

FREE ROB WILL

Innocent on Texas Death Row Information Pack



Rob Will was convicted and sentenced to death in 2001 for a crime he did not commit. More than 18 years later, he is still fighting for his life on Texas Death Row, in one of the most notorious prisons in America: the Allan B. Polunsky Unit. It is essential for awareness to be raised for this miscarriage of justice as Rob comes to the end of his appeals process. After being wrongfully convicted for half of his life, and surviving the most inhumane conditions possible, please help us achieve justice and bring Rob home.

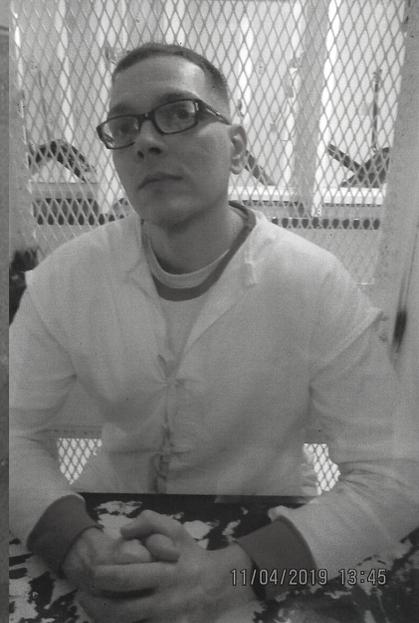
"On top of considerable evidence supporting Will's innocence and the important errors in the trial court, there must also be addressed the absence of eyewitness testimony or strongly probative forensic evidence ... only circumstantial evidence supports Will's conviction and death sentence."

- U.S. Federal District Judge, 2012

FACTS OF INNOCENCE

Rob was convicted in the fatal shooting of a police officer based on circumstantial evidence, despite the fact that :

- Police radio logs prove he had been searched and handcuffed prior to the murder
- All forensic test results were inconsistent with Rob being the shooter
- Numerous different witnesses signed sworn affidavits that Rob's co-defendant confessed to the murder
- Several people witnessed the co-defendant at the apartment covered in blood
- County jail records show the co-defendant attempted to put a "hit" on Rob prior to trial
- The co-defendants finger prints, shoe casts, and other forensic evidence were never tested. His clothes were tested but due to thorough bleaching, no DNA could be extracted from the blood stains on them.



ABOUT ROB

Rob Will lives in a 6 x 10 foot cell for up to 23 hours a day, enduring conditions of intense loneliness and deprivation. One of the only times he leaves his cell is for visitation, which is conducted through glass on a telephone. No human contact is allowed. He is allowed one hour per day for recreation, in a larger indoor or outdoor cage, where he cannot see the sky or feel the sun. He has no access to the internet or television. His only escape is his radio, books, and letters from his friends on the outside.

Rob was born in Harris County, Texas in June of 1978. Raised in a very turbulent and abusive household, with a father who was a heroin addict, Rob's early years were far from idyllic. He was physically and sexually abused from a very young age throughout his childhood. When Rob was ten years old, his father was murdered. Prior to his wrongful conviction, he was studying Child Psychology at Houston Community College because he wanted to help children who, like himself, were experiencing a hard and painful life.

It is common for those held in such harsh conditions to lose hope altogether, however, that has not been the case with Rob. Despite the depravity of inhumane conditions he has endured, Rob has remained very positive about his chances of achieving justice.

During his incarceration, he has educated himself on a wide range of subjects, expanded his spirituality, and broadened his creative horizon. Rob has become a certified yoga instructor, published writer, and a passionate, self taught artist. Rob creates extraordinary artwork given limited supplies Texas Death Row provides. His artwork has been displayed in multiple solo shows in both the U.S. and Europe; in Germany, the United Kingdom, Texas and most recently, New York City in two solo installations produced by Jason Flom. He also completed a Paralegal distance learning course in 2017, which took a high level of concentration in the environment he lives in. He has high hopes of working to help fix the system that wrongfully convicted him so other people don't have to experience the same horror he has been living through for the last 18 years.

Rob has published writings in the following:

[Huffington Post](#)

[SolitaryWatch.com](#)

[Upon this Chessboard of Nights and Days:](#)

[Voices from Texas Death Row](#)

"This place, this prison, this death camp exists on a foundation of lies, deceit, and half-truths. But with art, we can tell our own truths and let the power of artistic expression be a true revolutionary act."

