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Challenging Wrongful Convictions and the Death Penalty in Three State-Level Cases

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Requirements for Commonwealth Honors in Criminal Justice

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Abstract

This paper aims to examine current high-profile state-level cases of those who have been put on death row and shed light on those individuals that may possibly be wrongfully convicted, either factually or procedurally. Previous studies have documented wrongful convictions within death row sentences, which is significant given the permanence of this penalty. This penalty is also disproportionately used against African American defendants. This study addresses three cases that expose similar factors and patterns that further our understanding of how race, victim-offender pairings, and legal irregularities affect death penalty cases. For this study, we used qualitative data to gather the individual's history, case and given punishment to outline a parallel across their process within each case. This research has important implications, including highlighting the presence of analyzing more in-depth of wrongful convictions within African American men. This study will close the gaps by going in-depth into these cases and investigating the variables affecting the appeal process to figure out why such cases have yet to be overturned.

Keywords: death penalty, wrongful convictions, men, African American

I. Introduction

The death penalty has been a contentious issue in the recent past for various reasons. Since 1977, one year after the US Supreme Court reaffirmed the constitutionality of the death penalty, more than 1,480 people have been executed (Death Penalty Information Center, 2022). Most death penalty cases involve the execution of murderers although capital punishment can also be applied for treason, espionage, and other crimes. Proponents of the death argue that it is an important tool for preserving law and order, deters crime, and costs less than life imprisonment. They argue that retribution or “an eye for an eye” honors the victim, helps console grieving families, and ensures that the perpetrators of heinous crimes never have an opportunity to cause future tragedy (ProCon, 2016). Other scholars argue that capital punishment has no deterrent effect on crime, wrongly gives governments the power to take human life, and perpetuates social injustices by disproportionately targeting people of color and people who cannot afford good attorneys (Death Penalty Information Center, 2022).

As in many research studies, it is well known that race is one of the main topics of discussion when it comes to the death penalty. Various studies that have been carried out indicate that race takes center stage in decisions of who is to die or who is to live regarding execution. Over a long time, this form of punishment has been used to reprimand diverse offenses (Sentencing Project, 2014). For instance, those criminals who have been found guilty and convicted of rape or even murder are subjected to execution since they are categorized as a danger to the well-being of society. Due to previous studies, this study will focus on not just race but the missing element of gender within the preparators and victims.

The purpose of this study is to gather evidence needed to fill a gap in the study of wrongful convictions leading to the death penalty pertaining to African American men. This study will explore factors that impact the appellate process in death penalty cases, specifically, the difficulty African American male defendants face when appealing their death sentences based on either procedural error or allegations of factual innocence. This study has important implications, including analyzing more in-depth data via case studies of why wrongful convictions are higher for African American men. Due to a lack of relevant literature serving as a barrier to this specific question, research is taken from other topics that can provide the literature themes necessary to successfully conduct this study. The fundamental areas examine in this thesis are the storyline of three state level cases that presents racial disparity, gender of victims, DNA evidence, prosecutorial misconduct and victimization leading to wrongful conviction and punishment by using the death penalty.

A large section of American citizens believe that the process of capital punishment is clear and free from racial prejudice and despite its flaws, it is fairly enacted (American Civil Liberties Union, 2022). However, a vast body of evidence suggests that the legal system is flawed to the point that the appeals process takes far longer than it should (American Civil Liberties Union, 2022). While some people on death row are exonerated of the crimes for which they were convicted without regard for race, there are various reasons as to why the appeal process is so lengthy. Some of the identified reasons are that the process takes three stages in the form of direct appeal, state post-conviction review, and federal habeas corpus petitions. This means that petitioners must navigate multiple courts and time-consuming legal procedures to seek review of their cases.

Scholars and legal practitioners alike believe that the appeals process takes longer than it should (Cauthen, Latzer, 2007). This perception of the death penalty has not been researched extensively in empirical analyses. It is noted that the average length of time taken in the United States for death penalty appeals to be completed from the time an individual is sentenced to the time of execution takes about twelve years for the appeal process to come to fruition. Additionally, a substantial number of appeals are yet to be completed, and they are still under review, and this has caused delays in sentencing. The cases examined will be based on the individuals who have been placed on death row in comparison to those who have been exonerated (Pierce & Radelet, 2007).

This study will focus on three primary case studies: those of Rodney Reed, Kenneth Clair, and Terrence Williams. Each of these men are African American, and all were convicted and sentenced to the death penalty in murder cases. All three have also sought to overturn their convictions on appeal, either due to evidence of factual innocence, or due to procedural irregularities and mitigating factors in their cases. There is variance in the victim-offender pairings of these cases along the lines of both race and gender: In the Reed and Clair cases, the victims are white women; in the Williams case, the victim was a white man. The variance in these victim-offender pairings allows me to analyze in a preliminary manner whether the combined effect of race and gender of victims has impacted the case.

II. Research Question

This thesis examines three key research questions about the death penalty: Does the case study approach reveal whether the role of race was significant in death penalty cases? Does the presence or absence of procedural errors shape success on appeal? Does the race and gender of

the crime victim shape success on appeal? While previous research has shown that race of victim can be significant, I also offer preliminary findings about the combined effect of race and gender.

III. Literature Review

While other studies have addressed the death penalty, this study consumes a different set of variables that closes the gap that other studies do not. Within this study, we consider the race and gender of victims, instead of other studies that have focused on the race of victims. This literature review fully investigates the death penalty from the scope of our history to today, seeking the issues that other studies haven't addressed in their discussion.

Since the 1900s, the death penalty has been considered a legal practice that that has brought challenges within our criminal justice system. The death penalty has been used to condemn those who had been involved in capital offenses, are defined as those that bring with them the possibility of the death penalty. In the early 20th century, the penalty was used in violent offenses and sometimes property crime (Levinson, Smith & Young, 2014). During the early years of the 20th century, just as the penalty gained popularity, there were also anti-death penalty movements aiming to abolish the practice of capital punishment. Regardless of all the practices which were in place, the punishment of the death penalty has not been eradicated and is still practiced in 30 states and the federal government (Hong, Kleck, 2018). According to recent statistics, the convictions of the death penalty have been reduced due to the judiciary's proactive approach (The Innocence Project, 2021).

