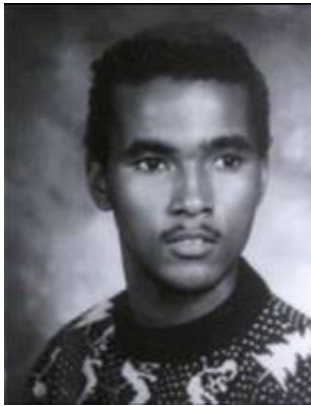


Reggie Clemons on Death Row in Missouri: A Case of Reasonable Doubt

Race, Ineffective Counsel, Police Brutality and Prosecutorial Misconduct Characterize a Classic Case of Reasonable Doubt



Reggie Clemons is a 37 year-old African-American man sentenced to death in Missouri after an unfair trial biased in favor of execution. There are many significant and troubling questions about who committed the crime for which Reggie was sentenced to death. Reggie's case is filled with many injustices, including police brutality, gross prosecutorial misconduct and ineffective defense counsel.

Reggie was sentenced in connection with the 1991 murder of two young women, who drowned after plunging from the Chain of the Rocks Bridge into the Mississippi River. At the time of his arrest, Reggie was a teenager with no criminal history, living with his family in suburban St. Louis and studying to become a mechanic. He was among a group of four youths (all teens except one) who encountered the victims and their cousin, Thomas Cummins, on the Chain of the Rocks Bridge. Even though prosecutors conceded that Reggie neither pushed the women nor planned the crime, he was convicted on the theory that he was an accomplice. There was no physical evidence linking Reggie to the crime for which he received the death penalty: no fingerprints, no DNA, no hair or fiber samples.

THE POLICE INVESTIGATION

The police charge the victims' cousin, Thomas Cummins, with the crime but drop the charges and instead target three black teenagers.

The police first arrested Thomas Cummins for the crime. Cummins called police to the scene and told them he and the Kerry sisters had driven to the abandoned bridge to look at graffiti on the bridge deck. Cummins said that while on the bridge, he and his cousins had met four male youths, three blacks and one white. He claimed that the youths had raped his cousins and robbed him. Thereafter, Cummins stated, one of the youths pushed the sisters off the bridge into the river, and he was ordered to jump in after them, which he did. Cummins claims that he eventually swam to the Missouri shore where he hailed a passing truck driver. But Cummins had no injuries and his hair was clean, dry, and neatly-combed. The police and the Coast Guard were skeptical of Cummins's story. After consulting with the Missouri Water Patrol and the U.S. Coast Guard, the police doubted that Cummins could have survived — at least without serious injury — the fall, which they estimated at 80 feet, into near-freezing water with rough surf and a

strong current. According to the Coast Guard, "to accomplish the feat that [Cummins] claimed to have done, i.e.: jump into the river from the bridge, swim against the strong current and through the extremely strong whirlpool to reach the Missouri bank, would be extraordinary." The police noted that "there had been several changes in Thomas' statement as to what actually took place on the bridge." Police skepticism grew after Cummins took a lie detector test and his answers were found to be deceptive. When Cummins's father, Gene, was given his son's polygraph test results, he told police that "he was afraid of that," adding that when Thomas was an adolescent he would concoct elaborate stories. Gene Cummins later told the police that "he was bothered by the feeling that Thomas was not telling the truth." Thomas Cummins eventually implicated himself in the death of his cousins, stating that the two women had fallen from the bridge as a result of an altercation that began after he made a sexual advance toward one of them. The police arrested and charged Cummins with the murder of his cousins.

The arrest of Reggie Clemons. On April 7-8, 1991, Reggie and co-defendants Antonio Richardson, Marlin Gray and Daniel Winfrey were arrested for the murder of the Kerry sisters. The police traced a flashlight found on the bridge to 16 year-old Antonio Richardson. After initial denials, the police obtained a statement from Richardson in which he implicated himself and three other local youths: Daniel Winfrey, Marlin Gray and Reggie. Cummins was subsequently released from police custody.

Reggie was beaten by the police and coerced into making a statement. Two police detectives picked up Reggie, without a warrant, at his home in suburban St. Louis and took him to police headquarters for questioning. Although Reggie asked for an attorney, he was denied one. Instead, Reggie was subjected to several hours of threats and police beatings. He was slapped, punched in the head, choked and beaten about the chest. As a result of these beatings, Reggie's face became visibly swollen. After five hours of violent interrogation, Reggie made a coerced statement in which he admitted to the rapes but denied pushing the girls off the bridge. He was subsequently arrested and charged with rape and murder, although the rape charges were dismissed. At his arraignment, a state judge saw that Reggie was injured and sent him to the hospital.

Cummins later retracted his confession, saying that he had been beaten by the police and coerced into a confession. Like Cummins, Reggie and his co-defendant, Marlin Gray, claimed that they had been beaten and threatened by the St. Louis police and were coerced into giving scripted confessions. While Cummins was released and eventually settled his police brutality lawsuit with the City for \$150,000, Reggie and Marlin Gray's allegations of police brutality were ignored. Instead, they were charged with a capital crime and ultimately sentenced to death.

THE INADEQUATE DEFENSE

Inexperienced lawyers provide ineffective counsel.