- Rob Will



SUPPORT | PRESS

Rob has had a variety of support and press throughout the years of his wrongful conviction:

Support:

- International support from 45+ countries
- Represented at: Innocence Matters! A Speak Out in Denton, TX in 2010
- Dedicated radio shows in Texas, the U.K. (Link: [BBC Interview](#)) and Belgium
- Art exhibition fundraisers in the U.K. , Germany, Texas, and New York City
- Benefit concerts in the U.K., Germany and Belgium
- Social media support: @freerobwill - [Facebook](#) • [Instagram](#) • [Twitter](#)

Rob has a growing list of notable supporters such as:

- **Dr. Phil McGraw, Ph.D:** Host of TV's #1 daytime talk show
- **Jason Flom;** CEO of Lava Records, Founding Board Member of The Innocence Project, *Wrongful Conviction* Podcast Host, Author, Philanthropist
- **Damien Echols;** Arkansas Death Row Survivor, Author, Spiritual Teacher,
- **Jordan Wynn;** Los Angeles based Film Producer
- **Leonor Anthony;** Miami based International Artist / Activist
- **James Earley;** U.K. based Artist, winner of the prestigious London Biennale
- **Peter Tunney,** NYC based International Artist

"This man is kind, thoughtful and brilliant. He would be a tremendous asset to free society. I am committed to helping bring him home to his son and grandson, where he belongs."

- Jason Flom

Press:

2012	2015	2018	2019	2020
The New York Times	ListVerse	The Houston Chronicle	Free Rob Will	Rolling Stone
The Houston Chronicle			Free Rob Will II	Free Rob Will III
The Texas Tribune				NowThis News

"Rob Will has been sitting on Texas Death Row for over 18 years for a crime he did not commit. That represents over half of his life and the most tragic thing about it is that it seems almost everyone involved for the State, will straight up tell you they believe he was wrongfully convicted.

The veracity of the evidence supporting his innocence is not even challenged or in question. The mismanagement of this case and the attendant evidence is nothing short of monumental. Having been trained in forensic psychology and having spent many years in the litigation arena, I am appalled.

The standard for taking someone's freedom in America is and should be extremely high. The standard for taking someone's life in America is and should be astronomically high. That standard has not even almost been met in the case of Rob Will. Enough is enough and too much is too much. It's time to set this matter straight and send this innocent man home." - Dr. Phil McGraw, Ph.D



CASE SUMMARY

On the morning of December 4th, 2000, 22-year-old Robert Will, his co-defendant and others were stripping cars for parts in a suburban Houston neighborhood. When two Harris County Deputies suddenly arrived, the men ran off in different directions. Deputy Hill caught Rob, searched him and cuffed his hands behind his back. The Deputy radioed into the station that he had Rob in custody; less than one minute later shots were heard on the radio. There was no sound of an altercation.

The other Deputy had been chasing and lost a male figure when he heard the sound of gunfire. During Rob's trial, the Deputy's partner was unable to identify the male figure he was chasing. Once Rob was handcuffed, his co-defendant shot the Deputy wounding Rob in the process. The Harris County Sheriff's Department Gunshot Injury Chart shows a transverse gunshot wound to the back of the head which directly indicates that the shooter was behind the Deputy to his left.

Rob's co-defendant is the son of a prominent Houston police officer; therefore, he always kept handcuff keys on his person. He was able to free Rob from his handcuffs, both men then fled in different directions. Rob ran to a nearby parking lot where he ordered a woman out of her car and drove away.

“4119, I’VE GOT ONE IN CUSTODY”

At 6:36 am on December 4th, 2000 the Harris County Deputy radios into dispatch, “4119, I’ve got one in custody”. “4119” refers to that specific Unit. The prosecutor, Charles “Chuck” Rosenthal, Jr., contends that Rob shot the Deputy one minute after this call was made. There was no sound of altercation on the recording, only shots fired approximately one minute after this call was made. “Custody” is different from detaining an individual. “Detaining” would imply the Officer may simply be holding an individual for questioning (with or without restraints). However, standard police training dictates that a suspect in custody is always restrained. When a suspect is handcuffed, it’s standard operating procedure for the officer to search that individual for weapons prior to cuffing them. The two responding officers came upon and chased two suspects; Deputy Hill pursued Rob and his partner allegedly pursued and lost the co-defendant. However, the prosecution claims the co-defendant would not have had time to reach Deputy Hill as there was only eight seconds between his partner losing sight of him, some 470 feet from the scene of the shooting, and the first shot being fired.

