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Elected Prosecutors File State Supreme Court Brief in Support of New Trial for Innocent Man Behind Bars

Prosecutors Across the Country Argue for Circuit Attorney Kim Gardner's Right to Correct Unjust Convictions

ST. LOUIS – Today 45 elected prosecutors, who collectively serve a population of approximately 40,000,000 people throughout the United States, filed an [amicus curiae brief](#) in the case of *Missouri v. Lamar Johnson*. In the brief they urge Missouri's highest court to act and support St. Louis City Circuit Attorney Kim Gardner's efforts to remedy serious misconduct that resulted in Johnson's wrongful conviction. While the appellate court declined to review the lower court's denial of CA Gardner's motion for a new trial on procedural grounds, in an extremely rare decision – underscoring the importance of the issues raised – the court transferred the case to the Missouri Supreme Court for review. A ruling in favor of CA Gardner by the Supreme Court would mean not only that her office could finally help secure Mr. Johnson's release, but also would have wider implications for conviction integrity efforts by local prosecutors across the state of Missouri. This includes confirming that state law allows prosecutors to carry out their duties to correct wrongful convictions; clarifying that this power belongs to local prosecutors (and the people who elected them) free from the intrusion of the Attorney General; and acknowledging the legitimacy of conviction integrity units (CIUs) as nationally recognized vehicles to correct wrongful convictions.

“Since discovering evidence of the innocence of Lamar Johnson, CA Gardner has endeavored to do the right thing at *every stage* of this case in her unwavering efforts to promote the interests of justice,” said **Miriam Krinsky, Executive Director of Fair and Just Prosecution**. “Unfortunately – just as her efforts to advance justice, safety and new smart thinking her community embraced in electing her to office have been met with resistance – her efforts in this case have also been circumvented, leaving an innocent man behind bars. The Attorney General's insertion of himself in this case and his opposition to CA Gardner's efforts to remedy a past wrong, undermine the discretion granted to local prosecutors by their communities. Further, it reeks of a politically motivated attempt to seize power from the hands of a prosecutor who has rejected the continued criminalization of low-income people and people of color, and is focused on moving away from past failed ‘tough on crime’ practices and building healthier and safer communities with proven evidence-based policies.”

As in previous briefs filed at both the trial and appellate levels, *amici* argue that by denying the motion for a new trial, the lower court barred CA Gardner from fulfilling her duty to do justice, which includes ensuring convictions are sound, and when found to be otherwise, taking steps to remedy that injustice. Furthermore, they argue that by appointing Missouri State Attorney General Eric Schmitt as an additional

representative of the State, the court intruded upon the discretionary power of CA Gardner to investigate and remedy wrongful convictions, thereby diluting the voice of voters who elected her to oversee the administration of justice in her community.

The brief also draws attention to the well-established role that CIUs, in existence in over 40 jurisdictions, can play as vehicles for remedying wrongful convictions and related injustices. Emphasizing their shared duty to seek justice rather than just convictions, the prosecutors argue there must be a mechanism by which they can look back and correct past mistakes, and that CIUs are increasingly being established to promote justice, transparency and accountability in jurisdictions across the nation.

“If allowed to stand, this decision would not only leave Lamar Johnson behind bars, but create a severe barrier to justice for any person wrongfully convicted in Missouri by blocking the ability of prosecutors to ask courts to remedy such cases, thus rendering all conviction integrity efforts across the state null and void,” said **St. Louis County Prosecuting Attorney Wesley Bell**, a signatory to the brief.

CA Gardner has faced fierce resistance during her tenure as prosecutor from various state officials and the St. Louis Police Officers Association, and she recently filed a [civil rights lawsuit](#) against the City of St. Louis, naming the union and other individuals as defendants. The lawsuit argues that the resistance and attacks aimed at ousting her from office are racially motivated. And the decision by the trial court to allow the Attorney General to insert himself in this case and block relief for an innocent man, serves as an additional example of the attempt by those protecting the status quo to restrict the prosecutorial discretion of an individual duly elected by the citizens of the City of St. Louis.

“Allowing politics to determine whether relief is granted or denied in a case where there are credible claims of innocence and serious concerns about prosecutorial and law enforcement misconduct is unconscionable,” said **Andrew Warren, State Attorney of Florida’s Thirteenth Judicial Circuit**, another signatory to the brief. “This is a matter of justice for Lamar Johnson and the integrity of our system. We cannot close our eyes to justice simply because too much time has passed. The court’s ruling jeopardizes the integrity of our system and violates the fundamental principles of fairness and justice on which it’s founded.”

The ruling by the trial court was made after CA Gardner filed a motion for a new trial in *Missouri v. Lamar Johnson* based on new evidence of Johnson’s actual innocence uncovered by her office’s CIU, as well as evidence of troubling police and prosecutorial misconduct including suppression of exculpatory evidence and perjured testimony. Johnson has been in custody for nearly 25 years and remains behind bars pending the court’s decision. The lower courts’ rulings, if allowed to stand, make it unlikely that he will receive relief or be released from custody in the near future.

In the brief, *amici* also underscored that if the trial court’s ruling is upheld, CIUs will be prevented from fulfilling their intended function in the state of Missouri. Further, elected prosecutors across the state would be discouraged from using their power to revisit many past cases – leaving potentially innocent people, like Lamar Johnson, behind bars and without any realistic avenue for relief.

The brief was authored by Charles Weiss and Jonathan Potts at [Bryan Cave Leighton Paisner LLP](#), with the assistance and coordination of [Fair and Just Prosecution](#), a non-profit organization dedicated to promoting a justice system grounded in fairness, equity, compassion, and fiscal responsibility.

Read the brief [here](#), and see below for a full list of signatories.

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Fair and Just Prosecution is a national network of elected prosecutors working towards common-sense, compassionate criminal justice reforms. To learn more about FJP's work, visit <http://www.fairandjustprosecution.org/> or follow us on Facebook [@FairAndJustProsecution](#).

List of Signatories

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