

Hearing on HB 2167 to End Death Penalty  
Corrections & Juvenile Justice Committee  
February 13, 2017  
Attn: the Honorable Rep. Russ Jennings

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### **TESTIMONY IN SUPPORT OF HB 2167**

My name is Eddie Lowery and I have been deeply involved in the Kansas criminal justice system over the past 30 years. In 1982, I was a soldier in the United States Army stationed at Fort Riley when I was convicted of rape, aggravated assault, and aggravated burglary. I was exonerated and proven totally innocent of these crimes in 2003. I did not commit these crimes, but through a failure of our justice system, I was convicted. I spent 10 years in the Lansing State Penitentiary and after my release I spent another 11 years registering as a sex offender until I was proven innocent through DNA testing. It took me another 8 years to begin to truly put my life back together and request the military to change my dishonorable discharge, not to mention to rebuild my relationship with my child who I had not seen since she was 3 years old.

Out of the 349 men and women exonerated through post-trial DNA testing by the Innocence Project, which I am involved with, there have been 20 men exonerated from death row. Our system claims that a person is innocent until proven guilty. But today it's guilty until proven innocent. Overall, since 1973, 157 people have been fully exonerated from death row nationwide.

The use of DNA has shown us time and again that convictions based on eyewitness testimonies, circumstantial evidence, photo identification, and even victim testimonies are many times flawed. These forms of evidence are not conclusive enough to decide whether a person is guilty or innocent, let alone whether that person should receive the death penalty, yet they continued to decide cases in courts around the country, including right here in Kansas. DNA exonerations do not solve the problem, however, but rather, only prove to us that there is a problem in our justice system that needs to be addressed. DNA testing is only available in 5-10% of criminal cases. According to the National Registry of Exonerations, a joint project between the Michigan and Northwestern Law schools, there have been 1,982 exonerations in the US since 1989. They define exoneration as: a case in which a person was wrongly convicted of a crime and later cleared of all charges based on new evidence of innocence.

As a threat to me during my interrogation one detective said that if the elderly women had died in my case, and Kansas had the death penalty (back in 1982), he would ask for it. Even though that was just a threat during my interrogation, I was still an innocent man, and I was being threatened with the death penalty. I cannot even begin to articulate the pain and personal suffering that I have been through. The impact that my wrongful conviction has had on every aspect of my life is difficult to express with words.

My interrogation was into its eighth hour on the second day when I felt I had no other choice but to confess to a crime I did not commit. I had been offered no food or water during these 8 hours. When I asked for a lawyer, I was refused one. When I asked to call my company commander, I was refused that call too. So, I did the only thing that I knew that would get me out of that room.

I told them what they wanted to hear, I thought surely that once I was out of that room, I could get help and everything could be sorted out.

I did all that I could do as an innocent man to cooperate with the detectives in order to prove my innocence. But the pressure was too much. I was later able to give them what they would call my confession. They had given me a lot of the details of the case throughout their interrogation. And when I didn't know enough information they would give me choices to pick from and let me choose until I picked the choice that fit the crime. When we were finally done, they called it a confession and I was arrested. I had two trials. The first trial ended in a hung jury and the second trial ended in a guilty verdict, but only after the detectives altered what I said to them to fit the events of the crime, I was sentenced to 11 to life.

I have lived the errors of our justice system. We all know that our system isn't perfect and has many flaws. Knowing these flaws, I do not believe we should be punishing people with the death penalty. If the flaws that invaded my case somehow make their way into a death penalty case, the State of Kansas could commit one of the gravest miscarriages of justice imaginable. And that is why, in my humble opinion and experience, I believe that the death penalty should be abolished.