At trial, Deputy Hill's partner agreed that he never made a positive identification of the co-defendant and that he could have been chasing any one of these individuals. But if indeed he was chasing the co-defendant, the radio transcript and his own testimony at trial show that the co-defendant would have had, at the very least, 26 seconds, and not the 8 seconds' prosecutors claim, to reach the scene and shoot Deputy Hill.

TIMELINE/EXCERPTS FROM RADIO TRANSCRIPT:

- At 6:37:02, Deputy Hill's partner states "He's running along the bayou."
- Rob is apprehended.
- 43 seconds later at 6:37:45, Hill says "4119, I've got one in custody."
- 18 seconds later at 6:38:03, Hill's partner asks "19, I got any units in route to me?"
- 26 seconds later at 6:38:29, first shot fired as heard over the open radio.

Deputy Hill's partner testified at trial:

"I didn't catch the second man, lost sight of him, but he was on the east side. I saw him disappear around a tree. I asked [the] dispatcher if any other units were en route and where I had lost sight of him."

He stated he had lost whoever he was chasing before he radioed in and inquired about additional units en route to him.

If it was the co-defendant that he was pursuing, the co-defendant would have had from at least 6:38:03 (when the deputy radioed in) until 6:38:29 (when the first shot was fired) to reach Hill - a total of 26 seconds. Prosecutors claim he lost sight of the co-defendant 470 feet from the scene of the crime by the bayou, near the bridge, a young fit man, as the co-defendant was, could easily run 470 feet in 26 seconds. Middle school students routinely run 100 meter hurdles in less than 20 seconds! In fact, 26 seconds is the minimum amount of time the co-defendant had to reach Deputy Hill. He likely had much longer. The last transmission the Deputy heard while he still had the co-defendant in sight occurred at 6:36:45 am: 104 seconds before the shooting. Therefore, the record shows that the co-defendant had at least 26 seconds and up to 104 seconds to reach and kill Deputy Hill.

The Deputy's partner did state that he lost the suspect when he "disappeared around a tree". The suspect must have been near the wooded area and not on the bayou or near the bridge by Darbydale. As trial testimony and crime scene photo below shows, this is a flat area completely devoid of trees and bushes. There were no trees for a suspect to disappear behind.

He also stated at trial:

"(I) made it to the bayou, looked toward the bridge at the end of the street to the east then started making my way back to where I lost sight of the suspect."

Thus, he did not lose the suspect on the bayou or near the bridge, but closer to the actual crime scene, where there were trees. Taking all these facts into consideration, the co-defendant would have in fact had to run less than 470 feet, as he was not last seen on the bayou. He had more than 26 seconds to reach Deputy Hill, meaning the co-defendant could have easily been the shooter.



In addition, according to the K-9 Unit report, a Harris county bloodhound tracked the co-defendant's scent all the way back to the scene of the murder. The reporting detective noted that the bloodhound wanted "to track all of the way to [Deputy Hill's body], but was not allowed to enter the inner security perimeter".

FORENSIC EVIDENCE

The two witness statements the deputy's partner gave directly after the crime differed from his trial testimony and when he took the stand to testify, he offered several different and inconsistent versions of the events of that day.

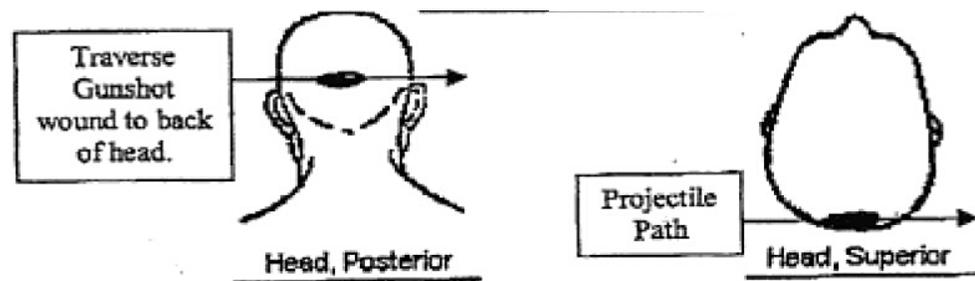
- Prosecution's expert witness contradicting the thesis that Rob would be the shooter.
- According to the prosecution's ballistic expert witness, the first shot was fired from a distance of less than 8 inches.