A. Scope and Purpose

The primary goal of this literature review is to delve deeply into the practice of the death penalty and the racial phenomena which influence the practice (Levinson et. al, 2014). For a successful analysis, the literature collected was used to explore and identify subjects such as current trends controversies, issues, and finally, recommendations regarding the usage of the death penalty as a prevention strategy to

reduce the rate of capital offenses and lead to a reduction in recidivism among known offenders. The articles have carefully been selected to provide a rich and authentic overview of the problems that persists in the United States. To summarize the scope and purpose of the paper it can be said it aims to analyze the trends of the judicial system in America regarding exonerated individuals. Specifically, the trends and variables analyzed include race, gender, age, period of conviction, and dismalness of the exonerated individuals.

B. History of the Death Penalty: Colonial America through the 19th Century

The death penalty as a punishment has a long history in the American legal system, beginning with the British North American colonies. A study conducted by Gross, O'Brien, Hu, and Kennedy (2014), analyzed the case of Captain George Kendall who had been executed by a shooting squad at Jamestown colony after being convicted for the crime of spying on the Spanish government. In their study of 15,200 death convictions over time, Gross et al. noted attempts to limit the practice, including the Bill of Rights and its 8th amendment prohibition on cruel and unusual punishment, adopted in 1786. The death penalty has always been a controversial topic and has been known to have not only controversies but physical resistance from the get-go.

The two famous scholars who have dedicated their life's work to studying the trends and influences of the death penalty and its functioning are Barkan and Cohn (1994). As per these authors, in 1846 there emerged an abolition movement against the concept of the death penalty in the United States. Michigan was the first state to abolish the use of the death penalty as capital punishment for its legal procedures in 1846. Through research, the author believes that multiple states began to abolish the death penalty in theory well before the *Gregg v. Georgia* (1976) case as they were receiving pressure from other states. According to Barkan and Cohn (1994), the initial reservations and resistance were severe, but they were eventually successful in having death punishment prohibited or at least caused states to consider banning the practice.

C. Developments and Trends in the Death Penalty: the 20th century and Onward

The abolition movement focused on the death penalty emerged in the 1970s. However, the practice of the death penalty underwent development during the period 1850s to 1900s. This period has been noticeable for an impressive number of states denouncing the role of the death penalty in their legal proceedings (Barnes et. al, 2009). This further gave volume to the voice of the anti-death penalty movement. Besides the pressure building from social movements, there were constitutional developments. Barnes, Sloss, and Thaman (2009) in their research studied how the constitutional developments opened a window for individuals to challenge the death penalty which further became prominent after the ruling of the Supreme Court regarding the *Trip v. Dulles* (1958) case. This case led to an 8th Amendment ruling clarifying the nature of cruel and unusual punishment.

In the year 1972, another impressive development in the death penalty was observed. The U.S. Supreme Court operating in Washington denounced the use of the death penalty as capital punishment for its legal proceedings in *Furman v. Georgia* case. Given the significance of *Furman v. Georgia*, in a historic case, the topic of whether the death sentence is cruel and unusual punishment was raised. All death sentences were put on hold as a result of the verdict. The *Furman v. Georgia* case was effectively put a four-year halt on all executions pending the outcome of a judicial challenge. In 1976, the Supreme Court confirmed that death punishment was legal in the United States, but only in limited situations, in a series of judgments known as the Gregg cases. The death penalty was regarded unlawful by the majority of Americans, who believed it violated not only the 8th but also the 4th amendments. Within the research, the court gave a short ruling which was not as such back by evidence which led to an improper suspension and not the complete struck down of the death penalty has a legal judiciary option (Welsh, Pfeiffer, 2013). The main reason as to why the death penalty was suspended has been studied in greater depth by Welsh, and Pfeiffer. The reason turned out to be the inequality of the law being practiced. According to the author, this gave birth to the concept of “legal bombshell” which was the death penalty to life imprisonment pipeline as the suspension of capital punishment took place in the United States

(Welsh & Pfeiffer, 2013). Ultimately, in spite of the halt on the penalty in *Furman v. Georgia*, the Supreme Court reinstated the practice with their 1976 decision in *Gregg v. Georgia*. The Court argued that the death penalty was constitutionally permissible if states set clear, objective criteria for sentencing and allowed judges and juries to take full account of a defendant's record prior to sentencing.

In 2018, Porter, Morrison, Chintakrindi, and Shapley carried out research based studying the impact of the reduction in the death penalty as a justice measure in the state's legal proceedings in the United States of America. The year 1976 had been deemed as one interesting year by the cluster of these scholars as matters regarding the death penalty developed rapidly. The suspension which took place by the Supreme Court in 1972 caused 35 states to enact laws ending the penalty and not only suspend the practice but also effectively address the issues and concerns which had been raised in the *Furman* case, by Justices White and Stewart. However, multiple states in the United State passed statutes that made it compulsory to give the death penalty for anyone who had been convicted of murder charges. This year was interesting as some states were quick to denounce the death penalty after the ruling by Supreme Court, but others worked harder around the clock to defy the rulings passed by the court (Porter et. al, 2018).

The research carried out by Dieter in 2016 resonates with the findings of Porter, Morrison Chintakrindi, and Shapley. Dieter (2016) considered the reinstatement of the death penalty by the Supreme Court and the 37 states to be a big blow to the human rights activist's movement who had been working tirelessly for the abolishment of the death penalty. Ever since then, the American public has varying views of the death penalty and has experienced a great number of developments.

D. Race and Capital Punishment: A Closer Look

This section of the literature review examines the role of race in the implementation of the death penalty. It also aims to analyze and observe the bias which has been introduced to the key players of the judicial system, which is inclusive of but not limited to police, jury, and prosecutors. As per the research carried by Jenkins (2005) and corroborated by Gonzalez Perez (2011), the existence of unethical bias and kinship to a particular race or even gender may cause disparity when it comes to death penalty convictions among whites and people of color. In 1977, execution was primarily used for those convicted of murders. Out of the total, 80% were guilty of murdering at least one white victim and 54% of these defendants were white and had killed white victims. The black offenders found guilty of murdering white victims constituted only 23%, while less than 3% of these convictions were of whites involved with killing black individuals (Lynch et. al, 2008).

