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The Persecution of Alfred Brown: Texas AG, Police Conspired to Punish Innocent Man

Political forces are aligned against Alfred Dewayne Brown, a man who was declared "actually innocent" after his conviction for murdering a Houston police officer. The Houston Police Officers' Union urged the comptroller and the attorney general to deny Brown's application for state compensation, and after staff of both offices met secretly in June, that's just what happened.

By Angela Morris | October 29, 2019



Alfred Dewayne Brown (left) and Anthony Graves were both wrongfully convicted of murder and eventually declared innocent. (Courtesy photo)

Powerful forces conspired against former inmate Alfred Dewayne Brown, as he was fought for compensation for wrongful incarceration and nearly a decade on death row.

A paper trail that Texas Lawyer uncovered through a Public Information Act request showed that the Houston police union, which had vehemently opposed efforts to have Brown declared actually innocent during court proceedings, had also gone much further.

Then, spurred by the police union, the Texas attorney general's and comptroller's offices worked against Brown. And in the end, the comptroller denied Brown \$2 million in state compensation for wrongful conviction in the murder a Houston police officer.

Now, Brown's attorney is crying foul, claiming unprecedented political interference by Texas Attorney General Ken Paxton. And he said the officials had no business hindering a procedure that, by law, is supposed to be purely ministerial inside the Texas Comptroller of Public Accounts.



Texas Attorney General Ken Paxton. (Photo: Diego M. Radzinski/ALM)

Here's what happened.

Involvement of Brantley Starr, now a federal judge

Brown was convicted in 2005 of murdering Houston Police Officer Charles Clark. But in May, he was declared actually innocent—a special standard of review used to prevent the miscarriage of justice, and prove that a charged defendant did not commit the crime. He's seeking compensation under the Tim Cole Act, a Texas law that requires the state to pay victims of wrongful incarceration. But Texas' comptroller denied him compensation, prompting Brown to launch an appeal.

Now a paper trail uncovered through a records request allows Texas Lawyer to piece together a timeline leading to that denial. Those documents

show the chain of events that started with a letter from the Houston Police Officers' Union on June 6 to Paxton and Texas Comptroller Glenn Hegar.

Click here to read the union's full letter
(<https://drive.google.com/file/d/18Jr0wBJpk3lcUrfZS3KzLIZKEKI>)

After that, the attorney general began to urge the denial of Brown's compensation. And high level staff in Paxton's and Hegar's offices held a meeting—which included then-deputy first assistant attorney general Brantley Starr, who has since ascended to the federal bench in Dallas.



"I am asking you to do your own investigation, request that the attorney general to do his own investigation, or have the governor request the Texas Rangers to investigate before granting this

Brantley Starr testifies before the Senate Judiciary Committee during his April 10 confirmation hearing to be U.S. District Judge for the Northern District of Texas. (Photo: Diego M. Radzinski/ALM)

compensation,” union president Joe Gamaldi wrote in the letter to comptroller Hegar, the official who administers payment.

Gamaldi declined to comment. But his letter told Hegar that strong evidence implicates Brown in Clark’s murder, and he urged the state to deny Brown’s compensation. He then copied the correspondence to Paxton and Texas Gov. Greg

Abbott.

The meeting

The records indicate the attorney general’s and comptroller’s offices took action.

The same day of Gamaldi’s letter, June 6, staff of the attorney general’s and comptroller’s offices started an email chain to schedule an in-person meeting about Brown’s application for compensation.

Read the email chain

(<https://drive.google.com/file/d/1ySBG0dKJmqvxKniWioGzIL1hC>)

The meeting (<https://drive.google.com/file/d/1AKf9LuAf-HuWX11ssZaHnTBMOwCurqMK/view?usp=sharing>) on June 13 included executive staff from both offices: Starr and Robert Wood, associate deputy comptroller of operations and support.

WHO ATTENDED THE JUNE 13 MEETING?

Staff from the comptroller's and attorney general's offices met on June 13 to discuss Alfred Dewayne Brown's application for state compensation for his wrongful conviction.