If the first shot took off Rob's knuckles, as they claim, and it was shot from less than 8 inches, Rob's blood and DNA would have been present at the site of the wound and on Deputy Hill's clothing. This was not the case. Further testimony stated that a trail of Rob's blood was found leading from the crime scene, confirming that Rob was bleeding profusely. If he had shot his own left hand less than 8 inches away from Deputy Hill, a significant quantity of Rob's blood should have been found on Hill's clothing, especially if Rob had stood over Hill as he lay on the ground and shot him repeatedly.

Only one small drop of Rob's blood was found on the tip of Deputy Hill's boot. No other blood was present. Also, at close range, Rob would have been unable to avoid getting blood splatter from Deputy Hill on himself and all over his own clothing.

Forensic Pathologist, Dr. Adams', testimony does not support the Prosecution's theory, that Rob shot Deputy Hill from the ground and then fired additional shots when Deputy Hill was on the ground. At trial he stated the following with regard to one of Deputy Hill's gunshot wounds:

"This would be consistent, with the shooter being to the side of the Deputy or the Deputy's head being turned away from the shooter. It would be consistent with both those scenarios. It would be consistent if they were approximately the same size and in the standing position...it would be possible that if the defendant and victim were standing face to face being handcuffed someone could approach from the left and shoot. That would be consistent with the entry and exit wounds. Someone could have been hiding in the bush and approached from the left side."



Ex. 24, Harris County Medical Examiner Report ("State Autopsy Report"), at 19.

This testimony supports Rob's version of events and throws into doubt the prosecutors' version, which supposes the first shots were fired while Rob was on the ground, and the remainder of the shots were fired as Deputy Hill lay on the ground.

GUN SHOT RESIDUE (GSR)

The results for all of Rob's GSR tests contradicted Rob being the shooter. The co-defendant's hands were neither bagged nor tested for GSR.

The most important fact regarding the GSR testimony and the test results is that Rob was shot in his left hand. It is important to note that he is right-handed. His right hand tested negative on both the hand itself and the glove he was wearing. This proves that the gunshot injury was not a result of Rob shooting himself. It is also highly unlikely that he was shot by Deputy Hill, because his gun was in the holster and tests show his gun had not been fired.

It should be noted that a small amount of GSR was found on Rob's left hand. However, the state forensic examiner confirmed at trial that the residue on Rob's left hand glove was "*almost certainly*" as a result of being shot in the left hand.

THE CLOROX BOTTLE: AN INCOHERENT CONVICTION PIECE

Prosecutors claim that: "Will also apparently doused himself with bleach while driving away, which would only make sense as an attempt to clean himself (of blood, gunshot residue or some other trace of the murder)."

A Clorox bleach bottle was removed from the vehicle that Will had stolen. The Deputy who conducted investigations at the scene of the arrest stated:

"We did remove a Clorox bottle that had what appeared to be gasoline inside. Deputy Kuhlman took that out and brought a canister, a gas canister, and emptied gas [from the Clorox bottle] into it... We kept the Clorox bottle".

The Clorox bottle was in fact filled with gasoline not bleach. The gasoline from the Clorox bottle was emptied into a gas canister by a Deputy, not Will, and after they had emptied the Clorox bottle, the officers retained the bottle. Therefore Will did not and could not have "doused himself in bleach" as Prosecutors claim "as an attempt to clean himself (of blood, gunshot residue or some other trace of the murder)", as there was no bleach in the first place.

Will's gloves were tested and analysed and there was **no evidence** of gasoline or bleach on them, making it extremely unlikely that Will had handled the bottle. Forensic experts also confirmed by testimony that the gloves had not been the subject of **any** cleaning process, which would have removed any such evidence.

INFORMANT TESTIFIES AS TO THE CO-DEFENDANT'S GUILT

Four inmates came forward and stated that when they were housed together with the co-defendant at the Harris County Jail, he had confessed to them that he had murdered Deputy Hill. He also provided details about the crime that were not publicly known or available. They also stated that Rob had always maintained that he was innocent. Three of these four inmates were intimidated into not testifying at trial on Rob's behalf, only later providing affidavits.

During the trial, under direct examination between one of Rob's lawyers and a former inmate of the Harris County Jail, the following exchange took place:

Q. "What did he tell you?"

A. "I don't remember exactly what he [the co-defendant] told me what happened, but I remember he said that he [the co-defendant] had no choice but to shoot the cop. It was instinct and he ran..."

