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NEWS & INSIGHTS

LIGHTFOOT FILES PRO BONO AMICUS BRIEF SUPPORTING NEW TRIAL IN ALABAMA DEATH ROW CASE

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Lightfoot, Franklin & White LLC associates **Ben Harmon** and **M. Wesley Smithart** recently drafted an **amicus brief** petitioning a Jefferson County court to overturn the death penalty conviction of Toforest Johnson. The brief, which the firm handled pro bono on behalf of the Alabama Appleseed Center for Law and Justice, is part of a statewide effort to reverse the conviction.

Lightfoot joined Alabama Appleseed and several dozen prosecutors, retired judges, religious leaders, defense attorneys and legal scholars — including two previous Alabama chief justices and a state attorney general — who also filed briefs asking the circuit court judge to overturn Johnson's murder conviction and grant him a new trial.

District Attorney Danny Carr, whose office originally prosecuted Johnson, has already called for the conviction to be set aside after a nine-month review of the case, which included interviewing an alibi witness who did not appear at trial, considering facts not revealed until after the trial was complete, and consulting with the original prosecutor, who expressed doubt about the conviction.

"Such a rare occurrence presents an opportunity for this court to fulfill its duty to ensure Mr. Johnson does not fall prey to further injustice, and to avoid ratifying the sort of fundamental unfairness against which courts are duty-bound to protect," wrote Harmon and Smithart. "Importantly, we are not asking this Court to exonerate Mr. Johnson. We are not suggesting that this Court allow Mr. Johnson to walk free. We are simply supporting a fair trial with the protections that Alabama courts have in place to ensure reliability and justice."

The extraordinary wave of amicus briefs generated significant media coverage, including stories from:

- **ABC 33/40 News**
- **The Alabama Political Reporter**
- **The Associated Press**
- **Montgomery Advertiser** / **USA Today**

In addition, former Alabama Attorney General Bill Baxley published **an op-ed in the Washington Post** in which he states that "an innocent man is trapped on Alabama's death row."

Harmon handles a broad range of matters, including antitrust, white-collar and general commercial litigation for clients in the financial services, consumer goods, healthcare and telecommunications sectors. He graduated from Harvard Law School and was a law fellow at the Equal Justice Initiative, where he worked with clients on death penalty appeals and authored reports on litigation reform.

Smithart represents clients in product liability, personal injury, white-collar criminal defense, environmental/toxic tort and other matters. She graduated from the University of Alabama School of Law where she worked in its Domestic Violence Law Clinic, representing clients in court for a variety of proceedings, including protection from abuse actions, divorces and child custody cases.