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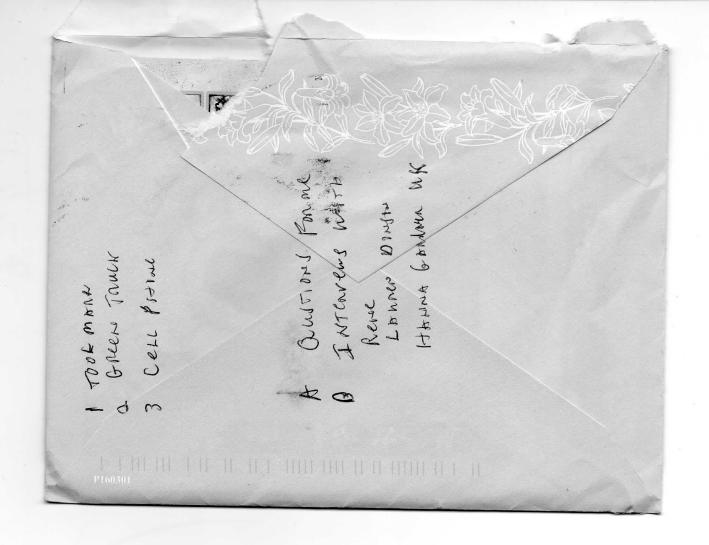


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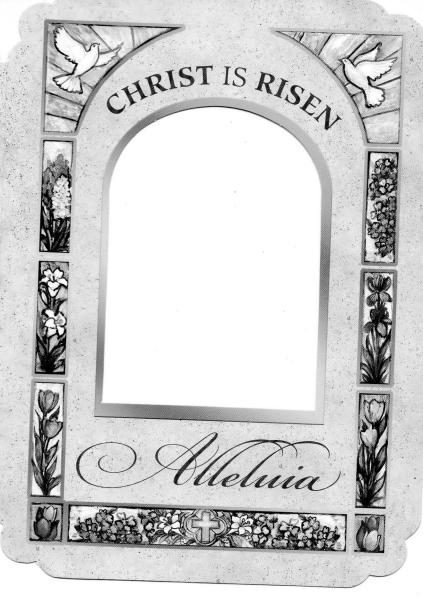


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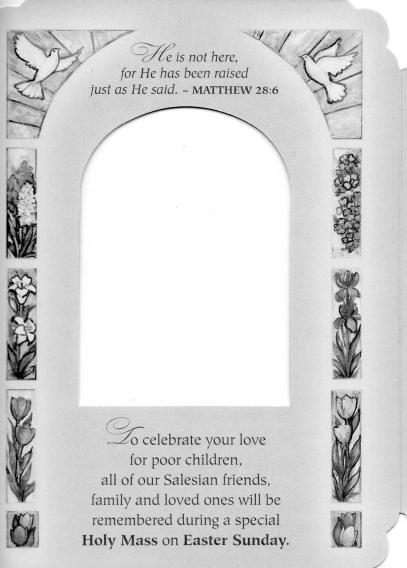
Original Art by Stanley Wanczyk

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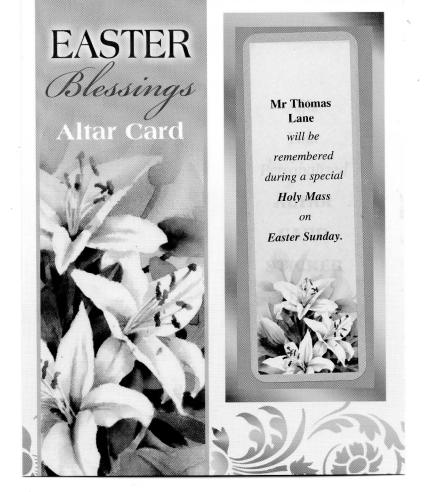
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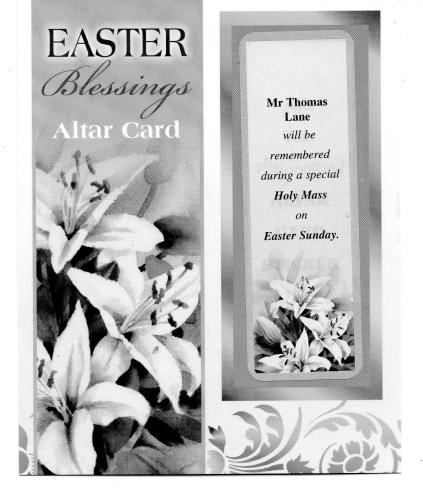
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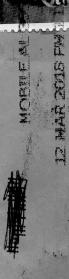
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THANK YOU SO MINCH GOD BLESS JOMY