As per the research conducted by Paternoster (2008), there are three noticeable core factors that influence racial disparity with reverence to capital punishment. These three core factors include (1) the Race of the Defendant, (2) the Race of the Victims, and lastly, (3) the dynamic between the race of the victim and the defendant. Most of the time black defendants are singled out for their offense against white victims, and this means a crossing of the racial line. Thus, leading to racial disparity at work within the legal system (Paternoster et al., 2008).

E. Defining Racial Disparity and Differences

It is important to define and differentiate between the concepts of “racial differences” and “racial disparity.” Racial difference can be defined as the difference between proportions of those who receive death sentences in the view of white v. black defendants. For instance, of the people who given the death penalty, 56% are white, whereas 45% are black. On the other hand, racial disparity has been known to address the “odds of a death sentence for each race expressed as a percentage of the total population from each race” (Lynch et al, 2008). To put into perspective, if 42% of the individuals who have received the death penalty constitute black individuals and the black individuals comprise only 14% of the entire population then, it can be said that black individuals are 3 times more likely to be given a death sentence

as compared to their white counterparts. This is a direct take on the overrepresentation of the black community on death row (Lynch et al, 2008). Another way racial disparity can be observed is the representation of African Americans in legal workforces where 5% are found as partners in law firms and only 2% are prosecutors (Death Penalty Information Center, 2011).

F. Studies of Race and Capital Punishment: 1930 – Current

According to the Death Penalty Information Center (2012), 1, 277 executions were carried out between 1977 and 2011, bringing the total number of executions, 15, 731. Considering there is an overrepresentation of the black community with regards to capital sentences, it can be understood that much of the empirical literature focuses on African Americans.

Sellin (1928) was one of the first researchers to notice and observe as well as study the disparities which emerged regarding the incarceration rates between the two communities, which include blacks and whites and can be represented in ratio form as 14 to 1. Johnson (1941) carefully analyzed the capital punishment indictment which took place in Richmond, Virginia between the years 1930 to 1939. He then discovered that black offenders who have killed white victims were more likely to be convicted of murders as compared to the opposite racial mixture. As the research conducted by Johnson (1941) further stated that 50% of the offenders who had been involved with the murder of white individuals were sentenced to death and 6% of those who killed blacks were convicted.

The research by Myrdal, Sterner, & Rose (1944) further confirmed the suspicion which was studied by Sellin and Johnson regarding racial disparity. His research revealed that it was quite common for the individuals of the white community to be accused of crimes against black individuals to be set free without having to face a repercussion. On the other hand, African American defendants, regardless of being at fault or innocent, were convicted and received the harshest punishment had it been done against their white counterparts. Garfinkel (1949) also researched the accusations of homicide in ten counties located in the North of Carolina in the period 1930 to 1940. He found evidence regarding disparate racial

impact when the race of both the victims and offenders were considered. With consideration of the races of both parties involved, 69% of black offenders who had been charged with murder against whites and 53% black individuals who killed off black individuals were charged with first-degree murder. Whereas white offenders who were guilty of murdering whites were convicted were 44% and those who killed black were 42%. Garfinkle (1949) and Johnson (1941), both noticed that North Carolina and Virginia have homicides that are interracial, and the overwhelming majority that received capital punishment identified as a part of the black community.

Koeninger (1969) examined 493 individuals who had been executed in Texas from 1924 to 1968, where he calculated the ratio representation of the racial disparity between black and white defendants which amounted to 26% to 16%, respectively. Phrased otherwise, 99% of the black offenders were eventually executed and 76% of white defendants. The study showed a decline in death sentences. However, the rate of cases that include black offenders and white victims has not decreased at all. Blacks accused of raping white victims were six times more likely to be executed. Whereas those who have raped the victims are 18 times likely to be executed as compared to a white serial rapist.

As mentioned above, the Supreme Court halted the use of the death penalty in 1972 and it was reinstated by 1977. This was done so after the case of *Furman v Georgia* (1972). During this period, the 8th amendment was represented as the Bill of Rights to prevent partaking in unusual punishment and cruelty. Riedel (1977) was the first who compared the outcomes of the legal decision after the Furman decision. He had examined data from National Prison Statistics, NAACP Legal Defense, and Education fund and considered 407 inmates awaiting death, on death row in 28 states. Racial disparities had not been eliminated from the capital justice system. Bowers & Pierce (1980) was another notable research academic paper. It found that black offenders charged with homicide for killing whites were more than twice as likely to be eligible for the death penalty as compared to their black counterparts. In homicide cases, a high population of all-black offenders who had been involved with the murder of white individuals were indicted of first-degree murder.

G. The Role of Legal Actors

The actors included in the justice system have a vital role to play within the process of providing justice to those who have been wronged. Ellis & Diamond (2003) documented that juries are supposed to be impartial and make informed decisions given all the evidence and knowledge they have been provided while embodying the true spirit, values, and principles of America. However, there is strong evidence that the majority of juries are skeptical of the evidence presented and let biases impact their decision-making, allowing room for racial disparity (Equal Justice Initiative, 2022). The findings of the empirical review are prominently indicative of the existence of racial disparity and favor the thesis that blacks are punished disproportionately. The studies have found that a minority of blacks are punished and wrongfully convicted than whites for similar crimes. Research also shows significance with disparity when both the races are considered the victim and offender.

IV. Method

This study includes three different state level cases: Rodney Reed, Kenneth Clair, and Terrance Williams. This study focused specifically on the individuals' life history, crime, punishment, and for that reason gender and race of both the offenders and the victims or any other factor related needed to be taken into consideration. Reed, Clair, and Williams are all African American men, but there is variance in the race and gender of their victims. Clair and Reed's alleged victims were white women, while Williams' victim was a white man. This study maintains similar demographics, with all three men allegedly committing the crimes for which they received the death penalty when they were between the ages of 18 to 25 years old.

This study aims to focus specifically on those who have been put on death row due to wrongful convictions related to either factual innocence or procedural error, and for that reason race, gender, DNA evidence, prosecutorial misconduct and victimization are crucial factors that

were taken into consideration. For each case in this study, I gathered data on the individual's life history, the facts of their case, the legal proceedings surrounding it, and the sentencing phase of their case. I also tracked the race and gender of victims or alleged victims in each case.

