

Anthony C. Graves Testimony
U.S. House of Representatives
Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security
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From *Miranda* to *Gideon*: A Call for Pretrial Reform

For almost two decades, I endured the grueling struggle of facing my own mortality while incarcerated on Texas Death row. I was there during hundreds of executions, multiple suicide attempts by Men using razors to cut their throats or wrists, hangings and Insane outbursts by Men going through extreme mental anguish. The good days were horrible, while the bad were unbearable and some couldn't survive it. I was in the worst place on earth.

What Happened to me? Many days I can't believe it happened at all. It was anyone's worst nightmare. It was August of 1992- and I was living my somewhat meager existence, but I was happy enough and carried a good spirit. I was a young black Man living in a small town in Texas, and that had its inherent challenges. But I also had good friends, my three sons and family who loved me. I was good in sports, and I worked at various jobs and managed to pull it all together-It was my life. I was a man with his dreams just like any other man.

Until it was all snatched away in a second. I was one week shy of my 27th birthday. I woke up to a knock on my mother's apartment front door. It was the neighbor coming to tell me that the Police were looking for me. Why? My Immediate reaction was call my Aunt to find out if the police had been to her home looking for me. After talking with her, I decided to go outside and look for the Police.

An officer pulled up in his patrol car, I stopped to wait on him to approach me. I didn't know that this encounter with the officer would change my life forever. I had no idea I was about to spend the next eighteen and a half years behind bars, including twelve and a half on Texas death row, trying to prove my innocence.

Does that sound impossible to you? It's not. Does it sound exaggerated or ripped from the headlines of the news? It happened. It's my life. Or a big part of it. You see, I didn't let it define me. It easily could have-I saw it consume Men I thought were stronger than me, and killed them one way or another. I watched men lose hope, crumble and die. In fact, it was commonplace-It even felt on some days like it was the design of death row to have that happen.

My Innocence is the very thing I relied on after my arrest. It's what initially gave me hope. I cooperated with law enforcement 110 percent, so sure was I that the whole thing was some crazy mistake. I did everything they asked of me- but quickly came to understand that what the officers wanted more was for me to confess to this horrendous crime, and then a conviction. They told me that another man who was arrested for the murder of six innocent people by burning down their house had named me as his accomplice. That's it. He said my name. There was no other evidence to support his claim. I had a full alibi- I was home with my then girlfriend that night long before the hours of the murders. There was no physical evidence to connect me to it(fingerprints, footprints, blood on my clothes or traces of embers) No skin cells or hair follicles from the victims. No eyewitnesses, except the man who said my name, and he had burns on his body when he showed up to the victims funeral.

Soon, I would be subjected to a lie- detector test that did nothing to seek the truth, or get closer to it. I was told that I had failed the test. Next, a woman would vaguely recall she saw two men putting gas into a

container at the local filing station on the night of the crimes-and she would point her finger at me in a line-up arranged by the Texas Rangers, despite the fact that I looked nothing like the description she gave to the Police .Years later this woman couldn't recognize me standing right in front of her during an oral deposition. Her choice in that line up was based on external factors, not based on memory of her seeing me at a gas station. I was of a much different age than all the other suspects in the line-up, I was in the center spot(Known as the guilty spot), and I was the one that Law enforcement wanted her to pick from the secret room behind the one way mirror.(You do the math on whether she was encouraged to pick me.)

Throughout the process since the day of my arrest, I witnessed the nearly unchecked power of the district attorney's office and how one individual can have so much impact on our lives. I witness how law enforcement can get tunnel-vision once they have a murder suspect in custody.

I witness the role of the media in shaping opinions around cases before trial. I also witnessed how judges give wide leeway to prosecutors instead of heeding the actual facts or some notion of justice for all. All of these things eventually led to my wrongful conviction over the course of years, and many appeals to follow. The day I was convicted felt like a death knell, and it was. It was just crazy.

But because I knew that I was innocent, I did not give up. I did not let my mind go to dark places I knew so many others had visited. Yes, the physical conditions in prison were harsh. But it was the mental abuse that was the hardest part. We were not allowed any human contact, and the only form of communication was between the walls and bars. It was a campaign to extinguish my light. I held on. Day after Day, I held on. For what? I was on a methodical track to be killed for a crime I didn't commit.

