

(Intro music)

Kelsey Reichmann: Welcome to Sidebar, a podcast by Courthouse News. I'm your host, Kelsey Reichmann. A few episodes ago I covered a Supreme Court case from Richard Glossip, a man on death row who convinced Oklahoma Republicans to oppose the death penalty. Glossip is just one of many people who say they were convicted of a crime they did not commit. Read enough of these cases and you'll be asking, "Is innocence enough?" For the wrongfully convicted, tearful reunions and proclamations of justice from the courthouse steps only come after an arduous exoneration process paved with years of litigation. Amanda Pampuro is here to guide us through the highs and lows of post-conviction purgatory.

Amanda Pampuro: Among the thousands of people vying to be heard in court, those with the greatest uphill battle are prison inmates, who often lack access to a lawyer, law school or even a computer. One case really sent me down the rabbit hole. This one features Glossip's original defense attorney and also takes place in Oklahoma County under then-District Attorney Bob Macy, who sent a record number of people to death row.

KR: A few too many coincidences for me.

AP: Carl Dean Wyatt Jr. was incarcerated at 14 after pleading guilty to rape. At 18, he was let out for six months before being sentenced to life in prison without parole for killing Glenn Edwin Franklin, a murder Carl maintains he did not commit. I wanted to know more, so I wrote him a letter, and then another, and then another, until one day I got a phone call. A word of warning: Prisons do not have good acoustics. We have a whole episode on why, check it out.

KR: What happened when he was on parole? The story starts late on New Year's Day 1997 and runs into the early hours of January 2nd.

Carl Wyatt: I was with my girlfriend that night and I was with Marcus McClendon and Dewayne Ackerson.

AP: The two co-defendants.

CW: Marcus McClendon, I don't know him, that's Dewayne Ackerson's friend. And he starts talking about pulling a lick. Dewayne asked me about, "What about that woman, Cathy?" and I said, I explained to him, I said, "Cathy doesn't have any money, man. She used to do stuff for me. She don't really have nothing." McClendon said, "Well, I heard about her and I heard that her spot be rolling ... making a lot of money."

AP: Carl goes with Marcus and Dewayne to a 7-Eleven where they buy bandanas and hats to use as disguises. Footage from this gets introduced at trial. But then Carl says he made them drop him off at a friend's because he knew Cathy would recognize him.

CW: I let them know. Everybody over there knows me, I know everybody and I'm not going over there. I'm not going to do this. So, from Ronnie Alexander's house, a guy named Tommy Lee came over. I said, "Man, take me home," because Ronnie's car didn't work. I said so, "You told him to take me to get my car." It was at this time I went home, my sister was in from Alaska and I went in there to see if she was still up, and she was, so I talked to her, then I called my then-girlfriend.

AP: Carl's sister is in her 60s now and when we spoke her memory of that time was foggy. She said it sounded about right, but she had to call a friend to verify she was in town. While Carl says he was talking to his sister all night, Cathy was home baking a shrimp pie for a late dinner. Then two men in bandanas forced their way in. Cathy hid in a room, her roommate ran outside and when Glenn fought back, he was shot and killed.

CW: About a week went by, my uncle, who at the time had been a Oklahoma City police sergeant, he was a veteran of the police force, notified my father that I was wanted for a crime, and I had a warrant for a murder.

AP: Carl turns himself in.

CW: And I was taken into custody, where I remained for the last 27 and a half years.

AP: Marcus and Dewayne both pled guilty to conspiracy to commit robbery and are sentenced to time served. Dewayne claims he was in the getaway car the whole time, so in court it becomes Marcus' word against Carl's. Prosecutors get two witnesses to back up Marcus' version of the story. Cathy initially says Carl didn't kill Glenn, but he might have set it up. She tells police this several times over the next year before eventually testifying at trial that she recognized Carl's voice. The second witness is Dewayne's girlfriend, who testifies Carl went to her house covered in blood that night and asked for clothes. The all-white jury convicts Carl, a Black man, of first-degree murder and conspiracy to commit robbery. With a pending drug charge and the rape conviction, he's sentenced to life without parole.

KR: Three strikes and you're out.