This study explores the patterns between several factors that impact African Americans who have been wrongly convicted through three individual case studies. Within research on the death penalty, the role of race is one of the most major topics. A number of studies examine the impact of race on death penalty sentencing, and increasingly studies are attentive to the demographics of both offenders and victims, often by taking into account age in addition to race. However, less scholarly work has analyzed race and gender of victims combined. As legal scholars note (Crenshaw 1991), race and gender can intersect to create unique forms of bias. This study examines the race and gender of victims as a potential source of bias among legal actors—if prosecutors, judges, and juries have been shown to approve of the death penalty more often in cases involving white victims, the added layer of gender allows me to determine whether a form of intersectional bias is also at play.

Another major theme across these case studies is whether or not courts are compelled by new DNA evidence during the appellate process. Even though many death penalty cases have been overturned after the discovery of DNA evidence that cleared the defendant, American courts remain reluctant to examine this evidence in death penalty appeals. In 1988, the Supreme Court ruled in *Arizona v. Youngblood* that a states' failure to consider potentially exculpatory DNA evidence was not a denial of due process. If American courts were more friendly to the use of DNA evidence during appeals, they could potentially identify numerous wrongful convictions and set the stage for remunerating the wrongly incarcerated or sentenced. Additionally, DNA testing can be used in a limited number of circumstances: where the perpetrator may have left organic

material at the scene of the crime, that proof was obtained by regulation, that proof was preserved, and the law permits such testing (Warden & Seasley, 2018). To make matters worse, the criminal justice system continues to be hostile to claims of innocence and requests for DNA testing. Due to the lack of a procedure to retest their DNA evidence and maybe be exonerated, this subject is particularly prominent in Clair and Reed's cases. This raises the possibility of prosecutorial wrongdoing, because prosecutors may not always notify the defendant of fresh DNA evidence.

A. Case Selection

Cases were chosen based on a “most similar” method. George and Bennett (2004) define this approach as one in which “the researcher attempts to select cases that are similar in all of their independent variables except one” (50). In the Clair, Reed, and Williams cases, similar variables include the level of the case (state), the presence of a death sentence, the presence of alleged legal procedural errors and/or exculpatory DNA evidence, the race of offenders (all African American), and the race of victims (all white). Variance among the gender of victims constitutes the single non-similar variable. Briefs on the facts of each case are in section E below.

B. Benefits of a Case Study Approach

This type of research looks in depth at particular issues in a small number (3) of subjects. Advantages of case study research are that the researcher can investigate a characteristic and/or its development in depth and at close range. As George and Bennett (2004) note, social science research is typically attempting to explain complex, multi-causal phenomena. A case study approach allows the research to be attentive to individual developments directly rather than through proxy variables, better capturing variables that are otherwise difficult to measure

(George and Bennett 2004). This is particularly valuable in legal research, in which this method allows scholars to look at variables affecting the facts of the case and legal factors that may be missed in a large, quantitative set. Legal cases are highly individualistic and fact-dependent, so the depth allowed by the case study method is appropriate for the examination of these types of cases. As George and Bennett (2004) note “Within a single case, we can look at a large number of intervening variables and inductively observe any unexpected aspects of the operation” (21). Each case receives an equal amount of in-depth attention, offering information for collection that can then find new insights into specific trends, ideas, or hypotheses. Although this approach won’t develop a societal-level evaluation of a hypothesis, the information can lead to future research prospects and the examination of variables that may have otherwise gone unnoticed.

C. Limitations of a Case Study Approach

Qualitative methods cannot be generalized to large populations, so this study complements existing quantitative data by providing a more in-depth look at individual cases. However, we cannot generalize from these qualitative data, only use them to suggest future research directions. The small number of cases examined inherently limits the generalizability of the study—simply put, three cases cannot represent the entirety of death penalty cases. Further, the small number of cases leads to less variance between cases. While the three case studies in this thesis were chosen for important similarities (race of offender, legal facts, level of court) and do display variance in terms of victims. Overall, these cases would offer less information about death penalty cases that do not conform to these characteristics.

D. Variables

During the case study process, I examined all three cases to identify patterns among them and began to analyze these major patterns presented in each case. Within each case, the important themes presented are prosecutorial misconduct, exculpatory DNA evidence, victimization history of alleged offenders, and race and gender of both offenders and victims.

Race and gender

One difficulty is when people assume someone is guilty based on their race rather than the facts of the case, which is particularly problematic for black males (Pollock, 2019). Black men are frequently stereotyped as not simply criminals, but as the type of criminal who commits violent crimes (Scherr et. al, 2018). Furthermore, the criminal black man image of young black men contributes to this racial bias, as it is a foundation for many laws in American society, including the 1980s War on Drugs movement (Welch, 2007). As previous research mentioned above, majority that received capital punishment identified as a part of the African American community who have been wrongfully convicted. Within this study, it is presented that all three perpetrators are African American men. As in two (Reed and Clair) out of three cases, the victims are white females, while in Williams v. Pennsylvania case, the victim is a white man.

Allegations of prosecutorial misconduct

Wrongful convictions can also result from prosecutorial misconduct. Unfortunately, there is no way to estimate how many false convictions and incarcerations have resulted from this type of wrongdoing, but "investigations have discovered hundreds of instances where prosecutors either commit unethical activities or break the law" (Pollock, 2019). Prosecutors can act unethically in a variety of ways, including failing to turn over evidence that proves defendants' innocence, misconstruing evidence to deceive the jury, preventing expert testimony that helped

prove the defendant's innocence from being admitted into court, and excluding evidence that proved who the real perpetrator of the crime was (Pollock, 2019). In both the Clair and Williams cases, prosecutorial misconduct arises by withholding evidence.

Exculpatory DNA Evidence

Postconviction DNA testing can sometimes uncover a false conviction based on possible factual innocence. At times, DNA evidence has been misused or misunderstood, leading to miscarriages of justice. It is possible that when the methods used to evaluate the evidence have not been proven to be reliable, when an expert's statement about the evidence does not give accurate figures or tries to imply that the evidence proves the defendant's guilt when the two are unrelated, and when evidence of guilt is falsified or evidence of innocence is hidden, DNA evidence can be faulty (Innocence Project, 2016). DNA evidence is challenged within Reed's and Clair's case.

