



THE NATIONAL REGISTRY  
OF EXONERATIONS

## ONE STEP FORWARD, TWO STEPS BACK

*In April, the Delaware Supreme Court vacated a murder conviction based on innocence. In May, the United States Supreme Court prioritized finality.*

In the last month of its term this year, the U.S. Supreme Court ended the constitutional right to abortion, prohibited long-standing and functional limits on carrying concealed guns, and restricted the government's ability to fight climate change. With all that, you might have missed another stunning opinion the Court issued on May 23, [\*Shinn v. Ramirez\*](#) — an opinion that decided two consolidated criminal cases involving the common and serious problem of ineffective assistance of counsel (IAC).



*Justice Clarence Thomas, who wrote for the majority. (Photo courtesy of AP)*

Some basic facts of the case are important. David Ramirez and Barry Jones, two men on Arizona's death row, raised IAC claims based on defense counsel's failure to investigate evidence suggesting Jones was innocent and could not have committed the crime, and in

Ramirez’s case, failure to investigate his intellectual disability, which could have spared him the death penalty.

To get to the desired result, *Shinn* effectively overruled *Martinez v. Ryan*, a decade-old decision by the U.S. Supreme Court, and held that a defendant who was a victim of IAC cannot present evidence to prove that claim in federal court, even if they were never able to present that evidence in a state court where they were convicted.

*Shinn* is hardly the first court decision that makes it nearly impossible to obtain judicial review of ineffective assistance of counsel. How courts have made judicial review so elusive is complicated (and unprincipled) but the upshot is simple: unless a defendant has been sentenced to death, very few claims of IAC are ever seriously considered by courts, state or federal, let alone granted. Even before *Shinn*, hearings on IAC in federal courts were already rare. But they were possible — which helped at least a few defendants get judges to pay attention. After *Shinn*, it appears that possibility may no longer exist. Simply put, *Shinn* adds an exclamation point to the historically hostile law that disfavors litigation of IAC claims.

Because IAC is so rarely litigated (or even investigated during post-conviction proceedings), we at the National Registry of Exonerations have a huge gap in our knowledge of defense counsels’ deficiencies. Based on our experience and the cases we know best, we’re convinced that it happens in a lot of wrongful conviction cases that result in exoneration — perhaps even the majority. It could easily be more common than any other contributing factor we list. But the records we have are often insufficient, in some way or another, and it’s an extremely difficult issue to suss out five, ten, or 25 years after the fact.

We do have data on cases with clear evidence of severely bad performance by defense attorneys — in 26 percent of all exonerations and in 33 percent of murder exonerations. We don’t use the term IAC. Instead, we call it Inadequate Legal Defense (ILD). But because we believe that our information is an undercount, we are cautious in our use of the number of exonerations with ILD. We want to avoid the impression that we have an accurate count of exonerations that were caused, at least in part, by inadequate defense lawyering.

We hope to do better in this area. Resources permitting, we hope to conduct a study that will provide a more realistic estimate of the impact of IAC on wrongful convictions. It will be a heavy lift, but it’s a high priority and we look forward to taking it on.

**“It is better that ten guilty persons escape than that one innocent suffer.”**

SIR WILLIAM BLACKSTONE, 1765

Meanwhile in June, we entered into our individual Registry the case of [Mark Purnell](#) of Wilmington, Delaware, who was exonerated after serving more than 16 years in prison for a murder he didn't commit. This case is the first time the Delaware Supreme Court has been persuaded to vacate a conviction based on actual innocence — a herculean task

that was met by Purnell and his attorneys when they established that the court's interests in finality were subordinate to the injustice of Purnell's conviction.

After the ruling, although the state initially indicated it would retry Purnell, several interesting new developments came to light before a new trial could occur. The first development involved suppressed *Brady* information regarding an alternate suspect. The second development was the discovery of physical evidence that linked a shell casing found at the scene to another murder that had occurred years earlier. Faced with these developments, the state filed a motion to dismiss the case on April 28, 2022. In the motion, New Castle County prosecutor Annemarie Puit wrote that “After careful consideration of all the evidence in the case, the state has determined it can no longer ethically proceed.”



*Exoneree Mark Purnell. (Photo courtesy of The Delaware News Journal)*

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## Other Exonerations Posted in June

In 2001, a Los Angeles jury convicted [Alexander Torres](#) of murder and sentenced him to 40 years to life. Torres was released from prison and exonerated in 2021 after investigations by the California Innocence Project and the Conviction Integrity Unit of the Los Angeles County District Attorney's Office revealed that two other men actually committed the crime. The Los Angeles County Sheriff's Department then reinvestigated the case and reached the same conclusion. In 2022, a judge formally granted a joint motion for a finding of factual innocence.

In 2008, a jury convicted [John In](#) of robbery and other charges tied to a home invasion. Two others pled guilty to their involvement in the crime. On May 23, 2022, the very same day Shinn was decided, In was granted a new trial after a federal court agreed with the Philadelphia Conviction Integrity Unit and the defense that In's trial attorney was ineffective for failing to pursue DNA testing. The evidence to support the IAC claim, however, had not been developed in the state court proceedings. Instead, during post-conviction proceedings, DNA testing was conducted and proved that In was

[Mallory Nicholson](#) was convicted by a Texas jury of burglary and two counts of aggravated sexual assault of a child in 1982 – based on eyewitness testimony from the two child victims. After spending 23 years in prison and almost two decades as a registered sex offender, he was exonerated in 2022 when a re-investigation showed that prosecutors had concealed evidence that pointed to another suspect as the likely perpetrator. During the re-investigation, the Dallas County Conviction Integrity Unit also discovered that the grand jury testimony of one of the child victims was inconsistent with his trial testimony (which was never corrected by the prosecution) and, had it been turned over to the defense at trial, there was a reasonable probability Nicholson would have been acquitted.