Staff of Texas Comptroller of Public Accounts

ROBERT WOOD

Associate deputy comptroller
of operations and support

NIKKI COBB

Director of legislative affairs

CHRIS CONRADT

Senior counsel

BRANTLEY STARR

Then-deputy first
assistant attorney general
(now a Dallas federal judge)

STEVE PIER

Director of governmental relations

Staff of Texas Office of the Attorney General

Source: Emails and a meeting notice that Texas Lawyer obtained from the comptroller's office under a Texas Public Information Act request.

(Graphic: Chelsey Fredlund/ALM)

Wood and Starr, now judge of the U.S. District Court for the Northern District of Texas in Dallas, each didn't return messages seeking comment about what they discussed in the meeting.

Marc Rylander, the director of communications for Paxton's office, suggested it was a sit-down between the public agencies and government lawyers.

"Our office cannot comment on any private meetings that may have been held with a client agency or on any internal processes by which we have rendered legal advice as attorneys for the state of Texas," Rylander said in an email.

But four days after the meeting, on June 17, Paxton penned a letter to Hegar. In it, he listed four issues the comptroller should consider before paying Brown. Among other things, he wrote that the district court didn't have jurisdiction reexamine Brown's case—dismissing it in 2019 with a finding of actual innocence—because the court had already dismissed the case in 2015, without that important finding that helped bolster Brown's chances for compensation.

Read Paxton's letter (https://drive.google.com/file/d/1qXIIPvCJITB4svopUAU1e6QBT6c_/view?usp=sharing)

Days later, the comptroller's office cited that same reason—doubt about the court's jurisdiction—when it denied Brown's compensation

(<https://www.law.com/texaslawyer/2019/06/26/houston-lawyer-fighting-denial-of-wrongful-imprisonment-compensation-for-innocent-client/>) on June 24.

Among other things, Brown argues in his appeal that the comptroller's office is treating him differently than past actually innocent people. He points to other wrongfully convicted defendants, George Rodriguez and Hannah Overton, arguing they had both had their cases dismissed, then reopened so courts could enter dismissals for actual innocence. In both cases, the comptroller's office had approved compensation under the Tim Cole Act—making Brown an exception.

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Former Chief Justice Joins Fight for Ex-Death Row Texas Man
(<https://www.law.com/texaslawyer/2019/10/29/former-chief-justice-fighting-to-get-compensation-for-ex-death-row-texas-man/>)

'Unprecedented'

Rylander, Paxton's spokesman, said the attorney general's office was just giving legal advice to the comptroller.

"It is the duty of the attorney general to uphold the rule of law, protect the criminal justice system and defend Texas taxpayers against unwarranted liability," he said.

Not everyone agrees that giving legal advice was the attorney general's role in this scenario.

Former Texas Sen. Rodney Ellis, one of the co-authors of the Tim Cole Act, wrote in an amicus brief in Brown's appeal that the act lists no role for the attorney general to tell the comptroller what factors to consider to decide an application. In fact, even the comptroller can't consider factors beyond the documents that an applicant submits, the brief said.

Ellis argued that only the prosecutor and the district court judge were supposed to weigh whether Brown was actually innocent, a precursor to his eligibility for state compensation.

It's unprecedented, for the attorney general's office to tinker in this process, said Neal Manne, Brown's pro bono attorney since 2016 in his quest for compensation. It's supposed to be nonpolitical and ministerial for the comptroller, he said.

"You have secret meetings, and secret letters, and decisions made by the comptroller on a basis he had no right to make," said Manne, managing partner in Susman Godfrey in Houston. "The process at the comptroller's office was a corrupt one. It was corrupted in the sense it's not supposed to be a political process, where politicians are doing favors for their favored constituent groups."

Comptroller's spokesman Chris Bryan declined to comment.

"Any arguments will be made before the court," he said.

The Timeline

Brown followed an unusual path to be declared actually innocent, and now he's following an equally strange route to win state compensation for his wrongful incarceration. Here is a timeline of important dates in his case, and the hidden correspondence that may have influenced the denial of his compensation.



Neal Manne of Susman Godfrey. (Courtesy photo)



Graphic: Chelsey Fredlund/ALM

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