I was sliding down a slope that so many others have descended before me. The criminal justice system had stolen my freedom and now Texas wanted to take my life. It is not a system that holds high the values I expected it to- facts, truth, careful and thorough investigation, leave no stone unturned to find out who is really responsible for these awful acts and sweet lives extinguished too early. The courts are complicit too. The Judges didn't care. They all Rubber-Stamped the blind march toward my conviction. The DA's office certainly didn't care-they all got their stats-another conviction of another black man for another senseless murder. That was the goal- get the indictment, get the conviction, put away a disposable young man and make the community feel safe about law enforcement doing their job. But it isn't their job- a conviction is not the goal. Seeking Justice is supposed to be the goal, right? Justice is hard. It is elusive. But isn't that the high standard we want to believe in? That we can't allow an innocent man to be executed? It was enlightening and sad, to burst the bubble of all those high concepts. They are myths in practice, despite what they tell you in law school, or on the news. "WE DO JUSTICE." No, those are words. I lived the reality, and in practice, our criminal justice system is deeply biased, careless, and more than willing to march to a goal that should be an embarrassment, an intolerable insult.

Over the next 12 ½ years, I witnessed over 400 men, young, old, mentally ill, innocent, guilty being murdered at the hands of the state. I was locked in tiny spaces arranged like dog kennels. I was just existing behind steel doors. My world felt and smelled like death and inhumanity, with men trying to live under the worst conditions, short of slavery. I knew that I was innocent and therefore, I remained hopeful.

I was convicted after a sham of a trial replete with mistakes, bias and tunnel-vision. Whatever was said by law enforcement was gospel. Lack of facts to support their conclusion was tolerated. Exculpatory evidence

was hidden from me and my lawyers. I was expendable. After my trial I was sentenced to die and sent to death row. My Son pleaded for my life at the sentencing trial. My Mother cried day after day, thinking to herself; how are they just going to kill my son for something he didn't do?

I existed on death row, where I was held in solitary confinement since I was now deemed a danger to myself and others. My execution date was set twice. I remember the first time I was told the state had set an execution date. I was escorted to the Major's office in handcuffs. He sat me down and told me that the state had set a date for my execution.

In fact, having a date with death was a catalyst for me. I'll never forget that moment. On the outside, I merely existed. But inside, in my mind, that's where I lived. And when I was told by the Major they had set the day they planned to kill me, it had the effect of motivating me to live fully. That may sound strange to you. But it was my saving grace-It was my complete defense to this unjust and careless nightmare. I dug in. Hope grew within me, it rushed through me.

I'M GOING TO LIVE UNTIL I DIE,I TOLD MYSELF IN THAT MOMENT.

From that time forward, I was on the way up instead of sliding further down. I was buoyant at times-which seems impossible given the conditions I was in-but it's true. I was confident, with really no reason to be. Now, my task was daunting, there's no way around that. My task was to continue to believe that living until I die was enough, it was a kernel of hope upon which I could build. So I did. I immediately discovered within myself how I would live for the rest of my life. I would be hopeful no matter what because it was my choice. How would you react to such extreme injustice? This happened to me and I discovered who I am. When you suffer a severe wrong, how you respond will tell you a lot about who you are. I spent nearly two

decades in prison for something I didn't do; I didn't get angry. I not only survived, I thrived.

I ASK MYSELF-WHERE DO I GO FROM HERE? You learn about yourself in these moments. It feels like the walls are closing in on you. And you are going to be crushed. But I had my inner strength born of the resolve that I found. And I built on it. I pushed the walls out. I found space for myself- mostly inside my mind- but I found a path. Writing had a lot to do with it. I began to cultivate pen pals all around the world. I told my story to them, and they responded by returning my letters and their care. They wanted me to survive, and they helped me. I no longer felt so alone, even though I was totally isolated.