AP: Basically. There are a few narrow ways to appeal a conviction, but you only get one bite at each apple. First, Carl's attorney claims ineffective counsel and in the same appeal, Carl's attorney claims the jury wasn't informed Marcus would walk free after testifying. In his 2000 pro se appeal, Carl raises prosecutorial misconduct, claiming prosecutor Brad Miller used perjured testimony and improper evidence.

KR: Miller was actually named Oklahoma's prosecutor of the year in 1997, the same year Carl was arrested. In 2013, the Oklahoma Supreme Court suspended Miller from practicing law for six months due to Brady violations in a death penalty case from 1993. For all the non-lawyers out there, this comes from a 1963 Supreme Court decision in *Brady v. Maryland*, which says that the prosecution must disclose any evidence that could help the defense.

AP: Neither Brad Miller nor trial attorney Wayne Fournerat wanted to speak with me. The nonprofit organization Oklahoma Appleseed issued a report in 2024 identifying more than 100 Oklahoma County cases with potential Brady violations stretching back to the '90s. It's worth noting this is the most populous county in the state home to the capital, Oklahoma City, and that it's tied for second place for having the most death row exonerations in the country.

KR: Does it matter if these things happen in other cases?

AP: Nope, and the Oklahoma Criminal Appeals Court concludes none of these things would have made a difference in Carl's case. But that's not the only way to challenge a conviction. In 2013, Oklahoma becomes the last state in the country to pass a post-conviction DNA act, making it

easier to get old evidence tested. By the time Carl hears about the law and gets an application together, it's 2017. Oklahoma County District Judge Glenn Jones appoints Carl an attorney and orders everything: bandanas, fingernail clippings, hats, all get tested.

CW: So, if it's Wyatt's DNA there, if it's mine that's in there, then your case is over and stop wasting our time and die in prison. But if it's McClendon's or Ackerson's DNA that's in there. What are we doing? And why has he been in prison all this time? And I'm asking the judge to just do it because, according to the rules, I qualify for it. It said if the DNA results from the first test is favorable, the court can grant more discovery. Well, I'm asking the court, let's grant me that further discovery and now let's test that... Let's just test everything that you have. How about that?

KR: This sounds like CSI.

AP: It is, except in real life there are limits to what DNA can tell you, and in 2019, the fingernails are the only thing that come back with usable DNA. There are two men's profiles on it and neither belongs to Carl.

KR: But it was a gunfight.

AP: Well, prosecutors said there was a struggle, so the attacker's DNA might be under Glenn's nails.

KR: Was it?

AP: Nobody knows. When the state ran a profile excluding Glenn's DNA from the fingernails, the Oklahoma State Bureau of Investigation found the remaining sample insufficient for comparison. Their analyst later told the court she could still compare the co-defendant's DNA if asked to. Regardless, the county argued the DNA evidence was immaterial in overturning the conviction. By this time, it's 2022, and the petition is on its third judge. Ultimately, Oklahoma County Associate District Judge Richard Kirby sided with the county. Carl argued his petition all the way up to the 10th Circuit, which found given the strength of the state's other evidence, the DNA did not amount to clear and convincing evidence that no reasonable jury would have convicted him.

KR: What's the county's other evidence?

CW: Please understand the rules of post-conviction DNA testing in the state of Oklahoma. The rule, the number one rule, is starting now when you read 1373.2 through 5, it clearly says that DNA testing cannot be ordered for a convicted person unless the judge believed that DNA testing would have been done at the original prosecution, he or she would not have been convicted. So, that's established. The judge has found that. But before he ordered DNA testing, he asked questions of the state of Oklahoma. He wanted to know if they had a murder weapon that tied me to the crime. The state said no. They wanted to know if they had any physical evidence that's tied me to the crime. The state said no. They wanted to know if they had any physical evidence that tied me to the crime. The state of Oklahoma stated no. They wanted to know if they could ever produce a witness that could say that they saw me at this crime. The state of Oklahoma said yes. The judge asked who. They said McClendon. He said, "Well, besides the guy that was picked out of a lineup," and they stated that he did. We need some type of cooperation. The state said, "Well, Catherine Fortune stated that she heard his voice," and the judge stated, "Well, eight times she said she didn't, she didn't recognize it, and she didn't believe that he did it. So, I can disregard those eight times and just

go with your one.” He said, “Do you have any other evidence that could tie defendant Wyatt to this crime?” The state said no. So, that was the reason why he ordered DNA testing. He knew that the case was flawed.

