HB411

Omar James-Proponent Testimony

November 14,2018

Good afternoon Mr. Chairman and members of the board. My name is Omar James, and I’m here today with conflicting interest and concerns about house bill 411 and senate bill 248. Representative Seitz tried to correct and make the language of the already existing entry understandable, it still seems that due process and constitutional rights violations are still there.

The changes will include a provision in 2743.48 for a violation of an individual’s right to exculpatory evidence. A right guaranteed in the due process clause in the amendments.

I am here today as an individual who’s rights have been violated and sent to prison, I NEVER had a FAIR chance to prove my innocence, and will never get the chance to prove my innocence because of the injustices of the court.

I was incarcerated 10 out of the 14 years I was sentenced and endured a lot through those years and after, I’m still dealing with it.

I was incarcerated from 06/02/1997 until 06/22/2007 when the 6th circuit court of appeals ordered me to be released due to multiple amendment violations. The main violation being made to represent myself in a trial when I had no knowledge of how to defend myself. Through those 10 years of incarceration, I was put through a mental strain, was mistreated by prison staff, put in the hole for no legit reasons for long periods of time, was called out of my name by the  c.o.’s, investigators and other staff, was denied education, food and mail. I had to go on hunger strikes, going days without eating or drinking just to get a warden or assistant wardens attention to bring light to the things that were going on, and things still didn’t change. I was harassed on visits from family members, my family was harassed which made them not want to come visit me, resulting in not getting a visit for years, getting my food took by c.o.’s that I bought with my families hard earned money, having my photos ripped in half of my family, missing my son, mother, brothers, sisters, nieces and nephews, however,  the list can go on and on, but why did I have to endure all of that pain? If only the court would have followed the rules like everyone else is supposed to, but it was a price that I paid with my life and had over 10 years taken away from me. It was an experience I wouldn’t wish on no one, but worst of all, they’re making me do it in vain. I met ALL 5 elements, under LAW, on being a wrongfully convicted individual and it was swept under the rug at my last hearing at the Ohio Supreme Court, except for 1 Supreme Court Justice who told the truth.

Justice O’Neill;

* ¶ 14} “It is obvious,” the majority says, that the error resulting in appellee

Omar K. James’s release happened at trial.  Majority opinion at ¶ 10. I disagree.

{¶ 15} If failure to seek a retrial when a court has ordered the state to release

or retry a defendant is not an error in procedure occurring after sentencing and

resulting in release, then I am not sure what is.  Almost exclusively, errors in

procedure that occur after sentencing do not result in a prisoner’s release.  Nobody

in Ohio gets released from prison because the state made a procedural mistake when

defending an appeal, responding to a postconviction-relief petition, or responding

to a petition for an extraordinary writ.  A judgment of conviction and sentence

stands until and unless the person incarcerated under such a judgment makes a

meritorious attack on the judgment.  A court will vacate a judgment of conviction

and sentence only if the proceeding underlying that judgment was in some way

faulty.  Even if a person is successful in overturning a judgment of conviction and

is entitled to a new trial, the state is almost always entitled to continue holding the

person in prison so long as the state pursues an appeal or a retrial.  Thus, only when

the state fails to retry the incarcerated person is that person released.  If that set of

circumstances does not satisfy R.C. 2743.48(A)(5), none will.  And a provision that

can never be satisfied by any conceivable set of circumstances is as absurd as a

statutory provision that will always be satisfied so long as other provisions are

satisfied, Mansaray, 138 Ohio St.3d 277, 2014-Ohio-750, 6 N.E.3d 35, at ¶ 11.

{¶ 16} This case is about dollars and cents, plain and simple.  The state got

its conviction in a trial that was found to be constitutionally invalid.  The state got

its pound of flesh; James had served 9 of the 13 years he was ordered to serve in

prison by the time he was released.  Faced with the expense of retrying the case to

keep him in prison for four more years, the state made a decision and took a walk.

