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# DEATH PENALTY INFORMATION CENTER

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FOR IMMEDIATE RELEASE

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## DEBRA MILKE EXONERATED FROM ARIZONA DEATH ROW: USA's 151st Death-Row Exoneration

The Maricopa County, Arizona, Superior Court today formally dismissed all charges against Debra Milke, making her the 151st former death-row inmate in the United States to have been exonerated since 1973. Milke had been convicted and sentenced to death for allegedly hiring two men to murder her four-year-old son. She has consistently maintained her innocence of the charges.

Milke, who spent 23 years on death row, was convicted based upon the uncorroborated testimony of a Phoenix police detective that she had confessed to him shortly after the murder. The detective had an extensive, but undisclosed, history of misconduct, including improper interrogation practices, lying under oath, and accepting sexual favors in exchange for leniency. Her conviction was reversed by the United States Court of Appeals for the Ninth Circuit as a result of prosecutorial misconduct for failing to disclose this evidence. In December 2014, the Arizona Superior Court issued a ruling barring county prosecutors from retrying Milke, citing what it called "egregious" police and prosecutorial misconduct. Last week, the Arizona Supreme Court declined to review the prosecutor's attempted appeal of that decision.

Milke is the first person exonerated from death row in 2015. She is the ninth person exonerated from Arizona's death row and the second female death row exoneree in the United States. Last year, a total of seven men who had been sentenced to death in four separate states were exonerated, with their exonerations coming an average of 30 years after the murders for which they were wrongly convicted.

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- Glenn Ford, who had served more than 30 years on Louisiana's death row, was unconditionally released after prosecutors received "credible evidence" that he "was neither present at, nor a participant in" the 1984 robbery and murder for which he was convicted. The lead prosecutor in his case offered an emotional apology last week.

- Henry McCollum and Leon Brown, two intellectually disabled brothers who were teenagers when North Carolina police coerced them into signing false confessions to the rape and murder of an eleven-year-old girl, were freed after DNA evidence uncovered by the North Carolina Innocence Inquiry Commission identified another man who had also committed a similar murder as the killer. Justice Scalia had twenty years earlier singled out McCollum's case as a prototypical example of when the death penalty is justified. McCollum had been on death row for 30 years.

- Ricky Jackson, Wiley Bridgeman, and Kwame Ajamu were exonerated in Ohio after having been convicted in 1975 based upon the testimony of a 12-year-old boy who later recanted his testimony and indicated that he did not witness the crime at all. No other evidence linked the men to the murder. Jackson served an astonishing 39 years in prison, the longest a former death-row inmate has been incarcerated prior to exoneration.

- Carl Dausch was exonerated by the Florida Supreme Court last June when the court directed his acquittal because "the record lacks sufficient evidence of the perpetrator's identity." The court said that the evidence in the case linked Dausch only to the victim's car, not to the murder itself. He remains in prison on unrelated charges.

To be included on DPIC's Innocence List, a defendant must have been convicted, sentenced to death, and subsequently either been acquitted of all charges related to the crime that placed them on death row, had all charges related to the crime that placed them on death row dismissed by the courts or the prosecution, or been granted a complete pardon based on evidence of innocence.

The Milke exoneration spotlights the issue of prosecutorial misconduct in Arizona capital cases. In October 2013, the Arizona Republic reported that the Arizona Supreme Court found that prosecutors had committed misconduct in sixteen separate capital cases it had reviewed between 2002 and 2013. According to the paper, six different prosecutors who were named prosecutor of the year by the Arizona Prosecuting Attorneys Advisory Committee – including the prosecutor in this case – were subsequently found by appeals courts to have "engaged in misconduct or inappropriate behavior during death-penalty trials."

In this case, the United States Court of Appeals for the Ninth Circuit overturned Milke's conviction based upon prosecutorial misconduct for failing to disclose critical evidence requested by the defense relating to the police detective's credibility and veracity. Chief Judge Alex Kozinski scathingly recounted the detective's misconduct in prior interrogations and his flagrant disregard of proper interrogation practices. Chief Judge Kozinski wrote:

"[Detective] Saldate turned the interrogation room into a black box, leaving us no objectively verifiable proof as to what happened inside. All we have are the conflicting accounts of a defendant with an obvious reason to lie and a detective whose disdain for lawful process is documented by one instance after another of lying under oath and other misconduct. . . . No civilized system of justice should have to depend on such flimsy evidence, quite possibly tainted by dishonesty or overzealousness, to decide whether to take someone's life or liberty. The Phoenix Police Department and Saldate's supervisors there should be ashamed of having given free rein to a lawless cop to misbehave again and again, undermining the integrity of the system of justice they were sworn to uphold. As should the Maricopa County Attorney's Office, which continued to prosecute Saldate's cases without bothering to disclose his pattern of misconduct."

The trial prosecutor in the Milke case was also found to have withheld exculpatory evidence in the case of Ray Krone, the 100th person exonerated from death row. In that case, Maricopa County prosecutors used now discredited bitemark evidence to label Krone the "Snaggletooth Killer" and falsely link him to the murder of a Phoenix barmaid. The prosecution failed to disclose evidence undermining the reliability of its expert bitemark testimony.

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