AP: In her September 2021 proposed findings of fact, then-public defender Marva Banks sums it up, quote, “Carl Wyatt's due process right to a fair trial under the state and federal constitutions was doomed from the start.”

KR: What does the district attorney's office say?

AP: In court filings, then-Assistant District Attorney Jennifer Hinsperger writes that, regardless of whether he was the actual shooter and ample evidence presented at trial established he was, he has presented the court with nothing to read but the overwhelming evidence that he was a participant in the home invasion robbery that directly resulted in the victim's death.

KR: You don't have to pull the trigger in Oklahoma, you can be convicted of murder for participating in a crime that leads to someone's death.

AP: Yeah, the current DA's office didn't have anyone familiar enough with Carl's case to discuss it with me. A spokesperson for Oklahoma County District Attorney Vicki Behenna, who took office in 2023, told me they aren't working to preserve convictions, and they support petitions where evidence proves actual innocence. Before being elected, Behenna ran the Oklahoma Innocence Project and as DA, she secured the release of Glynn Simmons, who was convicted of murder in 1975 and sentenced to death. Later, his sentence was commuted to life without parole, of which he served 48 years. I also spoke with Andrea Miller, the current legal director of the Oklahoma Innocence Project. I want to ask a little bit about Oklahoma County, because you worked there and-

Andrea Miller: Sure, sure you can.

AP: Why does the county have so many exonerations?

AM: The county has so many exonerations because for decades there was a culture within the district attorney's office there and I think this has changed now but there was a culture where you won at any cost, which included putting on bogus forensic evidence. It included prosecutors who were willing to hide evidence, and I was involved in a case where the prosecutor went so far as tried to manipulate evidence in a death penalty case, so that culture permeated decades of cases out of Oklahoma County.

AP: What do you think was the turning point in Oklahoma County?

AM: Well, if there's been a turning point in Oklahoma County, I think it's that there is a new administration in the DA's office who recognizes that that miscarriages of justice have occurred and feel the ethical obligation not to ignore it. I don't know why every Oklahoman isn't up in arms that we have the number of wrongful conviction cases, proven wrongful conviction cases, in the state as we have, and nobody seems very worried about it, because the problem with wrongful convictions is it could happen to anybody at any time.

AP: How do you know if someone is innocent?

AM: So, we don't start an investigation from the view that this person is innocent, so much as we start from the view the evidence should lead us to the person who's responsible. If that investigation leads us back to the inmate, then we close the case. But if that investigation leads us away from the person who was convicted, we'll continue on the case and then try to figure out how to generate the kind of newly discovered evidence we need to get back into court. So, we don't know until we start investigating. There's no like gut feeling about it.

AP: In her previous role at the public defender's office, Miller represented Carl during part of his DNA petition, but she said attorney-client privilege prevented her from discussing his case.

KR: So, Carl's still in prison.

AP: He is. And, to be clear, I only know what I read off the docket. I don't know what happened on January 2, 1997. And I can't tell you if Carl Dean Wyatt Jr. was involved, even if there are a lot of parallels between his case and known exonerations. I just found the 10th Circuit opinion so unsatisfying, because what do you do if the laws we pass to help wrongfully convicted people don't help you? The 3,659 known exonerations represent a fraction of wrongful convictions.

KR: 4% of those cases are death penalty cases, right?

AP: So, the data is a little technical. Since 1973, 4% of death row inmates have been exonerated. But that doesn't tell you anything about how many people with misdemeanors or drug charges might have been wrongfully convicted.

KR: It's a whole thing.

AP: Yeah. The founder of the National Registry of Exonerations, Samuel Gross, estimates that 2% of people have been wrongfully convicted of felonies, putting more than 20,000 innocent people in jail. Other researchers say 1 in 20 people should not be there. Gross retired so I spoke with one of the registry's current researchers, Maurice Possley.

