Senate Judiciary Committee

Proponent Testimony on H.B. 411

November 14, 2018

**Bryan Corbett Proponent Testimony Re: H.B. 411**

My name is Bryan Corbett. My step-father in-law Dale Johnston went through one of the worst nightmares anyone could imagine. Dale was convicted of killing his stepdaughter and her fiance’ in Hocking County, Ohio in 1982. It’s hard to believe that our justice system allowed an innocent man to be convicted and sentenced to die, but that is exactly what happened. Today, his health is declining and he is not able to speak to you. So I have been asked to speak on his behalf.

Dale spent seven years on death row until it was revealed that the prosecutor in his case illegally withheld evidence that pointed to others. As it turned out, the others were the actual murderers. He was released from prison in 1990, but his life would never be the same.

I first met Dale 20 years ago at First Baptist Church in Grove City. Dale was a long-time member there, and I came to serve as a minister. I heard he had been in prison but I didn’t know any facts behind it. Was he guilty, innocent? What was the crime? I didn’t know and wasn’t sure I needed to know. I was a minister and he was a church member. That was our relationship.

One day I came home and Dale was in my kitchen having coffee with my mother-in-law, who lived with me. Over the next few weeks and months we saw that they were getting serious about each other, and I realized that I needed to know more about this man.

I went to the library and read every news-article I could find. I asked other church members who knew Dale’s story to tell me what they could. Eventually, I sat down with Dale with some straight and direct questions about his past.

I found that before his conviction, he had a wife, he had a family, live-stock, and he owned a 53 acre farm without any debt.

I found that because of his conviction, he spent the better part of a decade in prison waiting for hearings and appeals to ultimately disclose that he was convicted not because of guilt, but because the State withheld evidence showing that others were responsible for the murders. I learned that under our Constitution, the due process right to a fair trial requires the government to provide any evidence of innocence to the defense. In this case, the Ohio Supreme Court found the failure was ”outcome determinative” – meaning that if the State had disclosed the evidence of innocence, Dale would have been acquitted, not convicted.

Dale’s conviction was set aside, and the State dismissed the charges against him. So in 1990, Dale was released from prison, but with nothing. No family, no live-stock. No 53 acre farm. All he had was the clothes he wore and a cloud of suspicion over his head. That cloud followed him everywhere.

For example, after being released in 1990, Dale tried and failed to get state compensation. In 1993 the court rejected his claim, saying that he hadn’t proved actual innocence. There was no evidence pointing to him, but he could still be guilty. The actual killers we not known yet, so Dale had to continue wearing that cloud of suspicion over his head. Think about that. You know you’re innocent, but you are the only one that’s 100% sure of it. In fact, there were many loud voices still accusing him. He wore that cloud for over 25 years. He was in constant fear that they would somehow find a way to come and arrest him again, put him on trial and sentence him to die, again. This man had a cloud over his head.

Then in 2008, another person, Chester McKnight, confessed, was convicted, and sentenced to life imprisonment for the murders. A second person, Kenneth Linscott, was convicted of helping dismember and disposing the bodies. There could no longer be any doubt that Dale was and is innocent.

Some people act like Dale WAS guilty, and now may be innocent – Wrong! Dale was innocent all along. The court system convicted an innocent man. When he had to stand and listen to the court as they pronounced his death sentence by way of the electric chair… he was innocent. This innocent man lost 7 years of freedom, his family, his farm. BTW, that land has been developed and there are some nice looking homes there today. It is probably worth much, much more. This wrongful conviction cost this innocent man…everything.

But the law only allows one claim based on actual innocence. Dale’s only hope was to get compensation under the new “errors in procedure” passed by Representative Seitz. Dale filed another claim in 2008, but he’s been rejected again under the court’s interpretation of that law, since the prosecutor withheld the evidence before his sentencing.

Since Dale was released from prison, he has done his best to rebuild his life. He went and lived with his mother. He took care of her until she passed away. He worked as a carpenter and handy-man and got more involved in his church. There he met my mother-in-law. They were married in 2000. I have found him to be a gentle man with a strong Christian character. His been a good husband for nearly 18 years. His story has always been straight, consistent and unchanging. But he continues to struggle with this injustice. He has never received an apology or a dime from the state that took everything from him and almost took his life.

I am a pro-police, law-and-order type of person. I consider the police our friends. I respect them. When they arrest someone for a crime, I usual believe that it’s for good reason. But in this case, like some others I have discovered, law enforcement zeroed in on a suspect, neglected evidence pointing to the true perpetrators, and the prosecution failed to disclose that evidence to the defense as required by our constitution. This erodes confidence in our criminal justice system. That is very dangerous to a society. In cases like this, where there was failure in the system, it is better to take the medicine and say, “you know what? This was a mistake. Let’s correct it. Let’s restore the confidence in our system” That is what H.B. 411 attempts to do.

Dale’s memory is now fading, and his health in declining. He has very little money and depends on our family for his care. He has suffered so much in his life, and he deserves some sense of justice and peace. Please support this bill to help people like Dale. Innocent, but wrongfully convicted.