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Barry Jones To Be Released From Prison Today After 29 Years On Arizona's Death Row For A Crime He Did Not Commit

(Thursday, June 15, 2023, Tucson, Arizona) Today, Barry Jones was granted his freedom decades after he was wrongfully convicted and sentenced to death in Arizona for fatally assaulting Rachel Gray, a four-year-old child.

A federal district court judge ordered in 2018 that Mr. Jones's convictions be vacated based on the compelling medical evidence that it was not Barry Jones who caused Rachel's fatal injuries; and a unanimous panel of Ninth Circuit U.S. Court of Appeals affirmed. However, last year the United States Supreme Court ignored its own precedents to hold that the federal courts would not be permitted to even consider the new evidence proving that Mr. Jones was wrongfully convicted.

While the Supreme Court's decision left Mr. Jones on death row, it did not block the State of Arizona from reconsidering the evidence that he had not caused Rachel's fatal injuries. After a careful review, the Arizona Attorney General agreed that Mr. Jones's conviction for assaulting Rachel and the resulting death sentence could not stand. The Arizona Attorney General joined Mr. Jones in asking the Pima County Superior Court to vacate his convictions and death sentence.

"After almost 30 years on death row for a crime he did not commit, Barry Jones is finally coming home," said Federal Public Defender Cary Sandman, whose office has represented Barry Jones for over 20 years. "Mr. Jones spent nearly three decades on Arizona's death row despite compelling evidence that he was innocent of charges that he had fatally assaulted Rachel Gray."

Pursuant to a settlement agreement with Arizona, Mr. Jones pled guilty to second degree murder, because he neglected to take Rachel to the hospital on the night before she died, despite seeing how sick she was, from a still unknown fatal internal injury. Mr. Jones was sentenced to time served.

"The flawed evidence supporting Barry's convictions and death sentence resulted from a combination of shoddy and constitutionally deficient defense lawyering, junk science and myopic police work," said Mr. Sandman. "Two federal courts granted him habeas corpus relief, but he remained on death row because of a 2022 U.S. Supreme Court decision in the case of *Shinn v. Ramirez and Jones*. In *Shinn*, the Court gutted its own precedents and rendered federal courts powerless to even consider the very evidence proving Barry had been wrongfully convicted and denied a constitutionally just trial."

While *Shinn* may have shut the courthouse doors, the need to correct an unjust conviction remained. At Mr. Jones's 1995 trial, Arizona prosecutors claimed that Rachel died as a result of an injury she sustained while in his care. This could have been easily disproven. But Mr. Jones's

court-appointed lawyer failed to conduct any investigation and, as a result, did not discover readily available medical evidence that would have proven beyond any doubt that Rachel sustained her internal injuries when she was **not** in Mr. Jones's care. Because Mr. Jones's jury heard none of this evidence, it convicted him, and the trial judge sentenced him to death.

"We are profoundly grateful to the Arizona Attorney General and the Pima County Attorney for taking a fresh look at Mr. Jones's case and acknowledging he had never received a fair trial, just as the federal district court and the Ninth Circuit had previously found. We hope that Barry can enjoy the rest of his life in peace surrounded by his family and friends," said Mr. Sandman.

On June 21, 2023, U.S. District Judge Timothy M. Burgess (whose decision vacating Mr. Jones's conviction was overturned by the Supreme Court last year) will hold a status conference to formally close Mr. Jones's federal habeas proceedings. The status conference will take place at 9 a.m. in Courtroom 5C, U.S. District Court, 405 W. Congress, Tucson, AZ.

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