Maurice Possley: A lot of exonerations are just luck, serendipity.

AP: The research program tracks publicly reported cases where someone was relieved of all the consequences of the criminal conviction, regardless of whether the outcome was actual innocence or something more technical.

MP: You know the vast majority of cases are resolved by guilty pleas. The vast majority of criminal cases are misdemeanors. All those cases fly under the radar. In terms of exoneration. We have very few misdemeanors and while we have a fair number of guilty pleas in the registry, most of those are cases where there was wide-scale police corruption and people were being framed by dirty cops and investigation, you know, they pled guilty because they didn't want to get risked longer terms when it's you know their word against the cops and who's going to get believed at a trial. So, they plead guilty.

AP: What gets you convicted differs from what gets you freed.

MP: The false confession doesn't cause you to be exonerated. In other words, it causes you to be convicted. Something else causes you to be exonerated, whether it's DNA testing, whether it's a new witness comes forward, whether it's, you know, someone admits that they perjured

themselves. I mean, that's two different categories. One is the things that cause it, and the other is the things that uncause it, so to speak. We keep track of what we call six contributing factors. You know, false confessions, bad defense, lawyering, perjury, false accusation, mistaken witness identification, and so forth.

AP: The sixth one is official misconduct, like Brady violations. These are common themes throughout Justin Brooks' book, *You Might Go to Prison Even Though You're Innocent*. And I have to say, once you read this you can't unread it. It is powerful and makes you want to question everything. I asked Brooks about his work founding the California Innocence Project in 1999.

Justin Brooks: George Bush said that when he was president, he said, I remember him saying, "Thank God for the Innocence Project. They've made sure that no innocent people have been executed and no innocent people are dying in prison." It's not true. Every day, projects are turning down innocent people because they don't believe they can win them. During my time directing the California Innocence Project, we'd look at anywhere from 3,000 to 5,000 cases a year. The sad thing is, in many, many cases we thought this could very easily be an innocence case, but there's no way to win it within our legal system due to how difficult it is to unring the bell of a wrongful conviction.

AP: Should the exoneration process be difficult because we put so much trust into the front end and the trial aspect?

JB: I think it makes sense that the standards are high, but you know, it shouldn't be that a bunch of ragtag teams of law students raising money with bake sales are out there to be the check and balance on the government's work, I mean, but it's kind of ridiculous that that is the process that's needed. And the reason it's needed is because you only have a right to an attorney for your initial appeal.

AP: Inmates aren't totally on their own. In the 1977 case *Bounds v. Smith*, the U.S. Supreme Court found prisons had to provide lawyers or law libraries.

JB: Now guess what they did? They put in law libraries.

AP: Which is like having a broken car and being given the choice between a garage and a mechanic.

JB: When I was in law school I taught classes in a prison law library. You know, it's so sad, there's this notion about, you know, prison lawyers can do all this stuff. I mean, the reality is, when you talk about innocence cases, they're not driven by your legal abilities, they're driven by your abilities to find evidence. And when you're locked up in prison, you don't have an ability to find evidence. You don't have money for an investigator. So, I would say there's very few cases I've ever handled where there wasn't a prior habeas filed pro per that was summarily denied. And it's the combination of those two things. Number one, them not knowing how to put one together. Number two, the courts getting so many of those that they just, here we go again, they rubber stamp them denied. And number three, they didn't have the ability to gather new evidence. They just kept re-pleading stuff they'd already heard about in court.

KR: That's rough, and the Supreme Court does not lend a sympathetic ear either. Do any of them ever make it through the lower courts on their own without a lawyer?

AP: I found a few cases where inmates won civil rights cases on their own, but I have not come across one where someone got out of prison beginning to end pro se. Two exonerees I spoke to did a lot of the heavy lifting in their own cases.

KR: Let's meet them after a short break.