Q. "Did he [the co-defendant] tell you anything about the type of weapon that was used?"

A. "It was a big 40, 40mag, something like that."

Q. "Did he tell you anything about his father?"

A. "He said his father was a police officer and that it was really nothing anybody could do to him."

Note: The murder weapon was a 40-caliber gun.

Another inmate stated:

“I was brought to Court to testify. I was put in the Court’s holding cell area, only a few cells away from [the co-defendant]. [The co-defendant] threatened me and said I’d better not testify about what he told me. I told him I wasn’t going to.”

The co-defendant had no reason to be at the Court’s holding cell area that day; he wasn’t due to testify at any trial and therefore should not have been at the Courts.

The trial record indicates that another inmate refused to testify because deputies severely beat him and told him not to testify. This inmate claimed that he *“told them [Lawyers] that police officers or Deputies broke his arm because he was coming to Court to testify”*.

Testimony before the Court shows his arm was broken and a fresh cast was present.

Another inmate informant explained that the night after he had initially spoken to Detectives, an inmate known to be dangerous was moved into the cell next to him. He attempted to intimidate him as the co-defendant previously had:

Inmate: *“I think it was Wednesday when I came to talk to ya’ll man. And they moved him up there. And he was asking me about it, hey man, so, what? You’re gonna snitch on this and tell about this case and shit, you’re a fucking snitch”*.

Detectives: *“You realize that there is always the possibility that you might have to testify in Court with regards to these statements”*.

Inmate: *“I told [Rob’s lawyer] that I didn’t really want to... I mean, cause if I go to prison or something and you know, say [the co-defendant] gets charged with it, he goes to prison. I mean he’s got a lot of friends; you know he says he’s Puerto-Rican. So, he’s got a lot of friends, you know what I’m saying, and I’m trying to come home alive, man... And he done told me, my dad’s a cop and I can have you taken care of and I have pull and I have this and why do you think I am getting charged with a lesser crime?”*

The fourth inmate informant was also a victim of intimidation but testified regardless of this.

An individual who witnessed the intimidation of this inmate informed Rob’s lawyers that he *“was handcuffed to a bench in the back of the courtroom, by himself, on the “witness bench”*. An inmate that was not wearing handcuffs, who he did not know, came up to him and began beating him and screaming, *“You fucking snitch, you better not testify!”*

FINGERPRINTS

Fingerprints were taken from items at the crime scene, including the shell casings of the bullets. Also tested were the items found in Rob’s utility closet at his apartment, which the co-defendant left there. These items included the murder weapon’s holster, additional bullets, a loaded .38 caliber Smith and Wesson revolver, two shotguns, a bulletproof vest, a dagger, and ammunition. A photograph of the co-defendant wearing the bulletproof vest and holding one of the firearms was admitted into evidence as proof of the co-defendant’s ownership of these items.

Rob’s fingerprints were not found on any items at the crime scene, in the utility closet or on any items deemed to be associated with the murder of Deputy Hill. The co-defendant’s fingerprints were never submitted for comparison.

DNA EVIDENCE

All of Rob’s clothes were tested for DNA. The only DNA found to be present was that of Rob himself. One of Rob’s gloves contained both his DNA and that of an “unknown” donor which was not a match with either Rob or Deputy Hill.

No other DNA specimens, including the co-defendants were ever submitted for comparison.

The co-defendant’s pants were tested after his father handed them in to police. The pants were stained with blood but Forensic Services were unable to extract any DNA as the pants had been bleached, destroying all evidence. A fact previously confirmed by witnesses at Rob’s apartment.

WITNESS TESTIMONIES THE NIGHT OF THE MURDER

After being refused access to a friend's home due to his bloody state, the co-defendant ended up at Rob's apartment. Four witnesses were at the apartment when he arrived. In front of two of these witnesses the co-defendant confessed to shooting a police officer and accidentally shooting Rob. Rob's co-defendant proceeded to remove his bloody clothes, wash and pour bleach over them to destroy any DNA evidence. Witnesses testified that he took the holster, gun case and spare bullets of the murder weapon and placed them in an outside utility closet with a note that read: "Rob, here's my stuff". The co-defendant signed it with the name of a mutual friend of both Rob and his.

Several people witnessed the co-defendant at the apartment covered in blood and performing all of the above stated actions that day. All have now provided sworn affidavits.