Reggie's trial counsel was grossly ineffective. The attorneys who agreed to represent Reggie were a couple who had been married and had recently divorced. They had little death penalty experience and did hardly any pre-trial investigation. Six months prior to trial, the lawyer who was responsible for conducting all of the pre-trial investigation moved to California and took a full-time job at a corporation doing tax work, and worked at her new job and other cases during the remaining pre-trial period of Reggie's case. Neither Reggie nor his family was told of this move until a week after it occurred. Prior to the trial, the lawyer only made six trips to Missouri, dividing her time between Reggie's case and approximately ten others, including a civil rights case which went to trial. Reggie's mother, Mrs. Vera Thomas, who acted as his liaison with his lawyers, found her essentially unavailable for consultation.

Reggie's second lawyer was so unprepared that he did not even read the police reports or interview any witnesses prior to the trial. Although co-defendant Marlin Gray had been tried in October 1992 by the same prosecutor who would try Reggie's case, using the same witnesses, Reggie's lawyers did not even obtain a transcript of testimony in the Gray case until several days after Reggie's trial began.

As a result of their ineffectiveness, Reggie's lawyers failed to uncover facts and evidence that would have been uncovered by minimally competent defense lawyers. At the sentencing phase, they failed to prepare, investigate and develop evidence. In fact, they were so ill-prepared that Reggie's mother, who is not an attorney, was asked to prepare written questions to be asked of certain witnesses. If Reggie's attorneys focused the amount of attention that a reasonably competent attorney would have on this stage of the proceedings, a strong case for life could have been presented. It was not. During the trial Reggie's counsel even stopped making objections, claiming that they became tired of being overruled.

Eventually, one of Reggie's lawyers would have his law license suspended after repeatedly being disciplined for neglecting his duties to his clients.

THE UNFAIR PROSECUTION

Race and unfairness undermine the pursuit of justice.

Nels Moss engaged in a pattern of prosecutorial misconduct that deprived Reggie of his Constitutional rights. The prosecutor's goal was to secure as many convictions as possible, and he ultimately obtained death sentences against all three African-American defendants, offering a plea to the only white defendant in the case. He improperly struck qualified prospective jurors, leading to the creation of a jury predisposed to convict Reggie and sentence him to death. Moss prevented a key witness from testifying in Reggie's favor by threatening him and intimidating him into refusing to testify. Reggie was tried by an almost all white jury, after Nels Moss used tactics to remove African-Americans from serving on the jury. The trial judge noted that

his past experience in St. Louis had involved an almost equal proportion of African-Americans on juries, and he recognized that a disproportionate number of African-Americans had been stricken from Reggie's jury.

The State presented only three pieces of evidence that in any way linked Reggie to the crime. The first was the testimony of alleged victim Thomas Cummins, who had earlier confessed to the crime himself and who could not attribute any specific wrongdoing to Reggie. The second was the testimony of Daniel Winfrey, the one white co-defendant, who sought and was granted a plea bargain in exchange for his testimony. Winfrey had made prior inconsistent statements to the police and in Gray's trial and told a jailhouse friend that he would lie to obtain a plea bargain, but this was kept from the jury by Moss's tactic of witness intimidation. Finally, the State offered Reggie's audio taped statement that was obtained under coercion after being beaten and threatened by the police and in violation of his constitutional rights. Nowhere in the statement does Reggie admit to having committed the murders.

Moss chose to conclude this highly publicized, racially charged case with inflammatory appeals to the jury's emotions and religious sensibilities. Moss misrepresented the evidence, including falsely suggesting that Reggie had a history of criminal activity. Moss even flouted a specific court order by inflaming the jury with an improper and highly prejudicial comparison of Reggie — who had no criminal record or history of having harmed anyone — to two notorious serial killers.

So severe was the prosecutorial misconduct in Reggie's case that the prosecutor was held in criminal contempt and fined for his conduct. Two federal courts later found that Moss's actions in Reggie's case were "abusive and boorish." The misconduct on the part of the prosecutor was not isolated: a recent study by the Center for Public Integrity found Moss to be one of the most criticized prosecutors in the country who repeatedly broke the rules.

Many of Reggie's claims have never been heard in a court of law because of procedural rules that have barred the presentation of important evidence. Notwithstanding, the evidence that has been examined led two federal judges to vote to overturn his death sentence and find that Reggie was denied a fair trial.

REGGIE TODAY

A loving father and son and productive inmate.

Reggie is the loving father of a teenage daughter, with whom he corresponds on a regular basis. He is in regular contact with his family, including his parents, Vera and Pastor Reynolds Thomas. While in prison, Reggie has worked hard to remain a productive member of society. He has held several jobs, including a position in the law library. While on death row, he has been actively involved in a suicide watch program (that aided prison officials in monitoring other inmates), and has become a member of the NAACP. Reggie has pursued intellectual endeavors as well — he obtained his General Equivalency Diploma while on death row, and is a writer of poems and fiction and the creator of a number of inventions.



Reggie recently received an execution date of JUNE 17, 2009, but a federal appeals court issued a stay of execution until a future court decision. He needs your help more than ever!

Please ACT NOW to help Reggie.

Reggie Clemons with his mother, Vera Thomas.

ACT NOW! Support the Justice for
Reggie Clemons Campaign!

For more information about how you can help, call (314) 367-5959 or
visit www.justiceforreggie.com