Monique Merrill: Hey, I'm Monique Merrill, a reporter for Courthouse News. I'm based in Portland, but my coverage spans much of the West: Washington, Oregon, Alaska, Idaho, Montana and sometimes Wyoming. That territory sees frequent environmental challenges to government actions, with conservation groups fighting to protect Montana grizzly bears, Oregon forests, Washington salmon runs and the ecosystems they depend on. Lately I've been covering major cases in federal court in Seattle, teaming up with a correspondent to report on constitutional challenges to Donald Trump's executive orders. In February, Washington judges temporarily blocked executive orders suspending refugee admissions, restricting gender-affirming care for transgender minors and attempting to end birthright citizenship. Their rulings marked the latest in a series of legal battles over the scope of executive power and individual rights. As these cases move through the courts, you can find coverage of them at courthousenews.com. And from the whole team at Courthouse News, thanks for listening to Sidebar.

Michael Grant: They really didn't put up much of a fight for direct appeal. Because it was police involved, it was just everything was swept under the rug.

AP: This is Michael Grant of Philadelphia, who was incarcerated for 17 years for a robbery he did not commit. He did not match the description of the suspect, but something else made police suspect him: The day the robbery took place, he was hospitalized with a gunshot wound.

MG: An officer came in and asked me what was going on maybe three hours after I had been in the hospital. This officer decided that I fit the description of 5'4", 140 pounds and dark skin. I've never been 5'4", 140 pounds and dark skin. At the time I was 353 pounds and light skin and 5'10", and I ultimately ended up being arrested in the hospital for attempted murder of a police officer and had no clue. I really thought I was dreaming because, you know, I never smoked, I never drank and they gave me morphine to, you know, ease the pain when I was in hospital. I really thought I was dreaming at first.

AP: Michael thinks his trial came down to the public's trust in law enforcement and that because a police officer was shot at in the robbery, good Philly citizens wanted to see justice served. Unfortunately, they had the wrong guy and after the first appeal, Michael lost access to an attorney. So, he got to work on a Pennsylvania Post-Conviction Relief Act petition.

MG: This was some of the advice that I was given. You know, try to find out if there's anything on him that you didn't know. And I found out that the victim in my case was a cooperating witness, had an extensive criminal record, he was actually had pled guilty and was awaiting sentencing while testifying at my trial. None of this was disclosed to the jury. This was, you know, all Brady information. I filed pro se initially. I was then assigned an attorney who was directed to file an amended PCRA. This attorney filed an amended PCRA which essentially waived all the issues that I raised that weren't raised in that attorney's amended PCRA. And I didn't, I didn't realize it until, you know, during the PCRA process, as I continued to read to try to understand exactly what was going

on. I'm like, so wait, the issues you didn't raise are now waived. My PCRA took almost seven years to get denied and just came back and said, "Well, there's overwhelming evidence against him anyway." The only evidence presented essentially was this guy's testimony. So, yeah, denied my PCRA and made me go up and fight it on a federal habeas corpus.

AP: What did the law library look like, and what kind of resources did you actually have access to?

MG: I was in a few different prisons, but where I got the majority of my work done was Camp Hill prison library. It's massive. There's maybe 10 computers with LexisNexis, maybe another five or six computers. You're able to use Microsoft Word, type your stuff up. They have a pretty good book selection which they update annually. They have a nice budget for this which comes from the Inmate General Welfare Fund. It's a portion of everything that's spent in a prison for commissary. A portion of that goes into this fund, this IGWF fund, and not only just these physical resources but the men themselves. You have men who've been in there 20, 30, 40 years. One man I remember in particular, Jeffrey Peter Thompson. I still remember his whole name. I mean, this guy knew the law back and forth and was able, you could just tell him a little bit about a situation, he'd tell you exactly where to go look this case up, look that case up.

AP: After Michael filed a federal writ for habeas corpus on his own, he was assigned another attorney.

MG: I didn't even want an attorney at that point. I felt like nobody would be able to represent me as good as myself. I did receive assistance from the Liberation Foundation with my research, and that was, you know, that was really important. I was able to get the entire criminal record for the complainant witness and other information about the police officers, and I was actually assigned an attorney, Mr. Thomas Dreyer, and to his credit, I asked Mr. Dreyer, I said, "Please do not submit anything without sending me a copy first, and whatever edits I put in, that's what I want in there. And if you can't do that, then I ask you to be removed." And he 100% rolled with me the entire time.

