

IN THE CIRCUIT COURT, TENTH JUDICIAL CIRCUIT
JEFFERSON COUNTY, ALABAMA
CRIMINAL DIVISION

STATE OF ALABAMA,)
)
Plaintiff,)
)
v.)
)
TOFOREST O. JOHNSON,)
)
Defendant.)

CASE NO. CC1996-386.60

JEFFERSON COUNTY DISTRICT ATTORNEY’S AMICUS CURIAE BRIEF IN
SUPPORT OF PETITIONER

The Office of the Jefferson County District Attorney, by District Attorney Danny Carr, respectfully submits this amicus brief in support of Toforest Johnson’s Rule 32 petition and request that a new trial be granted. For the reason contained within this brief, it is the position of the District Attorney’s Office (“the District Attorney”) that Mr. Johnson’s Rule 32 petition should be granted, and that a court of competent jurisdiction grant said request. The District Attorney takes no position regarding Mr. Johnson’s guilt or innocence.

The District Attorney seeks to intervene as *amicus curiae* because of its duty to the Court and the people of Jefferson County. A prosecutor’s duty is not merely to secure convictions, but to seek justice. *Stickler v. Greene*, 527 U.S. 263, 281 (1999). After reviewing the circumstances of Mr. Johnson’s conviction and his subsequent Brady claim, the District Attorney has determined that its duty to seek justice requires intervention in this case based on a couple of factors.

1. There were several trials of different individuals relative to this case. Pursuant to these trials the state presented as many as five different theories relative to who shot Deputy Hardy.

2. The case originally was based on a young lady who admitted repeatedly lying to the police and prosecutors, as well under oath.
3. There are a number of alibi witnesses who did not testify at trial whom claim to have seen Mr. Johnson in another area of town at the time of the murder.
4. The main witness who testified to hearing the defendant admit killing Deputy Hardy over a telephone conversation was subsequently paid \$5,000 which was never mentioned during trial.
5. The District Attorney prior to the filing of this brief, met with the Original Lead Prosecutor in this case. He expressed concerns about this case and supports this request as well.

Conclusion

It is the District Attorney's position that in the interest of justice, Mr. Johnson who has spent more than two decades on Death Row, be granted a new trial.

Respectfully submitted on this the 12th day of June 2020.



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CERTIFICATE OF SERVICE

I do hereby certify that on May 29, 2020, the forgoing document was filed electronically with the Clerk using the Alafire system and served via email on the following counsel:

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