



SCHOOL OF LAW

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Letter of Law Professor Support for SB 541

Dear Missouri State Senators and Representatives,

Conviction integrity units (CIUs) are units within district attorney's offices that review criminal convictions to confirm the validity of rightful convictions and uncover wrongful convictions of innocent individuals. Across the country, more than 30 Republican and Democratic district attorneys have created CIUs. These units have produced 344 exonerations through 2018. CIU exonerations often occur in cases in which evidence of actual innocence emerges after defendants have exhausted their legal remedies. **These CIUs are therefore often the only chance the wrongfully convicted have to prove their innocence.** CIU exonerations are thought to be reliable precisely because district attorney's offices have every incentive to confirm the validity of their prior convictions. Thus, a CIU conclusion that a conviction is wrongful is frequently based upon significant evidence of actual innocence.

In 2017, St. Louis Circuit Attorney Kimberly Gardner created a CIU. In 2018, that Unit reviewed the case of Lamar Johnson, who was convicted of the 1994 murder of Marcus Boyd. After a rigorous review, the CIU issued a 70-page report concluding that **"Johnson did not shoot Boyd and had nothing to do with Boyd's murder, and he should not be in prison for the crime."** The CIU found that Johnson was wrongfully convicted and has been wrongfully imprisoned for 24 years based upon a combination of factors, such as the State (1) failing to disclose exculpatory evidence; (2) paying the only eyewitness to identify Johnson; (3) falsifying witness statements; and (4) suppressing a statement by one of the true perpetrators of the crime denying Johnson's involvement in the murder.

Based on the CIU's conclusion, Gardner filed a motion in court arguing that Johnson should be granted a new trial. The judge, however, denied that motion, finding that, unlike other states with CIUs, Missouri has failed to pass enabling legislation allowing judges to grant new trials when evidence of innocence is uncovered after the deadline for filing a motion for a new trial. Missouri Rule of Criminal Procedure Section 29.11 states that a motion for a new trial must be filed within 15 days after the return of the verdict. **Therefore, if a CIU in Missouri discovers evidence of actual innocence years or even months after a criminal conviction, it currently cannot file a motion for a new trial.**

More than 30 prosecutors and 106 law professors have argued that Johnson should receive a new trial, and the Supreme Court of Missouri has agreed to hear arguments that prosecutors should be able to file motions for new trials after the 15-day deadline. SB 541, however, would remove all doubt. It would amend Section 29.11 so prosecutors who have uncovered evidence of actual innocence are able to file motions for new trials at any time. **As law professors interested in protecting the integrity of rightful convictions and ensuring that prosecutors can seek justice when they uncover evidence of wrongful convictions, we urge passage of SB 541 and humbly ask that you support the bill.**

Sincerely,

Colin Miller