Meanwhile, Rob drove the car to Brenham, Texas where he was fully cooperative with the police officer who arrested him. His hands and gloves were bagged for testing, and his wounded left hand was treated.

The co-defendant was subsequently arrested for capital murder but only charged with car theft. Both he and Rob were housed at the Harris County Jail. On December 9th, five days after the murder, the co-defendant's parents brought investigators the clothes he supposedly wore on December 4th, carefully bleached (yet, still stained with blood), washed and folded in a neat pile.

ROB DID NOT CONFESS TO SHOOTING A POLICE OFFICER WHEN HE STOLE THE CAR

During Rob's trial, a witness - referred to as CS - testified that Rob stole her car at gunpoint. CS also testified that, "He said he just shot a policeman". However, during cross-examination with Rob's attorney, it is pointed out that in her initial statement to the police, on/regarding the day of the event, she makes no such assertion. During the day of the murder, and the day her car was stolen, C.S. spoke to no less than **eight police officers**. She was fully aware that an officer had been murdered, yet she did not once mention to anyone that day that Rob made that statement to her when he stole her car.

**In fact, she never once said Rob told her that
"he just shot a policeman" for thirteen months,
until she spoke to the Prosecutors office in preparation for the trial.**

Unbeknownst to defense counsel, on the eve of her trial testimony prosecutors had shown CS "very gruesome and extremely graphic" pictures of Deputy Hill. These photos along with the statement from the detective who told her that the other person arrested with Rob had threatened to hurt her and her family if she testified at trial, no doubt biased her testimony, causing her to recount a statement that the evidence shows was not part of her actual recollection of events.

In addition, a witness who overheard the incident only reported hearing Rob say, "*Get out of the car now!*". This witness did not recount hearing anything about Rob's alleged admission.

CO-DEFENDANT PUTS OUT A HIT ON ROB

New evidence reveals that after the co-defendant was booked at the Harris County Jail, he attempted to have the only witness to his crime, Rob, killed. Jail records indicate that the co-defendant was placed into administrative separation in the Harris County Jail after Deputy Hill's murder because he solicited an inmate and a prison gang to make a hit on Rob. The discovery of this document led to the recent sworn affidavit of the inmate.

Despite having access to these records, the prosecution failed to turn these over to the defense, a clear Brady violation.

The new evidence demonstrates that the co-defendant attempted to have Rob killed because he feared Rob would expose him as the shooter in Deputy Hill's murder. In his sworn affidavit, the inmate also reports that the co-defendant confessed to shooting Deputy Hill and told him he planned to "blame Rob." This confession is similar to at least two other confessions he made to other inmates. A Harris county jail officer also reported that the co-defendant had bragged to her about his involvement three days after the murder.

THE “WALL OF BLUE” AND JUROR IMPARTIALITY

Rob expressed concerns on several occasions regarding the amount of uniformed police officers that were present at his trial on a daily basis. This presence in Court is known by police officers as “the wall of blue,” a tactic often used to influence and/or intimidate the juries of defendants accused of murdering a police officer. During Rob’s trial, there were countless uniformed deputies or police officers displaying badges of mourning sitting with the family of the slain Deputy. These seats were closest to the jurors’ seats.

In December 2001, the Houston Star, a newspaper for local law enforcement personnel, printed the following announcement on the front page:

“The trial of Robert Gene Will II, who was charged with Capital Murder of a Police Officer after the murder of one of our brothers, begins January 7, 2002, in the 185th District. This is a reminder for as many uniformed deputies, that can be there, attend.”

It must be questioned whether having that many uniformed police officers standing arm-in-arm against Rob had a prejudicial effect on the sitting jurors.

When these facts were presented to the Court of Criminal Appeals, it was noted that they: “found no evidence that jurors’ sympathies were susceptible to being swayed by the police presence, such as it would, for instance, if the jurors had close ties to law enforcement.” Meaning, if the jurors had “close ties to law enforcement” they would have in fact been “susceptible to being swayed by the police presence” in the Court on a daily basis.

Three jurors did indeed have “close ties to law enforcement”.

The Voir Dire Transcript provided the following information:

- One juror had friends who were police officers and a brother who was a State Trooper
- Another juror had a friend who was a police officer who had actually been involved with this very case, the Murder of Deputy Hill. This juror also spoke to this officer, who was testifying, during the trial outside of the courtroom.
- A juror stated that a good friend of her husband’s worked with the Houston Police Department

This would have made them already biased in favor of the police even without the addition of a large police presence in the courtroom, which surely could have only added to that bias.