AP: A federal judge agreed Michael hadn't been given a fair trial due to the state's failure to disclose the victim's criminal history. After a second trial, a jury found Michael not guilty. He now works for the Liberation Foundation, working to exonerate others he met inside. Another exoneree I spoke to, Jeffrey Deskovic, went to law school to become a defense attorney after serving 16 years in prison for a crime he did not commit.

Jeffrey Deskovic: My wrongful conviction was caused by a coerced false confession, prosecutorial misconduct, fraud by the medical examiner.

AP: Jeffrey was 17 years old when he was convicted of the rape and murder of his classmate, Angela Correa. Police pegged him as a suspect when he started trying to help them solve the case. When he was convicted, the jury already knew the DNA on Angela didn't match him, so that made no difference. On appeal he raised other issues like that when police questioned him alone, without an adult, it violated his rights. But the New York Appellate Division ultimately found nothing wrong with the tactics that made him falsely confess to a crime he didn't commit.

JD: One sentence. They wrote that they looked at the remaining of my issues and found them either to be without merit or else not preserved for review. They ruled against me 5-0, and it was all downhill from there.

AP: When his attorney missed a federal deadline, the court dismissed his habeas corpus petition. A Second Circuit panel with then-U.S. Circuit Judge Sonia Sotomayor upheld this decision.

JD: So, that was the end of my appeals, end of representation. The only way back in the court at that point is if you can find some previously unknown evidence of innocence which probably would have led to a different outcome. So, I had no money to hire an investigator or an attorney to find any new evidence. So, hence the letter-writing campaign. So, I wrote letters for four years.

AP: Eventually, Jeffrey suggested testing DNA found on the victim against the data bank that didn't even exist in 1989.

JD: So, they took the crime scene DNA evidence, and they entered it into the DNA data bank and it matched the actual perpetrator. The DNA was there because he had killed the second victim three and a half years later, after killing the victim in my case.

AP: I asked Jeffrey about the challenge of only getting to raise each issue once.

JD: So, if the court gets it wrong, then, you know, or you know somebody argues their case pro se, which, you know, on their own they don't argue it right and then after that they get a lawyer, I mean, the lawyer is banned from bringing evidence of that issue up again. They'll say it was raised already. Typically, by the time people are exonerated, their appeals are usually exhausted, and that's because of these two tensions I want to get into right now. So, firstly, proceduralism versus substantive justice. So, where they're paying attention to the procedure rather than the substance of the issue. And then also what's called finality of conviction, you know, versus accuracy. So, on one hand, the idea that you know you had your day in court, you know you lost. How long are we going to have to keep going through this? But then what good is a final conclusion if you know that final conclusion is not accurate?

AP: Is there anything you wish you knew 35 years ago?

JD: Yeah, I wish that I knew the importance of not waiving your rights. My innocence worked against me. I mean, it does most people. Most people think that if you're innocent and you don't know anything about a crime, I mean what could possibly happen? What bad could happen if you waive your rights and talk to the cops?

KR: The people who frequent prison law libraries aren't always studying to fight convictions. Thousands of inmates look to the courts to enforce their limited rights behind bars.

AP: I see these handwritten complaints daily, claiming everything from religious discrimination to assaults and denied medical care. Some of those suits are written by people clearly undergoing serious mental health crises, but most of them come from people who seem to have nowhere else to turn. Facing these filings, one former judge worked to get inmates at one federal prison access to attorneys. When did you first start thinking that pro se prisoners were a group that needed more support?

Kristen Mix: You know, it happened pretty quickly when I got on the court and I think it happens pretty quickly for every judge who comes, in particular, onto our court, the United States District Court for the District of Colorado, because the pro se workload in general is so high in that court. My

name is Kristen Mix and I'm a retired United States magistrate judge. I worked on the court in the District of Colorado from 2007 through August of 2023 when I retired.

AP: Two programs open while Judge Mix was on the bench. One is a pro se clinic where public filers can get help maneuvering through the process. The other is a pilot program at the Fremont Correctional Facility that connects pro se inmates with an attorney for a 20-minute phone call. Most wrongful conviction challenges go through state courts, so this program focuses on inmates filing in federal court questioning the conditions of their confinement.

