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U.S.

Tennessee Man Is Released After Overturnd Murder Conviction From Decades Ago

Case comes as state judges give inmates latitude to renew innocence claims based on new scientific evidence

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Wayne Burgess with family outside the Giles County Sheriff's Office, in Pulaski, Tenn., after being released from jail. PHOTO: MARIAH TIMMS/THE WALL STREET JOURNAL

PULASKI, Tenn.—A Tennessee man was released from prison Tuesday after serving more than 20 years for a murder that a court found he didn't commit, the latest in a series of state convictions that have been thrown out after judges gave inmates more room to make fresh innocence claims.

Wayne Burgess, 60 years old, was convicted in 1999 and sentenced to life in prison for the death of his then-girlfriend's 1-year-old daughter in Pulaski, Tenn., 75 miles southwest of Nashville. Prosecutors alleged Burgess hit the child, inflicting a blow that caused her death a short time later. The state cited a report from a since-discredited medical examiner who concluded the girl was injured during the time she was in Burgess's care.

The nonprofit Tennessee Innocence Project last year asked the state's current chief medical examiner, Dr. Adele Lewis, to examine the medical report from decades ago. She concluded the child had suffered the fatal internal injury at some earlier period before Burgess was with the girl.

Last month, Judge David L. Allen reopened the case and tossed the murder conviction. "New scientific evidence proves that it is not medically possible that

Mr. Burgess committed the crime for which he was convicted,” the judge wrote. On Tuesday, he released Burgess without bond while the state decides whether to retry the case.



Friends and family of Wayne Burgess wait for news of his case Tuesday inside the Giles County Courthouse in Pulaski, Tenn. PHOTO: MARIAH TIMMS/THE WALL STREET JOURNAL

Burgess walked out of jail a short time later, dressed in black pants and a charcoal button-up shirt, carrying a large, clear plastic bag holding his belongings, including a painted wooden sign that read, “Wayne’s World.” He thanked his lawyers and said he always thought his conviction one day would be overturned. He added that his first plans were to find somewhere to eat gyros for lunch.

The case is one of several recent matters in which Tennessee judges have ruled that it isn’t too late for inmates to come back to court armed with new scientific evidence that they think demonstrates their innocence. Prosecutors in some circumstances have sought to limit what constitutes truly new evidence that merits the reopening of old cases.

District Attorney Brent Cooper declined to appeal the judge’s order vacating the Burgess conviction but said his office was still reviewing the case, which includes a contested confession.

“If cases like this set the definition for new scientific evidence, we will never be able to resolve them,” Cooper said. “These cases would never end because in the future, all we’re gonna have to do is find an expert witness who had a new opinion, a different opinion, than an expert that was used at trial.”

If the state declines to retry the case or another jury finds him not guilty, Burgess might be eligible for compensation from the state. Tennessee law allows wrongfully convicted defendants to receive up to \$1 million in compensation after a multistep process that involves the Tennessee Board of Parole, the governor and the Tennessee Board of Claims.

The Burgess prosecution is one of a growing number of cases that are getting a second look because of the involvement of discredited medical examiner Dr. Charles Harlan, who died in 2013.

Harlan was named Metropolitan Nashville-Davidson County's first medical examiner in the 1980s and served as the state's chief medical examiner. By the mid-1990s questions over his competence led to him being suspended without pay in Nashville and barred from the Tennessee Bureau of Investigation crime lab while the agency investigated his work. In 2005, his medical license was permanently stripped.



Wayne Burgess hugs his attorney, Jason Gichner from the Tennessee Innocence Project, at the Giles County Sheriff's Office on Tuesday in Pulaski, Tenn. PHOTO: MARIAH TIMMS/THE WALL STREET JOURNAL

Harlan's flawed work has cut both ways. Cooper recently prosecuted a man for the murder of his young son two decades ago, after Harlan incorrectly concluded that the child's 2001 death was accidental.

"When we see his name on the case, we automatically think, you know, could this be a problem case," Cooper said.

In Nashville, a conviction-review unit within the Davidson County District Attorney's office has found egregious errors in Harlan's work and supported the exoneration of two defendants who had been wrongfully convicted of murder in a case involving Harlan.

"He engaged in outrageous, repetitive conduct that fell outside any standardized or accepted practices, definitively impairing his ability to do his job and properly inform the court," said Sunny Eaton, the unit's director. "I will never be able to ignore what we know."

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