

## SUMMARY STATEMENT

*State v. Mark Lankford*, Docket No. 35617

Following the Supreme Court's grant of the State's petition for rehearing in an appeal from Idaho County, the Supreme Court vacated Mark Henry Lankford's judgment of conviction and remanded the case to the district court for a new trial. Lankford was originally convicted and sentenced to death for the 1983 murders of Robert and Cheryl Bravence. The Ninth Circuit vacated Lankford's conviction and sentence and ordered the State to re-try Lankford or release him. A new trial was held in 2008, and a jury again found Lankford guilty of both murders. The district court sentenced Lankford to two consecutive fixed life sentences.

In a 3-2 decision on rehearing, the Supreme Court held that prosecutors committed prosecutorial misconduct by failing to disclose evidence that would impeach the testimony of a critical state's witness and failing to correct false testimony provided by that witness.

At trial, the witness—an inmate in the state correctional system—testified that his testimony was offered, in part, in exchange for the prosecutor's agreement to write a letter to correctional authorities outlining the witness' assistance in Lankford's prosecution. At the time of Lankford's trial, the witness was serving a period of retained jurisdiction for a felony conviction from Latah County.

In fact, the prosecutors had made additional promises to the witness in connection with his testimony. One of the prosecutors told the witness in advance of trial that he would try to help the witness "get out of the prison system" and placed on probation. Further, before Lankford's trial, the prosecutor told the witness that he would contact the Latah County Prosecutor's Office to seek the witness' release on probation. These promises were not disclosed to the defense.

In advance of trial, one of the prosecutors in Lankford's case contacted the Latah County Prosecutor's Office with a request that they be "liberal" in their treatment of the witness' case. Less than a month after Lankford's trial concluded, a member of the Latah County Prosecutor's Office and the witness' attorney met with the judge assigned to the witness' case. In this meeting, it was decided that the witness would be released from prison at least three months earlier than would have otherwise occurred.

The Supreme Court found that the failure to disclose the full extent of the prosecutors' promises to the witness and the prosecution's failure to correct the witness' false testimony regarding those promises violated Lankford's right to a fair trial. Based upon this violation of Lankford's constitutional rights, the Supreme Court vacated his conviction.