Victimization history of alleged offenders

Victimization history of the alleged offenders will be discussed because it is an important factor for this study to expose within the African American community, especially with males. The relationship between victimization and offending, also referred to as the victim-offender overlap, is widely documented. The majority of crime victims do not go on to become criminals, but the majority of criminals have been victims. Although the exact number of victim-offenders (offenders who have been victims of victimization) is unclear, victimization is quite common among the general public (DeLong, Reichert, 2019). Throughout other case studies, this variable seems to be less discussed or not mentioned at all.

E. Case Briefs

Rodney Reed

Rodney Reed was found guilty of three charges in the form of rape, abduction, and murder of a 19-year-old white woman named Stacey Stites in Bastrop, Texas in 1998. Reed has always maintained that he is innocent despite unsuccessful appeals for over two decades now. Bryce Benjet, the lawyer who has been working on this case since the beginning, reiterates that there is adequate evidence and statements made by witnesses that can clear Reed. Reed's case came about when Stacey Stites, a 19-year-old white woman, was murdered. Stacey Stites lived with her fiancé Jimmy Fennell who was a Bastrop police officer. She was employed in a grocery store which was located about 30 miles from the place where they lived.

In April 1996, Stacey Stites's body was found lying lifeless on the side of the road, raped, and strangled. All the people of interest in the incident were investigated, and up until one year later, that is when Reed became a person of interest after DNA evidence identified by the police on the body of the victim was connected to him. During the time of the investigation, another woman named Linda Schlueter was kidnapped, beaten, and rape was attempted. Reed was arrested and charged in connection with this incident. Subject to the similarities of the two cases, Reed was investigated for the Stites case. Police have in custody DNA samples of Reed from another case of attempted rape, and they matched to those found on Stites's body. From the investigation, Reed maintained his stance that he had a consensual relationship with Stites and that they were together earlier in the day before her disappearance (Zeisel, 1981).

The initial main suspect, in this case, Jimmy Fennell, had already committed an act of rape against a woman he had arrested as a police officer based in Georgetown, Texas. His attorney Robert Philips identified that Fennel pleaded guilty to the charges, and he was sentenced to 10 years' imprisonment. Arthur Snow, who was in the same prison as Fennell in a sworn

affidavit, declared the confession made by Fennel that he killed his wife for cheating on him with Reed. Other similar affidavits have also been brought forward, and they all implicate Fennel for the murder that put Reed on death row. One former deputy sheriff Jim Clampit, who was an attendee at the funeral, identified Fennel to have viewed the State's lifeless body and declared she had received what she deserved. Charles Fletcher, who was a friend to Stites and Fennel and a police officer at the time of the report, identified that Fennel had told him that he was aware of Stites' affair with a black man. These statements were made before Stites was murdered (Sommers, 2006).

On appeal Reed has requested the examination of new evidence introduced to help clear his name. However, state courts were unwilling to order new trials and admit this evidence. Reed and his attorneys note that the homicide weapon was not tested for DNA evidence, when such evidence might more clearly implicate the murderer given Reed's allegation of a consensual relationship with Stites. Evidence that may tie Fennel to the crime was also untested. For example, a truck claimed by Fennel was not evaluated for evidence in the case. It was subsequently sold after Stites was killed. Fennel was additionally indicted for assault a couple of years after Stites' homicide, which should have been the point of the investigation. Given that Reed had turned into a suspect for rape against another 19-year-old. The marking hypothesis is additionally portrayed for this situation where three sheriff delegates were completely mindful of repeated offense proof would have upheld Reed's case, yet the state did not present it to the court (Rotondo, 2019).

Terrance Williams and *Williams v. Pennsylvania*

Terrance Williams is an African American man that was convicted of the murder of Amos Norwood, a 50-year-old white man, and sentenced to death on July 1, 1987. Williams had already been convicted of the murder and robbery of Herbert Hamilton, a 50-year-old white man,

in a previous case at the time of his 1986 trial. In the previous 1984 case, Williams was tried and sentenced as a juvenile, receiving a 27-year prison sentence. Williams' case is somewhat different from the Clair and Reed cases in that Williams does not content his factual innocence—he has always admitted that he did kill both Hamilton and Norwood. However, Williams claims there were mitigating factors in these cases, namely that both Hamilton and Norwood sexually abused Williams when he was a minor and they were in positions of authority over him at a local church. In addition to demonstrating the significance of Williams' past victimization, the allegations of sexual abuse also become a procedural legal problem: while Andrea Foulkes, the trial prosecutor in Williams' 1987 case, possessed witness statements about Norwood's alleged sexual abuse of children, Foulkes did not make that evidence available to the defense.

Prosecutors who do not adhere to the mandatory discovery process may be in violation of *Brady v. Maryland* (1963), the landmark Supreme Court ruling that governs prosecutorial misconduct.

Terrance Williams made several direct appeals and requests for post-conviction relief, but few were successful. In 2012, a Pennsylvania post-conviction relief court concluded that prosecutor Foulkes, in this case, had suppressed evidence about Norwood's abuse of children that would otherwise have been pertinent to the defendant. Subject to these findings by the post-conviction court, Williams's execution was stayed, and the court granted him another penalty hearing. This order issued by the post-conviction court was appealed by the State of Pennsylvania to the State Supreme Court (The Innocence Project, 2010).

At the time the appeal was taking place, Ronald Castille, who was the district attorney for Philadelphia at the time of Williams' 1986 trial, had been promoted through election to be the chief justice of the Pennsylvania Supreme court. This prompted Williams to file a recusal case requesting that justice Ronald Castille release himself from the case, as Castille was responsible

for supervising Foulke's prosecution of the case and had signed off on seeking the death penalty. Williams and his attorneys alleged that Castille's previous involvement with the case constituted a conflict of interest that necessitated recusal. Castille failed to heed any of the requests and proceeded to work with the court, ultimately finding in favor of the Commonwealth of Pennsylvania and upholding Williams' conviction and sentence. In addition to that, Ronald Castille criticized both Williams's attorneys and the post-conviction court for granting relief to him extensively. Williams further appealed to the Supreme court of the United States, seeking only that this time he appealed through filing a petition in the writ of *certiorari* which was later granted three months after the appeal (Keane, 2017). In a 5-3 decision in 2016, the US Supreme Court overturned Williams' death sentence but not his murder conviction; he is currently serving life in prison. The Court determined that Castille should have recused himself, and that his failure to do so posed too much risk of introducing bias into the case. The Court did not rule on the question of prosecutorial misconduct on Foulkes' part. Williams is the only petitioner of these three case studies whose appeal has been heard by the US Supreme Court.