KM: The cases, the pro se cases, always take the judicial officers a lot of time because we are trying very hard to understand what legal claims the parties are bringing and often with people who don't have a legal education and are not schooled in the law, they are struggling to tell us what their legal issues are. So, the cases are extremely judicial resource intensive and the volume of them alone made it a daunting task to try to manage what the judges had in front of them.

AP: The pilot program connected six inmates to attorneys last year. Though they represent a small percentage of the court's pro se litigants, having an attorney is a huge factor in the outcome of a case. Some stats: Business Insider reviewed 1,500 Eighth Amendment lawsuits filed over four years, of which 14% reached a settlement, all represented by an attorney. None of the pro se cases ended in favor of the prisoner, while 31% of represented inmates settled their cases and 3% won. So, why does having an attorney automatically change someone's chances in a federal court?

KM: There are lots of rules. There are often rules that are obscure or a little difficult to understand, especially for folks who don't have a legal education. There are protocols and processes that are used repeatedly, in particular, civil cases, which is what these cases are involving discovery, involving how you get information, how do you issue a subpoena, what do you do if the person who you subpoena doesn't respond to the subpoena? How do you get assistance from the court? So, there are all these ways of proceeding that are just not obvious and not easily learned by folks who don't have a legal education.

AP: This might be a silly question for someone with your background, but can you make the case for having these procedures and rules in place and not construing all pleadings liberally and winging it for people who are struggling?

KM: It's really important that there be as close to a level playing field when we're talking about justice and justice in the United States of America in the 21st century, and the way that our system has attempted to create that level playing field is through rules, rules that can and must be followed by everyone who pursues justice in court. Unfortunately, the flip side of that coin is that those rules are not necessarily always easily understood by people who do not have legal training. I think that in the United States in particular, the philosophy has always been we've got plenty of lawyers. There's always somebody out there who can be hired to help you proceed with your case and to attempt to get justice. It's become much more a function, I think, of the late 20th and 21st centuries that lawyers have become extremely expensive and that, you know, the availability of a legal professional to help you is just not always realistic.

AP: The program does not promise to help inmates succeed in their lawsuits but Mix hopes to educate more people about the types of problems that belong in court.

KM: Prisoners, you know, like everybody else, have their own ideas about what the legal system can do for them and often, if their ideas are incorrect and there just isn't a remedy for whatever they think their problem is through the law, it's better for them to know that sooner rather than later. You know, once they get invested in the case and spend a lot of time and energy on it, it's hard for them to let it go. But if a lawyer will meet with them at the beginning and say, "You know, I understand what your issue is, but I'm not sure this is the right way to go about getting what you really need here, you might think about doing this instead or that instead." That can be very meaningful. So, I think the Department of Corrections understands that and they understand that our goal is not to, you know, facilitate meritless lawsuits by anybody at any time. It's to make sure that the prisoners understand sort of the boundaries of their legal rights in a way that they might not otherwise and that, to the extent that their case seems to fall within the boundaries, it can be pursued as efficiently and effectively as possible.

AP: I didn't speak to a single person who said we don't need prisons, or to anyone who thought everyone is innocent. I also didn't find anyone who is against investigating wrongful conviction claims if given the resources.

KR: That brings us back to Carl Wyatt. Is he out of appeals?

AP: Not yet. In January, he filed a new petition in the Oklahoma Court of Criminal Appeals based on a recent lead.

CW: And I have newly discovered evidence. One of the witnesses is recanted. She reached out to me and sent a sworn affidavit. She said it's been bothering her for years, so I was wondering why. When she was on the stand she kept chewing bubble gum and waving at me. Well, in her sworn affidavit she explains everything that former assistant ADA Brad Miller told her to do.

AP: According to the affidavit, prosecutors told this witness to flirt with Carl from the stand and testify she gave him clothes after the murder. She now says prosecutors promised to lessen the sentence of her son's father if she cooperated, and if she didn't they would take her toddler away. I did call her, but she declined to tell me more. I also spoke with an attorney who reviewed Carl's case. She does not represent him because she practices in Dallas, Texas, not in Oklahoma. Do you remember when you were looking, first looking through the case file, what you found to be interesting or noteworthy or made you want to dig deeper into it?

