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Texas Man Facing Execution Based on Falsified Forensics Seeks Stay of Execution to Reopen His Case

Prosecutor, Expert, and the entire District Attorney's Office Exhibited Same Pattern in Other Wrongful Convictions

(Dallas, TX) Attorneys for Terry Edwards, who is scheduled to be executed by Texas on January 26, 2017, filed a motion in the U.S. District Court for the Northern District of Texas seeking to stay the execution, based on gross prosecutorial misconduct — part of a pattern for the Dallas County DA's Office and the individual prosecutor assigned to Mr. Edwards's case — as well as substantial, and concealed, evidence that Terry Edwards never committed the killings for which he was convicted. Mr. Edwards was charged with and convicted of the murder of two of his ex-colleagues at a Balch Springs, Texas Subway sandwich franchise on July 8, 2002. His cousin and co-defendant, to whom the evidence points as the shooter, could be released any day now. Mr. Edwards's Motion for a Stay of Execution can be accessed here:

<http://www.phillipsblack.org/terry-edwards>

“The man responsible for the murders was sentenced to a term of years and is eligible for parole. This is not justice. Texas must reopen Terry Edwards's case before executing him for a shooting that the State's own evidence shows he did not commit,” said Jennifer Merrigan, Mr. Edwards's attorney and a principal at the [Phillips Black Project](#).

Astonishingly, Mr. Edwards's new lawyers — appointed only months ago — are the first people in the fifteen-plus years since his trial who have investigated his case, requested independent forensic testing, or talked to crucial witnesses, including Mr. Edwards's family members, in order to prove that he was not the triggerman.

Terry Edwards had no history of violence and had never been accused of a violent crime before the tragic events of July 8, 2002. His co-defendant and older cousin, Kirk Edwards, on the other hand, had a long criminal history, including violence and a pattern of assaultive and manipulative behavior. Kirk's own family has placed the blame squarely on his shoulders.

Scrambling against a deadline, and the interests of justice, Mr. Edwards's new attorneys have unearthed repeated instances of misconduct by the lead prosecutor in Mr. Edwards's 2003 trial. That prosecutor, Thomas D'Amore, is directly responsible for at least three wrongful prosecutions that were later overturned, in a District Attorney's Office where a staggering 54 exonerations have emerged in recent years.

On January 10, 2017, attorneys for Mr. Edwards filed to reopen his case based on this extraordinary prosecutorial misconduct and the gross incompetence and

abandonment of his appointed trial and appellate attorneys. Mr. Edwards's Motion to Reopen Judgement can be access here: <http://www.phillipsblack.org/terry-edwards>

The prosecutor tried Mr. Edwards as the shooter of two former co-workers during the 2002 robbery of the Subway shop in Balch Springs despite the State's evidence indicating Mr. Edwards did not use the murder weapon. The State conducted gunshot residue (GSR) testing of Mr. Edwards within minutes of the shootings and the results were negative.

At Mr. Edwards's trial, his defense called only one witness, a trace evidence examiner at the Dallas County crime lab. On cross-examination, the prosecutor elicited false and misleading testimony that he then used against Mr. Edwards. Mr. Edwards's current lawyers have filed a statement from a GSR expert with over 20 years of FBI experience that contradicts the trial expert, finding that her testimony on cross was "scientifically unsupportable." Also, the DA suppressed evidence of additional testing by this witness that further supports the conclusion that Mr. Edwards did not fire the weapon. Finally, in a 1995 wrongful conviction, the prosecutor in Mr. Edwards's case examined this very same forensics analyst at trial and elicited strikingly similar untruthful testimony that the analyst later admitted was not supported by science.

After trial, Mr. Edwards's appellate attorneys continued to fail him. His state court lawyer in 2009 submitted a cut-and-pasted brief lifted from other cases, with a mere 10 original sentences in the entire 60-page document. Mr. Edwards's initial federal attorney took a new job in the middle of his representation and disengaged from the case without notifying the court, leaving Mr. Edwards without an attorney to represent him.

Mr. Edwards's petition raises additional claims for reopening his case. Among them, Mr. Edwards's current attorneys have discovered that the prosecutors, enabled by the capitulation of Mr. Edwards's trial attorneys, removed all eligible African Americans from the jury pool of 3,000 citizens and seated an all-white jury to decide the fate of an African American man charged with murdering two white people. The DA's Office recently turned over the prosecutor's jury list, which shows the letter "B" handwritten and circled next to the names of certain prospective jurors. In light of the troubled history of this DA's Office, there is concern that these markings suggest racial indications. Mr. Edwards's jury was empaneled months after the first of two U.S. Supreme Court cases (*Miller-El*) addressing the entrenched practice in the Dallas County DA's Office of removing African American jurors.

After Mr. Edwards was convicted and sentenced to death, his older cousin, Kirk Edwards, pled guilty to robbing the Subway shop. He is currently eligible for parole and scheduled to be released, at the latest, in 2027.

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The Phillips Black Project is a nonprofit, public interest law practice dedicated to providing the highest quality of legal representation to prisoners in the United States sentenced to the severest penalties under law. Phillips Black further contributes to the rule of law by consulting with capital counsel, conducting death penalty clinical training, and developing research on the administration of criminal justice. For more information, please visit <http://www.phillipsblack.org/>.