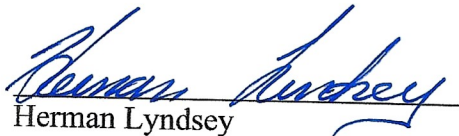


Declaration of Herman Lindsey
Pursuant to Fl. Stat. Ann § 92.525 and 28 U.S.C. § 1746

- 1) My name is Herman Lindsey. I live in Broward County. I am the Executive Director of Witness to Innocence, an organization of, by, and for death row exonerees. Our mission is to empower exonerated death row survivors to be the most powerful and effective voice in the fight to end the death penalty in the United States.
- 2) In Broward County, around 2006, I was prosecuted, convicted, and ultimately sentenced to death based on circumstantial evidence for a murder of a white woman I did not commit. I am Black.
- 3) I watched during my jury selection as Black jurors were removed based on death qualification, because they opposed the death penalty. I told my attorney this was wrong and unfair. I worried. I was innocent. To be acquitted, I believed I needed a jury of my peers to judge me, as the law is supposed to provide. Without a jury of my peers, I would not get a fair trial. In my jury selection, the prosecutor and judge were focused on the wrong thing. They focused on whether jurors could give me a sentence of death, but I hadn't even been convicted. I thought, I need a fair jury on whether I am guilty or innocent, before they start removing people based on the prosecutor's preferred punishment.
- 4) They put the cart before the horse. I did not get a jury of my peers, and this was extraordinarily frightening.
- 5) Ultimately, in Broward County, a very diverse county, only two Black jurors served on my jury.
- 6) A white man was selected as foreman. He had previously been fired from a major bank for making a racist remark. The jury selected in this manner, and led by this man, would decide my fate.
- 7) And they convicted me, even though I was innocent. By a vote of seven to five, they recommended death, and I was sentenced to death.
- 8) I was one of the lucky ones. Based on the records of the Death Penalty Information Center, Florida has seen 30 innocent people sentenced to death, and exonerated. Within approximately years of my arrest and trial, the Florida Supreme Court reversed my conviction. *See Lindsey v. State*, 14 So.3d 211, 216 (Fla. 2009). The Court found that the evidence of my guilt was legally insufficient. The jury should never have even been permitted to decide the case. I was released from prison, an innocent, exonerated man.

- 9) The quality of the evidence against me, all circumstantial, was in my view terrible. It was only the poor quality of my jury that resulted in my false conviction.
- 10) I found meaning in the years I lost between false arrest and exoneration. It changed my life. But this time in prison also deeply hurt me. I need to avoid crowds and shy away from people. I have lung problems caused by the bad, dust-filled air in prison.
- 11) I oppose the death penalty because of my concern that an innocent person like me could be executed, and due to my concerns about the death penalty's racist application.
- 12) From my work, and my time on death row, I know there are other innocent men still on death row, as well as innocent men like me who have been exonerated from death row. All of them have had to spend more time, usually much more time, than I did, falsely convicted and imprisoned.
- 13) I also know that each of these innocent persons was convicted by death-qualified juries, stripped of the jury of peers our Constitution is supposed to protect. In my view, the only way to restore the jury of peers in capital cases, and thus to ensure greater-quality and more representative juries, is to bar death qualification.

Under penalties of perjury, I declare that I have read the foregoing declaration and that the facts stated in it are true.


Herman Lyndsey

2/19/23
Date