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Innocence Project Submits Two Arson Cases to Texas Commission and Requests System-Wide Review

Filing Marks First Time an Empowered State Entity Has Been Given Scientific Evidence that an Innocent Person Was Executed

(Austin, Texas; May 2, 2006) – Saying that expert arson analysis shows an innocent man was executed – and that other people in Texas may have been wrongly convicted of arson based on erroneous forensic analysis – the Innocence Project today formally submitted two arson cases to the Texas Forensic Science Commission, along with a request that the panel order a review of arson convictions across the state.

Today’s filing marks the first time in the nation that scientific evidence showing an innocent person was executed has been submitted to a government entity that is legally obligated to investigate cases, reach conclusions, and direct system-wide reviews to determine the extent of the problem.

The two cases the Innocence Project submitted today are the convictions of Ernest Willis and Cameron Todd Willingham. Willis was convicted of arson murder and sentenced to death in 1987, and he served 17 years in prison before he was exonerated. Willingham was convicted of arson murder in 1992 and was executed in February 2004. Among the documents submitted to the commission today is a 48-page report from an independent five-member panel of some of the nation’s leading arson investigators, who reviewed more than 1,000 pages of evidence, testimony, and official documents in the two cases.

In the report, the arson experts – with a combined 138 years of experience in the field – say that neither of the fires which Willingham and Willis were convicted of setting were arson. The expert report notes that the evidence and forensic analysis in the Willingham and Willis cases “were the same,” and that “each and every one” of the forensic interpretations that state experts made in both men’s trials have been proven scientifically invalid. “While any case of wrongful conviction, acknowledged or not, is worthy of review, the disparity of the outcomes in these two cases warrants a closer inspection,” the report says.

In documents submitted today to the nine-member Texas Forensic Science Commission, the Innocence Project noted substantial forensic analysis problems in the Willingham and Willis cases, and also asked the panel “to direct a reexamination of other forensic analyses conducted by the Texas Fire Marshal’s Office or its contractors that may involve the same kind of erroneous arson analysis, and recommend corrective action.” The Texas Legislature unanimously voted to create the commission last year to investigate specific cases of forensic misconduct or negligence, as well as systemic forensics problems in the state.

“The serious problems in both of these cases, and possibly in arson convictions around our state, are exactly the kind of forensic problems this commission was created to address,” said Texas State Senator Rodney Ellis (D-Houston). “Public doubts about our criminal justice



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system will only grow deeper unless we find out what happened in the Willingham and Willis cases, and how many other wrongful convictions were also based on bad arson science.”

The Willingham and Willis cases point to a broader national problem, said Barry Scheck, Co-Director of the Innocence Project. “These two cases in Texas are just the tip of the iceberg. Across Texas and around the country, people are convicted of arson based on junk science that has been completely discredited for years. Our criminal justice system must be held to the highest possible standard of solid science and reliable evidence, whether it’s in arson cases like this or in other cases where DNA evidence can help prove guilt or innocence,” Scheck said.

Nationwide, more than 5,400 people are in prison for arson crimes (in the last year for which government statistics are available, 2002). More than 12 percent of them are in Texas prisons. In 2004, more than 43,000 fires in the nation were deemed arson.

In addition to expert analysis and background on the Willingham and Willis cases, the Innocence Project also submitted documentation to the Texas Forensic Science Commission today indicating that, in the days and weeks leading up to Willingham’s execution, the Governor’s Office and the Board of Pardons and Paroles had access to – but ignored – critical scientific analysis that cast serious doubt on whether the fire was arson.

The Innocence Project released the results of Open Records Act requests from earlier this year, which sought all documents related to a report on the Willingham fire that renowned arson expert Dr. Gerald Hurst wrote and disseminated to officials in both offices in early February 2004, days before Willingham was executed.

“Both offices gave us everything they have that involves the Hurst report, and it isn’t much,” Scheck said. “The documents show that they received the report, but neither office has any record of anyone acknowledging it, taking note of its significance, responding to it, or calling any attention to it within the government. The only reasonable conclusion is that the Governor’s Office and the Board of Pardons and Paroles ignored scientific evidence and went through with the execution, while the same evidence from the same expert allowed Ernest Willis to walk out of the same prison facility eight months later.”

Hurst wrote the report on the Willingham fire after being asked by Patricia Cox, Willingham’s cousin, to review the case. “We tried so hard to get someone to listen to us before Todd was executed. Although the Governor’s attorney assured me that he had reviewed the new scientific report right before Todd’s execution, it’s painful to now realize that the Governor’s Office and others just ignored the evidence that this was a tragic accident and not arson,” Cox said. “We hope the action this commission takes can prevent this from happening again.”

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