Laneshia Jordan: There's the evidence, like a bandana and things that were found outside of where the crime took place and those things that were not tested for DNA evidence, and then what was tested for DNA evidence came back as not a match for Mr. Wyatt. My name is Laneshia Jordan. I am an attorney out of Texas. I volunteer with an organization called House of Renewed Hope, which is founded by Christopher Scott, who was a Texas exoneree.

AP: When the state didn't run the DNA samples against the co-defendants, Carl sent off a few motions requesting that the court define what is favorable DNA results, then asking for an evidentiary hearing, appointment of counsel and to sanction the state of Oklahoma. Jordan suggested another approach.

LJ: And he doesn't know to file like a motion to compel, right. The judge has given an order, he signed an order that you get this tested. Well, you have not complied with the judge's order. Well,

there's nobody there to say, "Hey, you have to comply with this order or else," and file like a motion to compel, and it just gets dismissed out of hand because you know it's, it's filed improperly, but he doesn't know any better, you know. So, I feel for the guy, because it's like there is enough here, just there's just enough that you could say I'm not sure they got this one right.

AP: I asked her what difference an attorney could make with Carl's claim of newly discovered evidence.

LJ: More often than not these days, just a recantation is not enough. There's got to be something else to go along with that to link credibility to that recantation and it's how you already swore that you would tell the truth, the whole truth and nothing but the truth. And now you're saying, "Oh, I lied, I didn't tell the truth, the whole truth and nothing but the truth." So, now you're recanting that statement, we need something to back this up. So, that statement by itself isn't going to get him the results that he's looking for.

AP: During the DNA proceedings, Carl said there was talk of the county offering him a deal: plead guilty in exchange for time served, putting him out on parole. His public defender referenced the talks and letters sent in 2019, and it came up in a hearing in June 2020. But Carl said he turned it down.

KR: Why didn't he take it?

AP: While incarcerated, Carl's grandfather, his father and his son died. He said he just couldn't plead guilty after telling them all he was innocent.

CW: They went to their grave, probably hearing me say I didn't do it, but hearing these people say that I did do it and in their mind that old school way of thinking that, well, he must have did something. No, I didn't. No, I didn't, and that's why I was important. And also, uh, sometime I regret it. Had I taken a deal and I was paroled, maybe I could have got to my son before that happened to him. You know, it's just those thoughts coming to your head and I even at one time really considered it, just so I could just try to get out, to be more honest, no matter what was on my record, no matter what people said, just get out. And every time I got ready to do that, I just couldn't move.

AP: Carl's father was a Baptist minister, so when I asked him what gives him hope, he pulled out a psalm.

CW: One of my favorite scriptures is ... in 27th book of Psalms. It says, "I would have failed unless I believed to see the goodness of the Lord in the land of the living." So, look at that and I try to hold on to hope.

AP: While researching this episode, I came across many cases of people who, with the help of attorneys, eventually petitioned their way out of a wrongful conviction.

KR: Or up to the Supreme Court.

AP: Yes, and those are a minority. Most of these petitions are stuck in post-conviction purgatory. That's the reality. I think there's a tendency to focus on the success stories because we want to believe justice wins out in the end.

KR: Doesn't it?

AP: Maybe if given enough time, review and luck, but if that's what it takes, courts aren't going to see the end of these appeals anytime soon.

KR: What more can an innocent person lose?

AP: Their life.

KR: And if you thought wrongful convictions were bad, just wait until you hear about American democracy. Over the past month, yes, it's only been a month, you might have asked: Another executive order? Can he really do that? Or even, why is no one stopping him? Join me next time for a deep dive into President Donald Trump's makeover of the U.S., where I break down how we got here, what's coming next and why all the roads lead to the Supreme Court. Make sure to subscribe to Sidebar on all your favorite streaming platforms so you don't miss out. If you liked this episode and wanted to share your thoughts, leave us a review on Apple Podcasts. For more stories like this, check out [courthousenews.com](https://www.courthousenews.com) or our social media pages for more. See you next time.

(Outro music)