Kenneth Clair

Kenneth is an African American man that was arrested for the murder of Linda Faye Rodgers, a 25-year-old white woman, on November 15, 1984. Faye was a babysitter to a couple who had four children and Faye's daughter, and they resided in a house in Santa Ana, Orange County, in California. The house was burglarized, and some items were stolen around November 7. The house was once again burglarized on the 15th of the same month, and this is when Faye was murdered. Clair challenged the accusations presented against him regarding the November 15th burglary and murder. He challenged the witness's credibility, especially Flores, whose testimony was criticized as noted in her statements and her character. Clair's girlfriend at the time, Flores,

recorded a conversation between her and Clair, which the prosecutor used as part of Clair's confession. He further cleared himself of the conversation made after his release by reiterating that he made no admission either implicitly or directly. Besides, there was no physical evidence that indicated that he was at Erikson's residence on the day of the murder. He presented witnesses to aid in his case, but he did not take the stand.

Another witness to the case was a 5-year-old boy named Jerrod Hessling. He witnessed the incident in full, including the beating and the rape of his babysitter. He described the killer as a white man. Additionally, another child also identified the assailant as someone white with a tattoo on his arm seen when he tried to slide the glass door into the house (People v. Clair, 1992). Despite all these, the prosecution alleged that this act was committed by Kenneth Clair, who is not white but rather an African American man who at the time of the incident was a homeless individual squatting next to the Henriksen's during the time that the murder, rape, and beating occurred next door. The key witness presented by the prosecution had been subjected to brain surgery a week before the incident occurred, but she testified anyway. Almost all her friends and her family objected to her testifying, citing that she could not be able to recall the events that occurred on November 15, 1984, candidly. The jury found Clair guilty of murder and the additional special circumstance in the form of murder, but the attempted murder was found not to be true. Kenneth Clair was then sentenced to death (Young, 2004).

Clair's counsel, between the years 2001 and 2004, obtained additional information that would be adequate to exonerate their client. Another rape and homicide had happened a night before the Faye murder occurred. In that case, 38-year-old Elizabeth Hoffschneider was raped and murdered; the case bore a strong resemblance to the Rodgers murder. Later, in 2007, it was revealed that Clair was also a suspect in the Hoffschneider homicide and that his DNA had been

compared to those that were obtained from the scene. The result was that it was not a match. Another person had been arrested for this case due to matching DNA evidence but committed suicide before he was extradited to California from Canada. Clair was given a new sentencing hearing and condemned to life in jail without the chance of further appeal. Notwithstanding his life being saved, Clair does not have the right to admittance to a lawyer considering the habeas corpus regulations. Similarly, the DNA proof that might have excused him will not be introduced to the court. Though Clair insists on his factual innocence, courts are currently unwilling to review evidence in his case that he considers exculpatory. The toppling of the case and condemning it to life likewise precludes the new proof from being introduced to the court.

V. Analysis: Variables Shaping Success at Appeal for Reed, Clair, and Williams

This study examined three capital cases. In all these three cases, a death sentence was imposed, and state courts were mandated to preside over criminal appeals concerning reconsiderations of motions for rehearing of the cases. The cases are based on records of the years 1992 to date. All the cases used in this study are from the capital conviction database, with two of the appeals of the case of sentences only. The sentence cases in this study contained direct appeal cases of direct appeal and appeals of the sentence alone.

A. Rodney Reed

Reed's case was tainted by forensic errors, community pressure, and weak facts. There is a lot of evidence that indicates that Reed is innocent. Reed was sentenced to death for the rape and murder of Stacey Stites in the year 1996. Her body was found dumped on the road outside of Bastrop. She was partially clothed while her arms were above the head. She had marks on her head, which made the investigators conclude that she was strangled with a leather belt.

Investigators found evidence of sperm inside her, which was an indication that she was also raped.

The state's forensic experts admitted to errors in the testimonies that contributed to the conviction of Reed. Witnesses who initially testified in this case submitted affidavits that stated that the evidence that they provided on the murder of Stites was inaccurate. They stated that the evidence they provided should not be used to convict the suspect. Reed had several witnesses during the trial who were to testify about his relationship with the victim. Most of the witnesses were not called to testify, which shows how the American justice system denies the minority their rights — Reed alleges that the prosecution discouraged the appearance of witnesses friendly to his case during trial. Most of the witnesses who testified were not aware of the relationship between Reed and Stites and did not provide adequate information. Among the two witnesses who were denied an opportunity to testify, two stated that they were aware that Reed had a relationship with Stites (Cooper, 2019). The witnesses were related to Reed, which is one reason they were not called.

Jimmy Fennell confessed to having killed Stites. Michael Bordelon, a formerly jailed man with Fennel, testified that Stites's fiancé told him that he took care of her. This implies that Fennell killed her and not Reed. Fennell displayed disturbing behavior before and after the murder of Stites. According to evidence in the appeal, Fennell's demonstrate pattern of intimidation, stalking, and sexual assault of women while working at Georgetown Police Department and after (Smith, 2009). Fennel was white with connections to local police. He was initially a suspect before the police dropped him as a suspect after finding Reed's DNA (Robison-Greene, 2019). This indicates how harsh the criminal justice system is to the minority —in spite of Fennell's incriminating statements and past history of violence, investigators were

more willing to focus on Reed, who argued that the presence of his DNA on Stites' body was the result of a consensual relationship. The police could have completed the investigation on Fennell before concluding that the main suspect was Reed. Fennell provided an inconsistent narration of where he was before Stites was murdered. He told Bastrop Sheriff's Officer Curtis Davis that he was drinking the whole night on that fateful day. However, he later stated that they were in the same house before her murder. Fennell stopped explaining the difference in his testimony after he realized that he was contradicting himself and that his testimony may incriminate him. Even after the discrepancies in his testimony, he was not questioned further.