In 1993 and then again in a 2003 retrial granted due to prosecutorial misconduct, [Claude Garrett](#) was sentenced to life in prison for setting a fire that killed his girlfriend. After nearly three decades of wrongful incarceration, he was exonerated in 2022 based on new evidence from several experts that the fire "cannot possibly be called arson, and [the prosecution's] investigation was inadequate." In an order signed May 6, 2022, Davidson County Tennessee Criminal Court Judge Monte Watkins ruled there was "clear and convincing" evidence that if jurors had been aware of the new fire evidence, Garrett would have been acquitted. "Garrett has shown actual innocence," the judge declared.

In 2005, while in custody in Kane County, Illinois, [Cassidy Green](#) pled guilty to aggravated unlawful use of a firearm pursuant to a plea bargain agreement and was sentenced to two years in prison and one year mandatory supervised release. Years later, in an unrelated case, the Illinois Supreme Court held that the

not one of the three people who entered the victims' home as the state theorized at trial. After learning of the DNA results, In's trial counsel stated under oath that he had had no strategic basis for failing to pursue the DNA testing at trial. On June 9, 2022, all charges against In were dismissed.

[Christopher Swem](#) was convicted in 2018 of second-degree murder and other charges in the stabbing death of a man at a party in upstate New York. His conviction was reversed on appeal because the trial court had erroneously refused to instruct the jury on the circumstantial nature of the evidence against Swem: the chaotic nature of the party in the moments prior to the stabbing, the victim's other fights, and the lack of an identified murder weapon. During Swem's retrial in 2022, a witness provided new testimony that another man confessed to the stabbing. This time, Swem was acquitted of the murder and assault charges.

A Michigan judge convicted [Ronnell Johnson](#) of an armed robbery in 2008, based on the testimony of Johnson's estranged father (Ronald Johnson), who identified his son to police after seeing footage of the surveillance video that aired on the local television station. During his pronouncement of the guilty verdict, the trial judge called the case "surreal" and stated he had relied on Ronald's testimony and that "there are any number of reasons why an individual may give up their child." One reason that was never disclosed to the defense led to Johnson's exoneration in 2022, when an investigation revealed that prosecutors had failed to disclose a contemporaneous plea deal between the state and the father over unrelated crimes.

In 2018, a New York jury convicted [Prakash Churaman](#) of a 2014 murder that occurred when Churaman was 15. When

portion of the law used to convict Green violated the right to keep and bear arms as guaranteed by the Second Amendment. As a result, Green, representing himself, successfully challenged his conviction and obtained a certificate of innocence in June 2022.

In 2014, a Virginia jury convicted [David Kingrea](#) of a sex crime involving the 10-year old son of a former girlfriend. Years later, the child, by then 22 years old, recanted his prior false testimony. He admitted he fabricated the allegations because he wanted 'revenge' for 'whippings' Kingrea gave him. Kingrea was exonerated in 2022 after a judge found the recantation credible.

In 2020, [David Weaver](#) had been in jail for more than 16 months when he pled guilty to cocaine trafficking, despite his claim of innocence, and was sentenced to 35 months to 51 months in prison. [Curtis Logan](#) also pled guilty to a counterfeit drug charge while in jail in 2020 and was sentenced to probation. Both were arrested by the same officer relying on the same confidential informant in controlled drug buys. Logan was exonerated in 2020, and Weaver was exonerated in 2022 based on the informant's history of planting fake drugs on suspects.

We also entered 24 exonerations from 2003 that are part of a [Groups Registry case from Tulia, Texas](#), involving a corrupt sheriff's deputy whose false arrests led to a total of 35 men and women falsely convicted of drug charges in 1999. The other 11 members of this group were entered in May.

The Tulia cases, while nearly 20 years old, reflect our commitment to entering all cases that qualify for inclusion in the Registry and for chronicling the systemic misconduct that infects so many wrongful convictions.

The new Tulia defendants are: [Leroy Barrow](#), [Troy Benard](#), [Michael Fowler](#), [Jason Fry](#), [Vickie Fry](#), [Willie Hall Jr.](#), [Mandrell Henry](#), [Denise Kelly](#), [Eliga Kelly](#), [Calvin Klein](#), [Joseph Marshall](#), [Laura Mata](#), [Vincent McCray](#), [Daniel Olivarez](#), [Kenneth Powell](#), [Benny Robinson](#), [Finaye Shelton](#), [Yolanda Smith](#), [Romona Strickland](#), [Timothy Towery](#), [Kareem White](#), [Kizzie White](#), [Alberta Williams](#), and [Michelle Williams](#).

interrogated, Churaman was not allowed his mood disorder medication; detectives repeatedly falsely told him others had implicated him and that his refusal to confess endangered his mother and showed a lack of love for her. After hours of insisting he was innocent, Churaman confessed. At trial, the judge erroneously refused to allow the defense to present expert testimony that his purported confession was false and unreliable. Based on that ruling, he was granted a new trial, and in 2022, the charges were dropped.

On January 12, 2017, when [Jessie Laudig](#) registered as a sex offender, he said he was living in a blue tent with a silver tarp at "98 South Koweba/the Jungle Right side of parking lot." Shortly thereafter, Marion County, Indiana prosecutors alleged that he violated the sex offender registration law by not registering again on January 20, 2017. In 2018, a judge convicted Laudig. An appellate court set aside the conviction, ruling Laudig's tent in the Jungle was a principal and not a temporary residence so weekly registration was not required. In 2022, Laudig was able to demonstrate his actual innocence and was awarded \$34,521 in state compensation.

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