

# Baumgartner, POLI 203

## Spring 2016

Just Mercy, continued

February 3, 2016

# From last time

- Abigail Baird, google “Why do teenagers do stupid things” and her name...
- Her presentation about the shark tank study at a New Hampshire legislative hearing got them to raise the age for trial in adult courts from 16 to 18.
- Many states allow juveniles to be tried in adult court...

# Anthony Ray Hinton

- 1985, I was still in grad school... He got out last April, 2014: 30 years, 28 on Alabama's death row: solitary confinement in a 5x8 cell
- Lots of web sites / news stories about him, here is one:
  - <https://www.themarshallproject.org/2015/04/09/30-years-on-death-row-a-conversation-with-anthony-ray-hinton#.jB65AV7Gb>
- If you want to write him a card or a note, give them to me at lecture on Monday and I will mail a big packet. He would like that I think.
- Questions and comments about his talk...

# Wrongful Convictions not that rare

- Bryan Stevenson: Why was it so easy to convict him with no evidence, but so hard to get him out?
- Some surprising but not uncommon features:
  - Motivated testimony by inmates or others facing legal trouble
  - Interrogations including lies, etc. (plus illegal things; interrogators are ALLOWED to lie to you.)
  - Suppression of evidence
- Note: Walter McMillan would be in jail if he had been sentence to LWOP; the trial was re-done because the judge over-ruled the jury to impose death

# Walter McMillan

- DPIC # 50:
  - <http://www.deathpenaltyinfo.org/innocence-list-those-freed-death-row>
- Anthony Hinton, # 152
- Levon Jones, # 127 (*Last Lawyer* case)
- Harold Wilson #120 (Philadelphia, triple knife slayings, discussed before)

# National Registry of Exonerations

- [www.exonerationregistry.org/](http://www.exonerationregistry.org/)
- 1,733 exonerations as of today, since 1989
- Leading Contributing Factors:
  - False Accusation, Perjury
  - Official Misconduct
  - Mistaken Witness ID
  - Misleading Forensics
  - False Confession

# Ndume Olatushani

- Formerly known as Erskine Johnson
- St Louis projects, arrested in 1983 for a crime in Memphis TN, and he was in jail until 1 June 2012...
- Almost 27 years in prison
- 19 on death row
- “Alford Plea” – not listed as an exoneree

# Alford Plea

- I maintain my innocence, but I recognize that given the evidence to be presented, a jury would most likely convict me. Therefore I plead guilty without acknowledging guilt.
- Case against Olatushani fell apart. Sentence dismissed, new trial mandated. Why not drop the charges?
  - Fear of a civil law suit
  - Bargain: a judge can keep you in prison pending trial, based on prosecutor's arguments. 3 years waiting for the next trial, or immediate plea?
  - He had already turned down a 20-year deal which would have given parole after 7 years, before he served 27 years. This time he took the deal.
  - Deal includes provision, he can never sue the state.
  - He is not officially an exoneree and does not appear on those lists.



# Prosecutorial Immunity

- Immunity for official actions.
- Imagine you are a DA and you investigate 3 people for murder, eventually dropping the charges against 2 and charging the 3<sup>rd</sup> one. Can the other 2 sue you for ruining their lives? No. (Otherwise, who would be a DA?)
- British common law: you cannot sue the judge who did you wrong. It was all in his official duties.
- The bar is extremely high: willful misconduct, disregard of the law, etc.
- (Except Duke Lacrosse.) Note: they never spent a night in jail! But they collected over \$50M and the DA lost his bar license. He served 1 day in jail.

# Finality

- At some point, many people say, the appeals have to stop and the judgment of the trial judge and jury have to be considered to be final.
- Finality is an important concept.
- But what if new evidence is discovered?
- What if the new evidence shows official misconduct?
- “Motion for Appropriate Relief” – how you do this even when “all your appeals are exhausted.”
- This can indeed drag on. Is that good or bad?

# Race of Inmate and Victim

- For next week, go to my web page for articles. Under the article you have to read for class, which covers the entire US, there is some press coverage.
- Also one state at-a-time reports using the same data, and press coverage from those reports.
- The DA in Ferguson, MO called me “bogus.” Ouch!

# Yesterday's paper in Akron OH

- <http://www.ohio.com/news/break-news/ohio-executions-disproportionately-african-american-especially-if-the-victim-is-white-1.659137#>
- Cleveland, Ronnie Bridgeman, Wyle Bridgeman, and Ricky Jackson, 1975 to 2015: 40 years each.
- <http://www.ohio.com/news/break-news/executions-in-ohio-race-and-gender-statistics-1.659139>

From today's News and Observer,  
death case in Durham.



Another suspected criminal in the news