Mr. Thomas Lane Z-726-0-5
PO Box 3700 Death Row
Atmore, AL 36503-3700



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Cell Door Magazine 14985 Road 40.2 Mancos, CO 81328

> Winter ISSUE 2017

Marwin McHenry,
Claudia Whitman
&
Desmond Ricks
Celebrating
At the
Exoneration Party



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A Project of the University of California Irvine Newkirk Center for Science & Society, University of Michigan Law School & Michigan State University College of Law

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February 14, 2018

Thomas Lane 2-726-05 Holman Death Row PO Box 3700 Atmore, Alabama 36503-3700

Dear Mr. Lane.

Thank you for contacting the National Registry of Exonerations (NRE). You sent your letter to our colleagues in Michigan, but the NRE has recently moved its administrative office to the University of California, Irvine and, therefore, your letter was forwarded here. I am responding on behalf of Professor Simon Cole, the Director of the Registry.

In response to your inquiry, enclosed you will find:

- -NRE report, 'Exonerations in 2015'.
- -"Rate of false convictions of criminal defendants who are sentenced to death" from PNAS May 2014, which was cited on page 17 of 'Exonerations in 2015'.
- -NRE:Compensation for Exonerees from the NRE website.

We hope this information is what you are asking for. We wish you the best of luck in pursuing your case.

Sincerely yours,

Lori Metherate

Staff, National Registry of Exonerations

NATIONAL REGISTRY OF EXONERATIONS UNIVERSITY OF CALIFORNIA, IRVINE IRVINE, CALIFORNIA 92697-7090



Rate of false conviction of criminal defendants who are sentenced to death

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^aUniversity of Michigan Law School, Ann Arbor, MI 49109; ^bMichigan State University College of Law, East Lansing, MI 48824; ^cAmerican College of Radiology Clinical Research Center, Philadelphia, PA 19103; and ^dDepartment of Biostatistics and Epidemiology, University of Pennsylvania School of Medicine, Philadelphia, PA 19104

Edited* by Lee D. Ross, Stanford University, Stanford, CA, and approved March 25, 2014 (received for review April 5, 2013)

The rate of erroneous conviction of innocent criminal defendants is often described as not merely unknown but unknowable. There is no systematic method to determine the accuracy of a criminal conviction; if there were, these errors would not occur in the first place. As a result, very few false convictions are ever discovered, and those that are discovered are not representative of the group as a whole. In the United States, however, a high proportion of false convictions that do come to light and produce exonerations are concentrated among the tiny minority of cases in which defendants are sentenced to death. This makes it possible to use data on death row exonerations to estimate the overall rate of false conviction among death sentences. The high rate of exoneration among death-sentenced defendants appears to be driven by the threat of execution, but most death-sentenced defendants are removed from death row and resentenced to life imprisonment, after which the likelihood of exoneration drops sharply. We use survival analysis to model this effect, and estimate that if all death-sentenced defendants remained under sentence of death indefinitely, at least 4.1% would be exonerated. We conclude that this is a conservative estimate of the proportion of false conviction among death sentences in the United States.

capital punishment | criminal justice | wrongful conviction

In the past few decades a surge of hundreds of exonerations of innocent criminal defendants has drawn attention to the problem of erroneous conviction, and led to a spate of reforms in criminal investigation and adjudication (1–3). All the same, the most basic empirical question about false convictions remains unanswered: How common are these miscarriages of justice?

