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Former Chief Justice Joins Fight for Ex-Death Row Texas Man

Former Texas Supreme Court Chief Justice Wallace Jefferson has joined a high-powered pro bono legal team fighting for state compensation for the wrongful incarceration of Alfred Dewayne Brown, a man who was declared actually innocent of the 2003 murder of a Houston police officer.

By Angela Morris | October 29, 2019



Wallace B. Jefferson, partner in Alexander Dubose & Jefferson in Austin. (Courtesy photo)

In litigation with high-ranking Texas officials on one side, and a former death-row inmate on the other, a man who's seeking state compensation for his wrongful conviction might have scored a slingshot: former state Supreme Court Chief Justice Wallace Jefferson joining his pro-bono legal team.

Alfred Dewayne Brown, who was declared actually innocent earlier this year, after a 2005 wrongful conviction for murdering a Houston police officer, already had a high-powered legal team lead by Neal Manne, managing partner in Susman Godfrey in Houston.

Now, the addition of Jefferson, once one of the most powerful jurists in the state, boosts his chances before the Texas Supreme Court.

Brown is arguing it was wrong when, this summer, the Texas Comptroller of Public Accounts denied his application for \$2 million under the Tim Cole Act to compensate him for the 12 years—nine on death row—that he was wrongfully imprisoned.

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Jefferson, who declined to comment, started on the high court as a justice in 2001 and then became chief justice in 2004, a post he held until 2013. Prior to becoming a justice, he won two cases before the U.S. Supreme Court. Now back in private

practice, he's a litigator with the Austin appellate boutique Alexander Dubose & Jefferson.

He joined the team at the request of Manne, who has given pro bono representation for Brown's quest for compensation since 2016.



**Neal Manne of Susman
Godfrey in Houston.**

"He's someone I know, and a great lawyer and well respected," Manne explained. "Our firms have worked together on some cases, so I know him professionally, and I asked him if he was interested in this issue, since it was going to be before the Texas Supreme Court. He was interested."

Brown's actual innocence finding followed a rare procedure. The Texas Court of Criminal Appeals in 2015 granted habeas corpus relief and ordered a new trial based on prosecutorial misconduct. The Harris County District Attorney's Office in 2015 moved to dismiss the case.

Later, under a new district attorney, the office brought in Special Prosecutor John Raley to re-investigate the case. Raley found no credible evidence to implicate Brown, and strong evidence supporting Brown's alibi. Next, 351st District Judge George Powell in May reopened the case and granted District Attorney Kim Ogg's motion to dismiss based on actual innocence.

But the comptroller's office questioned the court's jurisdiction to reopen the case and rule for Brown. In June it denied Brown's application for state compensation under the Tim Cole Act, which compensates people who were wrongfully incarcerated.

Chris Bryan, a spokesman for the comptroller's office, said that the office would allow its arguments in court to speak for themselves. The office hasn't yet filed a response.

Now, Jefferson has joined Brown's legal team. He and Manne worked together on a Sept. 30 petition for writ of mandamus

(<http://www.search.txcourts.gov/SearchMedia.aspx?MediaVersionID=212836c4-5929-4869-8299-b0506ec46e0b&coa=cossup&DT=BRIEFS&MediaID=7d6e63f6-c70d-4523-ae07-4021f98ebd0e>) in *In Re Alfred Dewayne Brown*.

The petition argued that under the Tim Cole Act, the comptroller's role is purely ministerial, and the office should have approved Brown because he had filed all of the documents the act requires. It argued the comptroller exceeded his authority by questioning the district court's jurisdiction—an alleged error that Brown claimed violated the Tim Cole Act and separation of powers.

Read the petition:

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 19-0877
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 tex-37252840
 SUPREME COURT OF TEXAS
 BLAKE A. HAWTHORNE, CLERK

No. _____

IN THE SUPREME COURT OF TEXAS
ORIGINAL PROCEEDING

In re
ALFRED DEWAYNE BROWN
Relator

The Honorable Glenn Hegar,
Texas Comptroller of Public Accounts, Respondent

PETITION FOR WRIT OF MANDAMUS

Wallace B. Jefferson State Bar No. 00000019 Rachel A. Ekery State Bar No. 00787424 ALEXANDER DUBOSE & JEFFERSON LLP 515 Congress Avenue Suite 2350 Austin, Texas 78701-3562 Telephone: (512) 482-9300 Facsimile: (512) 482-9303	Neal S. Manne State Bar No. 12937980 Joseph S. Grinstein State Bar No. 24002188 Shawn L. Raymond
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