

NEWS

Conviction overturned: Disgraced doctor's testimony put Tennessee man in prison 24 years



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A Giles County judge last month overturned a murder conviction that relied on the testimony of disgraced former Tennessee medical examiner Charles Harlan.

Judge David L. Allen wrote that new scientific evidence shows Wayne Burgess, convicted of the murder of an infant child in 1999, is innocent.

State prosecutors did not appeal Allen's ruling.

Burgess is set to appear before Allen on Tuesday when his attorneys from the Tennessee Innocence Project will argue for his immediate release.

"Wayne Burgess has always asserted his innocence since the very first day he was arrested," said Tennessee Innocence Project Deputy Director Jason Gichner, Burgess' attorney. "We are grateful for Judge Allen's decision, and we'll continue to push forward and fight for (Burgess) because he is innocent."

Go deeper: Disgraced doc's evidence sent man to prison. No one knows how many others are like him

After infant's death, Harlan's testimony helps convict Burgess

In August 1997, 16-month-old Nakeavia Rivers was rushed to the hospital, where she died from significant internal bleeding caused by a liver injury.

Prosecutors said Burgess confessed to the crime. Burgess, however, denies that he made a confession, and states that he only signed a typed confession, without reading the document, after physical coercion and threats of violence by police during an interview when he did not have an attorney present.

The case went to trial in 1999. The state's theory in the case was that Burgess, who was dating Rivers' mother at the time, struck the child in the stomach shortly before she was taken to the hospital, causing the liver injury that led to her death. That theory relied on just one medical opinion — Harlan's — and contradicted the other medical professionals who treated Rivers or testified in the case.

Burgess was convicted and sentenced to life in prison.

What does new evidence show?

In September, Burgess' attorneys filed a petition to review his conviction based on new scientific evidence. Three medical professionals, including current chief medical examiner Dr. Adele Lewis, appeared before Allen in late March.

All three medical professionals concluded it was impossible that Rivers' liver injury occurred shortly before her death. The amount of blood that had gathered in her abdomen would have taken hours to days to gather, based on Allen's summary of the doctors' testimony.

Burgess had not seen the child for a week prior to the day of her death, and he been with the child only two-and-a-half hours before she was presented to the hospital, making it medically impossible that he committed the crime, the doctors testified.

Who is Charles Harlan?

Harlan was once Tennessee's chief medical examiner. He was also Nashville's first medical examiner.

In 1994, he was suspended from his position as Davidson County assistant medical examiner without pay. A year later, his contract as Tennessee's state medical examiner was terminated. And in 2005, his medical license was permanently stripped.

But even after losing his position in Davidson County, he still performed autopsies and was called as a key witness in several cases around the state, including Burgess'.

His work often contained serious mistakes and oversights.

In 1995, four years before Burgess' case, Dr. George Nichols, then Tennessee's chief medical examiner, wrote to the Tennessee Bureau of Investigation after reviewing Harlan's medical opinions: "If this line of irrational thinking has been applied to other cases in the state of Tennessee, then God help you and the rest of the citizens of Tennessee."

Harlan died in 2013.

What happens now?

Now that the judge has overturned Burgess' conviction and prosecutors did not appeal the ruling, the case is essentially back to square one. Burgess is still charged with murder, Gichner said.

At Tuesday's hearing, Burgess' attorneys will try to get him released without bond, Gichner said.

The state now has to determine if it wants to retry the case.

As of publication, Burgess is still incarcerated in Hardeman County Correctional Facility, according to the Tennessee Department of Correction's website.

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