I ask that you please share my concerns with your fellow representatives. I will make this video available to all of you.

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THANKS FOR YOUR TIME