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DID YOU KNOW THAT A PROSECUTOR CAN LIE?

682-238-8161 | Email: sdfmembers@gmail.com | www.selfdefensefund.net

DID YOU KNOW THAT A PROSECUTOR CAN LIE TO YOU AND YOUR ATTORNEY?

The County prosecutor must be honest and transparent when negotiating a plea deal with you or your attorney. But that does not always happen. SDF has won cases by proving that police coached witnesses to change their written statement to support their probable cause. Also we have experience bias judges in representing members in court.

When it comes to prosecutors making plea bargains, they can lie to you and misrepresent evidence to get you to throw in the towel and plead guilty.

WHAT ARE THE TYPES OF PROSECUTORIAL MISCONDUCT?

The main and most abused is failure to disclose exculpatory evidence, but other types of prosecutorial misconduct unfairly tilt conviction against the defense.

- Introducing false evidence, such as hearsay, untrue character evidence, and false testimony.
- Using improper legal arguments, such as asserting facts that are not in evidence and commenting on the defendant not testifying.
- Being discriminatory in jury selection, such as religion, sex or ethnicity.

1. EXAMPLE CASE LAW MANSFIELD V. WILLIAMSON COUNTY SHOWS HOW PROSECUTORS CAN DISTORT THE TRUTH.

In a case called Mansfield v. Williamson County by U.S. Magistrate judge Mark Lane states that if a state prosecutor(s) can violate your due process rights, lie, or misrepresent evidence during plea bargain negotiations.

The US Supreme Court recognized in the case of Missouri v. Frye that 94% of state convictions and 97% of federal convictions come from guilty pleas. This means that at least 90% of criminal convictions in the country come from the defendant pleading guilty.



There are hundreds of thousands of criminal convictions annually. In almost all of those cases, the court as referenced in the case above essentially authorizes prosecutors to lie or misrepresent evidence during plea negotiations.

SO HOW DID THE PROSECUTOR LIE IN THE MANSFIELD V. WILLIAMSON COUNTY CASE TO GET A GUILTY PLEA?

The slam-dunk example of how prosecutors can lie and misrepresent evidence is the Troy Mansfield case in Williamson County, Texas. Mansfield was indicted by a state grand jury on three counts of sexual misconduct involving a minor. Two months after the indictment, his defense attorneys filed a motion requesting the court to order the county prosecutor to disclose its exculpatory evidence. This would have been consistent with the *Brady v. Maryland* case decision by the US Supreme Court.

The Supreme Court stated in *Brady* that suppressing evidence favorable to the defendant violates due process if the evidence is relevant to deciding guilt or punishment. It does not matter if prosecutor did so in good or bad faith. Thus the Mansfield attorney requested that the court make the prosecutor disclose evidence in Mansfield's favor.

The Williamson County prosecutors were ordered to disclose the evidence favorable to the defendant. So, they had a choice of disclosing the evidence or lying about and misrepresenting the evidence so Mansfield would take a plea deal. The prosecutors chose to lie.

So what was the plea deal? Maximum sentence of 99 years in state prison or plead guilty and only get 120 days in the Williamson County jail, so he took the deal. Mansfield and his attorney always maintained that he was innocent. But when he had the decision to face four months in county jail or a life sentence in state prison he made the obvious choice.

Remember his defense attorney was also laid too but did not give up on his defense. The defense attorney is obligated to present all options to the client.

WHAT EVIDENCE DID THE PROSECUTORS LIE ABOUT?

The alleged sex crime victim backtracked on the accusations. A prosecutor in his notes said that it would be difficult to proceed with the case because the alleged victim did not remember what happened and the victim said that no crime had occurred. The victim also said that it was someone else who committed the act.

So, the county prosecutor failed to disclose this critical exculpatory evidence despite the court order to do so. They lied instead. The prosecutor told Mansfield and his criminal defense lawyer that the alleged victim would be a powerful witness in a trial. The prosecutor also said they had a physician's statement and strong physical evidence that pointed to Mansfield. This was not true but the lie worked.

Mansfield pleaded guilty just a few days before the trial to get the plea deal that prosecutors termed "unusually light." But we now know understand why prosecutors made such a light offer. First they knew that the alleged victim had recanted and said nothing had happened. Also, the girl said someone else may have done it.

THE CASE WAS LATER OVERTURNED.

Mansfield was released from jail and his court record erased. Next, Mansfield sued Williamson County, stating that the county had violated his due process rights by withholding exculpatory evidence. The Fifth Circuit court stated that the county prosecutors were compelled to produce the evidence, but they lied to the man and his attorney.

One might argue that the prosecutors won. They did get a temporary conviction. But who did win? The district attorney, the lead prosecutor in Williamson County at the time, eventually went to jail and lost his license to practice law.

2. EXAMPLE CASE LAW CONNICK V. THOMPSON:

John Thompson spent over 18 years in a Louisiana prison, 14 isolated on death row. The case involved a former condemned inmate named John Thompson who was railroaded to Louisiana's death row where he spent 18 years in prison, 14 of those on death row for a murder that he did not commit, because a New Orleans assistant district attorney lied and cheated.

After John Thompson attorney proved his innocence and unmistakably established that he had been framed by an assistant district attorney, he filed a multi-million dollar civil rights lawsuit against then New Orleans District Attorney Harry Connick and was awarded a \$14 million dollar damage judgment against the Connick's office, one million dollars for each wrongful year he spent on death row. The civil damage award was upheld through the federal court system until it reached the Supreme Court where it was reversed by a Court that has a long history of protecting prosecutorial misconduct. So the U.S. Supreme Court allows prosecutors to hide evidence favorable to the accused without consequence.

ARE THERE CONSEQUENCES FOR A PROSECUTOR IF HE/SHE LIES ABOUT FACTS IN COURT OR COMMITS PERJURY DURING TRIAL?

A prosecutor cannot commit perjury unless he/she is under oath. The judge, prosecutor, and the defense lawyer all have immunity from lawsuits and prosecution for what they say in court. So the answer is that in the vast majority of cases there are no consequences.