And it was a money-saving walk indeed.  The state’s failure to retry James is the

reason why he was released, even if he was also released because his constitutional

rights were violated at trial.  And now, despite the fact that James’s conviction has

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been invalidated, the state avoids paying its debt to him.  This is not justice. It is

economics

Individuals such as myself should not be held accountable for the wrong doings of prosecutors and judges,  and if one set of people have to follow the law, then the other side should too, no one is above the law and therefore, they should be held accountable for their actions, instead of being vigilant and breaking the law just to put someone behind bars. Making these adjustments so it will only include the Brady law is wrong and unfair. The laws that have been broken by the state needs to be addressed, dealt with and rectified, or the justice system will forever be flawed and prosecutors and judges will always get away with breaking the laws that are supposed to steer this state and country in the right direction. I know it’s a lot of politics involved in this, and that is another thing that will stand in the way of justice. Let’s keep the politics out of the justice system. As Justice O’Neill said, the courts might as well hand the keys to the kingdom over to the prosecutors and let them do as they will, which will not be justice!!! I’m asking you to amend, and vote in favor of house bill 411 and let true justice prevail. Families we’re torn apart, children were affected, and lives are forever changed because of  vigilant prosecutors and judge who had no disregard for the law. Like Robert Mackeys case, he’s been locked up for 21 1/2 years of a 38 year sentence , since he was 17,not for murder or nothing violent, but a drug case where they found nothing on him and all the states witnesses came back and told the truth, that they were told to say the things that they said against Mr. Mackey. And on top of that, after his trial, his lawyer, cozette sneed did what the prosecutor told her to do, and that was “do not file a direct appeal” which you are automatically entitled to after trial, and the results were, the statue of limitations ran out and he's stuck with 38 years, a none violent juvenile, who was lynched in the courtroom by a prosecutor and judge who didn't use the justice system, but instead, used their system to get a conviction and it's not right, not justice and should be investigated. These types of behaviors are what's corrupting our legal and justice system. I should be compensated for the storm I had to weather, as well as a few other people. There are not many who can claim wrongful imprisonment, but the prosecutors and conservatives will make it seem like the doors will be getting beat down, which is not the case, but that type of behavior is in them and they will always be against what is right which is being honest, true justice and following the law, which is why we are here at this point now. Put yourself in my shoes, going years without being able to raise your child, missing out on their life, not being able to be there for them or your family, going through and seeing things in prison that’s not normal, the mental stress that you had to endure, not being able to get any kind of education or rehabilitation and then just get kicked out in society like nothing ever happened, no re entry back into society, no money, no support, just nothing after 10 years… Yes, it’s hard and stressful. I had to come back into society with what i knew for those past 10 years, conflicting with my son because we had no bond, my family and people whom i've known my whole life not knowing this person i've became, just torn apart from my loved ones without being able to explain what happened, is it PTSD? I often find myself depressed, not knowing how I'm going to pay bills, or finding a job that will pay enough to take care of me and my children so we don't struggle, all that's left are the streets, and I can't and will not take that road. I remember a time, when I was released, and tried to go to college, and sat at the computer to start class, and I didn't even know how to log on, it went on for 3 days until the instructor came to me and asked why I wasn't logging in and doing the work!!! I was so embarrassed to tell her that I didn't know how to or that I never used a computer, that I just stopped going. When I was locked up, it seemed that everyone got to learn how to use computers, but I was denied that chance. It's things like that, that can change your life forever, and why? Just so a prosecutor or judge can have their way. Another thing that I can't get past is after I was released, the prosecution was asked if they were going to retry me. They said that they were, the judge gave them sooo much time, chances and continuances, until he told them that their time was up, and that is when I was fully released, but at the Ohio supreme court hearing, they lied and said that they didn't retry me because they didn't want to, in all actuality, they once again, violated my constitutional rights to a speedy trial, it's like they have no regard to the law, and my case was threw out. I ask you to please, find it in your hearts and soul to do the right thing and help right the wrong that has been done. Thank you for your time,

Sincerely, Omar K. James