In writing to others, I realized something fundamental about myself. I loved the interaction I had with people, even though they were complete strangers to me. We were exchanging elements of our lives, and it felt good. I knew that I could be free, and I knew that when I got there, I had a purpose. I would be in service to others, and engaged in volunteer activity in my community- That's what I wanted to do. Along the way I read books. I read *The Alchemist* by Paulo Coelho, and the autobiographies of Martin Luther King Jr. and Malcom X. I read *Mis-education of the Negro* by Carter G Woodson. One of my all time favorite books is by a woman name Harriet Jacobs. She was a slave, and she wrote a book call *escape to freedom*. I gained a lot of strength from her words. I also read Sydney Poitier, *The measure of a man*, *Soul on Ice* by Eldridge Cleaver, and *Native Son* by James Baldwin. I lived inside my mind, and I wandered through these pages to grow instead of wilt under the weight of being on death row. I was on the rise, against all odds.

It may be hard for you to believe – a man condemned to a meager existence on death row in Texas is thinking about how he will serve others as a volunteer, and becomes an avid reader and letter writer.

When I experienced severe discrimination, I made a choice. My dreams did not die. They changed. I lost my boys in the process—they became men with children of their own while I was incarcerated. I lost baseball. I lost the ability to decide what I eat, or when I step out into the Texas sunshine. I lost everything. ALMOST everything. I did not lose my mind. I held on to my soul. I had infinite hope, born of the moment I was at the lowest point in my life.

My conviction was ultimately overturned, after a wonderful journalist worked hard to uncover all the errors in my case, and the bias that accompanied it. The Professor did her homework, and eventually helped pry my case open again, and ultimately my conviction was overturned. Finally, I got my release. I call my Mom from the parking lot of the local jail and with my first breaths of free air in nearly 20 years, I ask my Mom what was she cooking for dinner? Because I was coming home.

Today I have turned a terrible tragedy into an amazing Triumph. I am not only an accomplished public speaker, community advocate, and consultant, but also the founder of a non-profit organization called Anthony Graves.org, Board of the Houston Forensic Science Center, and I serve on the advisory board of the Texas coalition to abolish the death penalty. I presented my story at many prestigious universities including Yale, The University of Texas, Emory University, Cornell, and the University de Berne in Switzerland just to name a few.

In 2011, I was the keynote speaker at the Amnesty International European Conference in Rome. Later that same year, I was the keynote speaker at the annual conference for the Texas coalition to Abolish the Death Penalty. In 2012, I was the keynote speaker for the American Bar Association Death Penalty Representation project's 25th Anniversary along with retired Supreme Court Justice John Paul Stevens. That same

year, I testified before the U.S. Senate Hearing on Solitary Confinement, Led by Senator Dick Durbin.

In 2013, I was the keynote speaker at the 50th Anniversary of Gideon vs. Wainwright held by the American Bar Association in Marcos Island, Florida. I was honored by the Harris County Criminal Lawyers Association where I received the Torch of liberty Award. Also, in 2013 I decided to put my advocacy for criminal justice reform into action, and I established the Nicole B Casarez Endowment Scholarship Fund, created for law students at the University of Texas law school. This scholarship was named after the journalist/attorney who tirelessly committed her time, skill and resources seeking justice for me. I also launched the Anthony Graves Foundation. Our mission is to help prepare second chance citizens a success return to society. And to get the people out of prison that shouldn't be there.

In 2015, I filed a grievance with the State of Texas Bar Association against District Attorney Charles Sebesta for prosecutorial misconduct- he's the one who handled my case. I cited all of the heinous behavior including hiding exculpatory evidence from me, and he was judged by this body. They disbarred him- he would never be able to frame a innocent man again. His trespasses cost years of my life.

Two years ago I became a published Author. I wrote a book about my experiences called, Infinite Hope, I am proud to say, It was the first time I could really say it all in my own words. The process of writing it was difficult, emotional and cathartic, too.

This book was written to inspire and encourage those who have experienced true hardship in life to never give up. More importantly it is a book that has raised awareness about the urgent need for reform. It is my life's mission, and what fulfills and sustains me to this day. I could never be the man I am sitting here now if I didn't go through hell,

and come out of it ok. How I did that, how I kept hope, that is what I want to share. Reform will come when we better understand the people inside the system, and why they are worth fighting for. I am a living example-Death row did not take my life, it did not kill my soul. It gave me purpose. For that, I am grateful.

I hope that this committee will find a way to address the issues that are plaguing our criminal justice system and fix it to make it better for us all, because every person matters, every effort makes a difference. Believe me, I know.

Thank you.