CHARLES “CHUCK” ROSENTHAL, ROB’S PROSECUTOR

The Prosecutor at Rob’s trial was Charles “Chuck” Rosenthal. He was forced to resign in 2008 after being besieged by scandals, including accusations of intoxication at work, sending sexist and racist emails, having an adulterous affair, and deleting over 3,500 emails that were under subpoenas and under court order. D.A. Rosenthal also was aware about the serious problems with the police department crime lab.

Under his watch, three men were exonerated of their crimes, based on shoddy work undertaken by this lab.

During the sentencing phase of Rob’s trial, when the jurors listen to mitigating evidence, and any evidence that points to the possibility of Rob being a future danger to the public, D.A. Rosenthal made the following statement:

“...it goes to the fact that what we really learned from September 11th is that evil exists in this world. If we didn’t know it before, we know it now. And we know the embodiment evil came out and has manifested itself in Robert Gene Will, II.”

On top of the considerable evidence supporting Will's innocence and the important errors in the trial court, there must also be addressed the total absence of eyewitness testimony or strongly probative forensic evidence."

- U.S. DISTRICT JUDGE, 2012

APPEALS

Rob's trial and appeals process were riddled with incompetency on the part of his legal team. His lawyers either had little or no experience in defending capital cases or did not remain on record long enough to accomplish anything of substance. At trial, both attorneys failed to provide Rob with adequate counsel. They did not speak to key witnesses because the investigator they employed was unwilling to locate and interview these people.

Rob's first appeal attorney filed his appeal before even receiving the trial transcripts despite the fact that he was not present at his trial. One appeal attorney filed a brief where two thirds of his brief was "word-for-word identical, right down to the capitalization error on page 17" to one that he had previously filed for another Texas death row inmate, Angel Maturino Resendiz, a notorious serial killer executed in 2006. The brief was only 28 pages, exceedingly short for a capital habeas brief. Both writs failed to mention Resendiz or Rob by name or refer to their trials and listed incorrect conviction dates for both men.

It should be noted that the attorney was suffering from Parkinson's disease and admits he was suffering from the effects of this at the time he was tasked with Rob's appeal. He was later removed from the list of state approved appellate attorneys due to this. However, it was too late for Rob whose chance at habeas appeal had already been destroyed.

Currently, Rob is nearing his final stage of appeals. After his state habeas appeal was denied, Rob moved into the Federal District Court and a new federal habeas attorney was appointed. This attorney filed a woefully inadequate writ which was subsequently denied.

Although issuing a denial the US District Court Judge wrote the following in 2012:

"The questions raised about Will's actual innocence create disturbing uncertainties... This Court does not approach this dismissal lightly. Will has repeatedly and persistently argued that [the co-defendant] killed Deputy Hill... Will has submitted no less than 5 witnesses who have stated that [the co-defendant] confessed to murdering Deputy Hill. Beyond that, the trial court's exclusion of [a] testimony linking [the co-defendant] to the murder was almost certainly error of grave proportion.

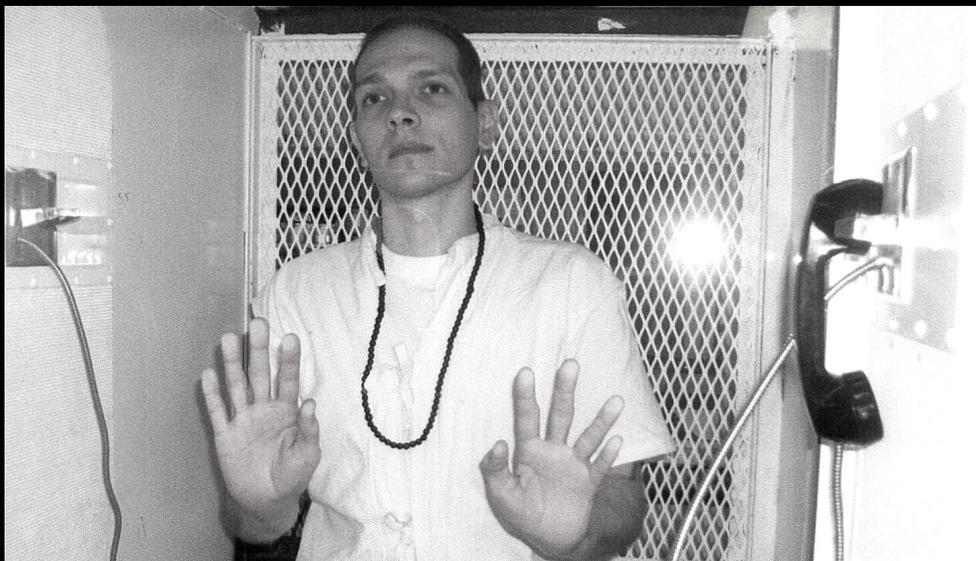
Moreover, as set forth in the Court's Memorandum and Order of May 25, 2010, the presence in the trial courtroom of so many uniformed policemen would have likely justified post-trial relief had the issue arisen on direct appeal rather than in a petition for habeas corpus.

