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August 21, 2018

Governor Mary Fallin
Oklahoma State Capitol
2300 North Lincoln Boulevard, Room 212
Oklahoma City, OK 73105

Dear Governor Fallin:

As you previously and poignantly noted, “The most solemn responsibility for a state is the taking of a life.” On behalf of the Congressional Black Caucus (CBC), we are writing to you regarding our deep concerns about the application of the death penalty in Oklahoma, specifically with respect to racial bias and the risk of executing an innocent person.

As we are sure you are aware, the 2017 study “Race and Death Sentencing for Oklahoma Homicides 1990-2012,” found profound inequity in the application of the death penalty based on race. Specifically, the study found that a black defendant accused of killing a white male victim in Oklahoma is nearly *three times* more likely to receive a death sentence than if his victim were a non-white male. Also, last year the Oklahoma Death Penalty Review Commission, a broad range of stakeholders from all corners of the criminal justice community, unanimously called for the extension of the existing moratorium of the death penalty, citing to the grave risk of executing an innocent in Oklahoma. At the nexus of these two issues is the case of Julius Jones, a man with an extremely viable claim of innocence whose case was plagued by a racially charged investigation and trial.

Julius Jones is on death row in Oklahoma, despite maintaining his innocence and compelling evidence that he was wrongfully convicted of shooting and killing Paul Howell, a white businessman from Edmond, Oklahoma during the theft of his SUV. Mr. Jones’ co-defendant, the key witness against him, fit an eyewitness’ description of the shooter, while Mr. Jones did not. His co-defendant pleaded guilty to first degree murder and conspiracy to commit a felony. By doing so, he received a significantly reduced sentence of 30 years, of which he served only 15 and is now a free man.

According to a report issued by Northwestern University School of Law’s Center on Wrongful Convictions, incentivized testimony, such as the testimony on which Mr. Jones’ conviction is based, is the leading cause of wrongful

conviction in capital cases.

At the time of the crime for which Mr. Jones was convicted, he was an honors student and athlete with a promising future, just 19 years old and a student at the University of Oklahoma on an academic scholarship. In John Marshall High School, Mr. Jones was a member of the National Honor Society and graduated with a class rank of 12 out of 143. He was co-captain of his football, basketball, and track teams.

The victim's sister, who was a passenger in the vehicle and witnessed the shooting, testified that the shooter had approximately a half-inch of hair sticking out from underneath a stocking cap. The witness's physical description of the man who shot her brother fit the description of an acquaintance of Mr. Jones', Christopher Jordan, who was one of the prosecution's main witnesses against Mr. Jones. Mr. Jones' underfunded and inexperienced attorneys, who were three public defenders with no capital trial experience, failed to show the jury a photograph of Mr. Jones, taken a few days before the shooting, illustrating that Mr. Jones' had low, crew-cut hair and proving that he could not be the person who the victim's sister described. Christopher Jordan matched the description with long, braided hair.

Mr. Jones' attorneys failed to cross-examine Mr. Jordan on the six different and inconsistent statements he gave to the police after his arrest. They also failed to put on evidence showing that Mr. Jordan was likely the actual shooter and was testifying against Mr. Jones to avoid the death penalty. Two prisoners even heard Mr. Jordan bragging that he set-up Julius, and that he would get out of prison in 15 years in exchange for his testimony. Notably, Mr. Jones' trial attorneys did not put on a *single* witness to testify during the guilt-innocence phase of his trial.

The crime was highly publicized and racially charged from the beginning. During jury selection for Mr. Jones' trial, black prospective jurors, with the exception of one, were excluded from jury service on the grounds that they had some criminal histories. Yet, a white man who served on Mr. Jones' jury and sentenced him to death had two prior felony convictions that the prosecution did not disclose to Mr. Jones' defense.

Importantly, new evidence shows that racial prejudice inflamed at least one juror. In November 2017, Mr. Jones' current legal team discovered new evidence that at least one juror harbored racial prejudice that influenced his vote to convict and sentence Mr. Jones to death. One juror reported telling the judge about another juror who said the trial was a waste of time and "they should just take the [n-word] out and shoot him behind the jail."

The United States Supreme Court has made unequivocally clear that our criminal justice system cannot tolerate such blatant examples of racial prejudice on the part of even a single juror. In this way and many others, Mr. Jones' rights under the state and federal constitutions appear to have been violated. On July 24, 2018, the Oklahoma Court of Criminal Appeals agreed to consider this newly discovered claim of the juror using the racial slur. There is also a petition pending before the United States Supreme Court regarding the unfair application of the death penalty on the basis of race.

The CBC is heartened by these recent developments but notes that this is one of many cases that deserves the attention of the State of Oklahoma. As the Death Penalty Study Commission soberly noted, “Many of the findings of the Commission’s year-long study were disturbing and led Commission members to question whether the death penalty can be administered in a way that ensures that no innocent person is put to death. Commission members agreed that, at a minimum, those who are sentenced to death should receive this sentence only after a fair and impartial process that ensures they deserve the ultimate punishment.”

There are a series of reforms that were recommended by the Oklahoma Justice Commission that was established by the Oklahoma Bar Association in February of 2013. Only one reform put forward by that Commission, namely passage of a law that would provide statutory access to post-conviction DNA testing, was ultimately passed by the Oklahoma legislature. Other recommendations that would address a range of contributing causes of wrongful conviction, including eyewitness identification reform, forensic science reform, informant regulation – a key piece of evidence, incidentally, that was used to convict Julius Jones, and the recording of custodial interrogations, have yet to come to pass in Oklahoma.

Major reform is needed to the criminal justice system to ensure that the fair and impartial process called for by the Death Penalty Study Commission becomes a reality. Given this backdrop, we strongly urge you to use the power of your office to put these recommended reforms in place. As for Mr. Jones, we ask that you take a close and careful look at his case, and use your authority to correct this wrongful conviction. Justice requires it.

Sincerely,



Cedric L. Richmond
Chair, Congressional Black Caucus