False convictions, by definition, are unobserved when they occur: If we know that a defendant is innocent, he is not convicted in the first place. They are also extremely difficult to detect after the fact. As a result, the great majority of innocent defendants remain undetected. The rate of such errors is often described as a "dark figure" (4)—an important measure of the performance of the criminal justice system that is not merely unknown but unknowable.

However, there is no shortage of lawyers and judges who assert confidently that the number of false convictions is negligible. Judge Learned Hand said so in 1923: "Our [criminal] procedure has always been haunted by the ghost of the innocent man convicted. It is an unreal dream" (5, p. 649). And in 2007, Justice Antonin Scalia wrote in a concurring opinion in the Supreme Court that American criminal convictions have an "error rate of [0].027 percent—or, to put it another way, a success rate of 99.973 percent" (6, p. 182). This would be comforting, if true. In fact, the claim is silly. Scalia's ratio is derived by taking the number of known exonerations at the time, which were limited almost entirely to a small subset of murder and rape cases, using it as a measure of all false convictions (known and unknown), and dividing it by the number of all felony convictions for all crimes, from drug possession and burglary to car theft and income tax evasion.

To actually estimate the proportion of erroneous convictions we need a well-defined group of criminal convictions within which we identify all mistaken convictions, or at least most. It is hard to imagine how that could be done for criminal convictions generally, but it might be possible for capital murder.

The rate of exonerations among death sentences in the United States is far higher than for any other category of criminal convictions. Death sentences represent less than one-tenth of 1% of prison sentences in the United States (7), but they accounted for about 12% of known exonerations of innocent defendants from 1989 through early 2012 (2), a disproportion of more than 130 to 1. A major reason for this extraordinary exoneration rate is that far more attention and resources are devoted to death penalty cases than to other criminal prosecutions, before and after conviction.

The vast majority of criminal convictions are not candidates for exoneration because no one makes any effort to reconsider the guilt of the defendants. Approximately 95% of felony convictions in the United States are based on negotiated pleas of guilty (plea bargains) that are entered in routine proceedings at which no evidence is presented. Few are ever subject to any review whatsoever. Most convicted defendants are never represented by an attorney after conviction, and the appeals that do take place are usually perfunctory and unrelated to guilt or innocence.

Death sentences are different. Almost all are based on convictions after jury trial, and even the handful of capital defendants who plead guilty are then subject to trial-like-sentencing hearings, usually before juries. All death sentences are reviewed on appeal; almost all are reviewed repeatedly. With few exceptions, capital defendants have lawyers as long as they remain on death row. Everyone, from the first officer on the scene of a potentially capital crime to the Chief Justice of the United States, takes capital cases more seriously than other criminal prosecutions—and knows that everybody else will do so as well. And everyone from defense lawyers to innocence projects to governors and state and federal judges is likely to be particularly careful to avoid the execution of innocent defendants.

This extraordinary difference in resources and attention generates two related effects. (i) Advocates for a defendant are much more likely to pursue any plausible postconviction claim of innocence if the defendant is under sentence of death. (ii) Courts

Significance

The rate of erroneous conviction of innocent criminal defendants is often described as not merely unknown but unknowable. We use survival analysis to model this effect, and estimate that if all death-sentenced defendants remained under sentence of death indefinitely at least 4.1% would be exonerated. We conclude that this is a conservative estimate of the proportion of false conviction among death sentences in the United States.

Author contributions: S.R.G. and B.O. designed research; S.R.G. and B.O. performed research; C.H. and E.H.K. analyzed data; and S.R.G. and B.O. wrote the paper.

The authors declare no conflict of interest

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This article contains supporting information online at www.pnas.org/lookup/suppl/doi:10.1073/pnas.1306417111/-/DCSupplemental.

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