On top of the considerable evidence supporting Will's innocence and the important errors in the trial court, there must also be addressed the total absence of eyewitness testimony or strongly probative forensic evidence."

"With facts such as these, and only circumstantial evidence supporting Will's conviction and death sentence, the Court laments the strict limitations placed upon it.... Within the narrow borders of federal review, this Court has allowed liberal exploration of Will's various arguments. The questions raised during post-judgment factual development about Will's actual innocence create disturbing uncertainties that, under federal habeas jurisprudence, the Court is powerless to address."

The Judge is saying that if by late-stage appeals, no matter what evidence have come forward, there is nothing he can do, and he is procedurally barred from giving and/or adding weight to actual innocence evidence. The following Writ was filed with new counsel covering the evidence in more detail. Click [here](#) to view full version. In 2012, the Supreme Court issued a ruling that resulted in Rob's case being remanded back to earlier courts for consideration.

On September 26th, 2018, the District Court unfortunately reconfirmed that despite "the troubling possibility of Robert Will's actual innocence", under the Anti-Terrorism and Effective Death Penalty Act (AEDPA, 1996), the court did not have the jurisdiction to consider Rob's petition for an Emergency Motion for Relief.



This has followed several years of back and forth through the courts to consider the Supreme Court's ruling in Trevino v. Martinez and Maryland v. Brady, and their applications to Rob's case in regards to ineffective assistance of counsel and Prosecution hiding evidence that could have resulted in a different decision from the jury.

In a rare and sympathetic four-page order, the Judge repeatedly voices his concerns regarding Rob's innocence but reiterates that under the AEDPA, he does not have the jurisdiction to grant relief:

"This Court has repeatedly expressed deep concern for the factually complex insinuations that Will may be innocent of the crime for which he faces a death sentence. The Court is particularly sensitive to the absence of any direct evidence of Will's guilt, and the number of witnesses who aver that another man confessed to the underlying murder."

The order can be viewed in full [here](#).

MOST RECENT DEVELOPMENTS

The 5th Circuit Court of Appeals released its decision regarding Rob's case on the 5th August 2020. In the decision, the court stated: ***"We affirm the district court's transfer order and grant the motion for authorization. Will's arguments may not prevail, but he should be allowed to make them."*** The order can be viewed in full [here](#).

The three requirements in order for the court to grant a successive appeal are below. The court agreed all of these had been met:

- His Brady claim was not presented in a prior application
- The factual predicate for the Brady claim "could not have been discovered previously through the exercise of due diligence"
- He can establish by "clear and convincing evidence that, but for [the Brady] error, no reasonable fact finder would have found" him guilty

The 5th Circuit Judges stated:

"As the district court stressed, there is "considerable evidence supporting Will's innocence," including "the total absence of eyewitness testimony or strongly probative forensic evidence." There were "disturbing uncertainties" of Will's culpability even before the introduction of the withheld evidence. Now, with the new evidence in hand, the uncertainties are even more disturbing. Based on the probative value of the previously withheld evidence, Will has made a sufficient showing to proceed to a fuller review. He's demonstrated it is reasonably likely that, after hearing the new evidence alongside the old evidence, every reasonable juror would have some level of reasonable doubt."

PLEA FOR HELP

The clock is ticking for Rob's fight for justice and to save his life. Media coverage, legal help, funds and support are desperately needed at this time. According to recent studies, it's estimated 10% of inmates on death row are likely innocent. Without intervention, this will undoubtedly end in the execution of an innocent man.

Please consider joining us in fighting for Rob's life.

CONTACT INFORMATION

If you would like to get involved or cover Rob's story, please e-mail us at info@freerobwill.org.