DNA Evidence in Reed's Case

Renowned forensic pathologists have concluded that the suspect's guilt is scientifically and medically impossible. The only forensic evidence linking Reed to Stites is the semen that was found in her (Robison-Greene, 2019). However, Stacey and Reed had an intimate relationship, which others could corroborate. Therefore, the prosecution should not have used the semen as evidence that Reed raped and murdered her. Reed had initially denied knowing the victim but later admitted that they had an affair. This explains the presence of his semen in her body. Therefore, his DNA did not inherently suggest wrongdoing in the case and additional evidence would be necessary to determine if Reed was responsible for the crime.

The weapon used in the murder of Stites has never undergone a DNA test. The Texas court has repeatedly denied a DNA test of the belt that was used in the murder. The Supreme Court also declined to review the Texas court's denial for a DNA test to be conducted. Other discrepancies suggest Reed's potential innocence, for example, Stites was driving before her murder. Reed was not with her in the car, and it seems unlikely that a man who was walking on

the road could have murdered someone who was driving her car along the highway without drawing the attention of witnesses.

Race and Gender of Victim and Offender

The jury makeup in the case indicates the possibility of racial bias. Reed, a Black American man, was sentenced for murdering Stites by an all-white jury. Stacey was also a young white American woman, to whom the jury may have been more sympathetic. In general, scholars have found that there is more care, concern, and media attention devoted to victims of crime who are young, white, women due to the social perception that these victims are more believable and valuable (Nils Christie, 1986). All-white juries convicting African American men of harming white women on scant evidence harkens back to the time of Jim Crow law, which helped develop the cultural pattern we see in cases like Reed's today. It is possible that the victim-offender pairing of an African American man and a young white woman involved both racial and gender dynamics that impacted the jury's decision.

B. Kenneth Clair

Kenneth Clair is an African American man, who was arrested and convicted of murder on November 15, 1984. Clair was accused of murdering Linda Faye, a 25-year-old white woman working as a house help. However, based on the evidence provided by the witnesses to the court, Clair was unfairly convicted. The decision to sentence Clair to death and later change the ruling to life imprisonment reveals the role of race and gender in the conviction of criminals. The judge followed evidence from a person not legally warranted to act as a witness due to mental capabilities. The main witness had undergone brain surgery, revealing why the ruling was biased (Hashimoto, 2011). Moreover, other witnesses, including a five-year-old boy Rodgers was caring

for, described the killer as a white muscular man. Another witness who saw the killer break the window offered a similar description to the five-year-old child. However, the jury did not focus much on that evidence and concluded that Clair was a criminal based on the initial evidence.

Prosecutorial misconduct in Clair's Case

Clair's lawyers sourced sufficient evidence that would help free their client. During the search, the lawyers found out that another similar murder case had occurred the night before Rodgers' killing (Hashimoto, 2011). This case acted as a baseline to free Clair since the murder was similar, suggesting that the killer was the same in both cases. In this case, law enforcement accused Clair and matched the collected DNA samples to him. However, the results did not actually match, suggesting that Clair was not the murderer. Under unbiased court systems, this evidence was supposed to free Clair. However, this revelation posed more adverse issues to Clair as the jury ruled on a life sentence without giving Clair an option to talk to a lawyer.

This court case shows that African Americans are at higher risk of being convicted for crimes they did not commit due to factors related to race, class, and bias in the court system. Most judicial system workers in the U.S. are white males, marking the extensiveness of racial-based rulings. African Americans like Clair face unfair sentences since the economic challenges hinder them from hiring the best lawyers. For instance, the court found that Clair was homeless at conviction, meaning he could not afford high-quality private legal representation (Hashimoto, 2011). Clair was represented at trial and throughout much of his appeals process by a public defender and raised claims in court about his counsel's failure to pursue exculpatory evidence on Clair's behalf. Public defenders in the US routinely face challenges such as high caseloads and lack of funding for evidence testing, placing their clients at a disadvantage. Fundamentally, a

private investigator revealed critical evidence that would free Clair, but his counsel failed to pursue it.

Race and Gender of Victim and Offender

Clair, like Rodney Reed, was an African American man accused of killing a young white woman. Much like Reed's case, when Clair attempted to raise legal claims about misconduct and evidence in his case, the courts were unwilling to consider the new evidence. And, like Reed, Clair was pursued as a suspect by law enforcement when witnesses gave reason to believe that the perpetrator may be white.

Rodgers, the victim in the case, fits neatly into the pattern of victim-worthiness due to her race, gender, youth, and occupation (babysitter/household helped) at the time of her death. Juries' determination to issue death sentences and courts' reluctance to re-examine evidence in the Clair and Reed cases suggests that the pairing of an African American male defendant with a white, female victim may shape case outcomes at both sentencing and appeal.

C. Terence Williams

In 1984, Terrance Williams was sentenced to death for the murder of Amos Norwood, a 56-year-old white man. Williams was a minor at the time of committing the crime and had a significant history of victimization; Williams was sexually abused throughout his childhood by different men in his life. Norwood had been a member of Williams' church and worked with youth there; Williams alleged that Norwood used his position of authority to sexually abuse him and other children, though this information was withheld by prosecutors at trial. Williams' case was additionally complicated by an issue of judicial ethics. Ronald Castille, a Pennsylvania district attorney turned state supreme court judge, was involved in the case at both the trial and

appellate states. As Philadelphia district attorney, Castille supervised the assistant district attorney who tried Williams and signed off on the death penalty. Years later, as chief judge of the Pennsylvania state supreme court, Castille heard Williams' appeal and did not recuse himself. Williams has alleged that the failure to recuse violated the Fourteenth Amendment's due process clause, and there was a chance of actual bias (Kleck, 1981).

Williams is unique among cases in this study in that the US Supreme Court granted certiorari in his case in 2015 and issued a decision in 2016, finding that Castille did violate Williams' rights when Castille did not recuse from hearing Williams' appeal. Williams' death sentence was overturned and converted to life in prison after the Supreme Court decision. Today, Williams remains incarcerated.

Prosecutorial misconduct in Williams' case

Andrew Foulkes, the prosecutor in his trial, had evidence that Norwood had abused children but did not make it available to the defense. Foulkes' withholding of evidence could constitute a violation of *Brady v. Maryland*, which requires prosecutors to disclose evidence that could impact trial or sentencing. Foulkes, who prosecuted both cases, told the Norwood jury that Williams had killed Norwood "for no other reason but that a kind man offered him a ride home" (Machanic, 2016).

Prosecutorial discretion is the other factor, and this entails the prosecutor seeking the death penalty against an individual to the tune of hiding evidence that could exonerate the individual, as witnessed in the case of *Williams v. Pennsylvania*. Ineffective counsel and procedural bars affect the outcome of the cases. Where a lawyer to an individual who is on trial

for the capital offense is overworked and underpaid, there are high chances that this individual will be faced with the death penalty.

Appeal Procedures

Ideally, appeals should overturn the initial ruling if there is enough doubt about the evidence presented. But this is not always the case for capital offenses in the USA. This can be blamed on the judicial system as they try to save their faces from making wrong judgments in initial court judgments (Canes-Wrone et al., 2014). Capital offenses indeed attract a lot of heat from the public, and in most cases, court officers can do anything to shift the blame on the defendants, who are Black in many instances. We see this in Williams' case, in which numerous early appeals were unsuccessful. For example, in Williams', although the prosecutor was found to have coerced the codefendant to record a false statement that implicated William, the death sentence was still upheld by several post-conviction relief courts. This demonstrates the rigidity of the appellate system and how it can fail to confront unfair trials.

Williams' case was also unique in that it demonstrates questions of acute bias in the appellate process. When Williams was appealing his case to his state court of last resort, he found his case being heard by Ronald Castille, the former district attorney who supervised Williams' trial. Castille's refusal to recuse meant that he was now judging his own past actions in the Williams case as the supervisor of Andrea Foulkes, the courtroom prosecutor who withheld evidence of Norwood's abuse of children. At the time of Williams' appeal, there was no court ruling or statewide rule requiring Castille to recuse, showing a lack of consideration for due process in the system.

Race and Gender of Victim and Offender

Like race, gender also plays a significant role in those who receive the ultimate punishment (death) for capital offenders. This gender disparity in disseminating the death penalty is also dependent on the victim and defendant (Donohue, 2014). Male defendants charged with killing female victims are, in most cases, handed the death penalty compared to female defendants. Thus, it can be noted that the male gender is most negatively affected in the dissemination of the death penalty, with some receiving harsh judgment compared to females who have done the same crime. As an offender, Williams' status as an African American man makes him vulnerable to experiencing legal misconduct and correlates highly with receiving the death penalty.

Unlike the Reed and Clair cases, the victim in the Williams is a white man rather than a white woman. Amos Norwood, as a 56-year-old white man, does not fit as neatly into the category of victims who receive the greatest level of social care and concern. Williams beat Norwood to death with a tire iron, and the brutality of the crime as well as the withheld evidence of Norwood's abuse may have been enough to sway the jury towards the death penalty. However, Williams remains the only of the three cases in this study in which the death penalty was overturned on appeal and is also the only case where the victim is not a woman. The "ideal victim" of crime is also thought of as innocent, whereas appeals courts were confronted with evidence that Norwood had a history of sexually abusing children, Williams included. Among the three cases in this study, Williams is the only one in which the defendant does not claim factual innocence—Williams admits that he killed Norwood, and his primary appeals are based on procedural issues rather than evidence of innocence. In spite of his admission of factual guilt, Williams is the only of the three cases in which the death penalty was fully successfully reversed. We may infer that information about Norwood's abuse of children, in addition to his

gender, may have made him a less sympathetic victim. This may be part of why courts were more willing to overturn Williams' death sentence, whereas Clair and Reed have not received the same rulings.

D. Discussion

Within each case, it is clear that no one received a fair trial. Among all three cases, prosecutorial misconduct has been displayed. However, only Williams's case has been overturned by the US Supreme Court due to Castille's failure to do so posed too much risk of introducing bias into the case. The Court did not rule on the question of prosecutorial misconduct on Foulkes' part. Unlike the Reed and Clair cases, the victim in the Williams is a white man rather than a white woman.

New evidence has been presented by their attorneys to the court and has been reviewed, but there has been no significant development to work towards their release. The death penalty has stayed indefinitely in the case of Kenneth Clair. The change from the death penalty to life in prison is a depiction that there is an element of innocence. Various factors contribute to the failure of the appeal process and the cases remaining yet to be overturned. Victimization is one of these factors where an individual is targeted as a cover for a case. Despite overwhelming evidence of innocence, Clair and Reed remain incarcerated (Baldus, Woodworth, 2003). Meanwhile, William does not claim to be innocent, he is the only one out of three case studies that had their case overturned. William remains life in prison without parole due to his previous conviction.

VI. Conclusion

The death penalty has been a discussion that has been in the limelight in the recent past. The death penalty is more likely to be handed down in cases where defendants are men of color. Some of the individuals, such as in the case of Rodney Reed, Kenneth Clair, and Terrence Williams, have indicated that there are various factors that could contribute to a death sentence. Despite several appeals to have their cases overturned, these individuals are still incarcerated. New evidence has been presented by their attorneys to the court and has been reviewed, but there has been no significant development to work towards their release. The death penalty has stayed indefinitely in the case of Kenneth Clair. The change from the death penalty to life in prison is a depiction that there is an element of innocence. Based on each case, this study provides the relationship between wrongful convictions and the death penalty aiming to be properly investigated throughout the U.S. This study should establish a beginning for more variables to be connected when it comes to challenging those who have been wrongfully convicted on death row.

This study has explored each variable such as race and gender of the victims and the prosecutorial misconduct that has made an impact against the appellate process in death penalty cases. It is visible that race and gender of victims as a potential source of bias among legal actors—if prosecutors, judges, and juries have been shown to approve of the death penalty more often in cases involving white victims, the added layer of gender allows me to determine whether a form of intersectional bias is also at play.

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