

Amy Weirich

Shelby County District Attorney

Overzealous Prosecutors

Prosecutors hold extraordinary discretionary power in the American justice system. How they exercise their discretion is the difference between fairness and corruption; between justice and inequality; between a community that has faith in its justice system and the lawlessness that occurs when it does not.

Amy Weirich, District Attorney General for Shelby County, Tennessee, which is home to nearly one million people and encompasses Memphis, wields tremendous power. Weirich has used that power to put intellectually impaired and likely innocent people on death row, to seek jail for mothers whose children have missed school, and to commit misconduct so egregious that state and federal courts have reversed convictions based on her behavior on multiple occasions.

A Long and Documented Record of Prosecutorial Misconduct

Shelby County District Attorney Amy Weirich and her staff have engaged in a pattern of misconduct in which they have routinely failed to disclose evidence to defense attorneys and made improper comments to the jury during high stakes trials, including death penalty cases. The Tennessee Supreme Court has reversed multiple convictions based on Weirich's inappropriate behavior, and the Tennessee Board of Professional Responsibility has reprimanded her.

The most misconduct in Tennessee

A Harvard Law School study that examined the first five years of Weirich's tenure from 2011 to 2015 **uncovered more than a dozen examples of misconduct** in her office. Weirich's office led the state in both findings of misconduct and the number of cases reversed due to misconduct. Even adjusted for population, only 6% of Tennessee's 95 counties had more reversed convictions based on prosecutorial misconduct than the office Weirich leads.

Fueling a misconduct ridden culture

Tom Henderson, a top prosecutor in Weirich's office made "*blatantly false, inappropriate and ethically questionable*" statements about the existence of evidence that could have helped exonerate a man who Henderson put on death row. According to the appellate court, Henderson "*purposefully misled counsel with regard to the evidence.*" Henderson was censured by the Tennessee Board of Professional Responsibility in 2013 for misleading defense lawyers in the case. But Weirich defended him, claiming that the nondisclosure was inadvertent, and refused to demote him. Weirich's support came despite the fact that Henderson had similarly failed to disclose exculpatory evidence in multiple other cases, including a 2006 death penalty case that ended in a mistrial after a judge determined that Henderson failed to turn evidence.

Breaking the rules to convict a teenager of killing her mother

In 2014, The Tennessee Supreme Court overturned a murder conviction in the case of a then 18 year old named Noura Jackson, who was accused of killing her mother, finding that Weirich made forbidden inflammatory

remarks intended to improperly sway the jury toward a conviction. The Court wrote that the law is so well settled on this issue that “it is not at all clear why any prosecutor would venture into this forbidden territory.” **In the same case**, she illegally withheld evidence from the defense that tended to undermine the testimony of the prosecution’s star witness against Jackson despite multiple requests from the defense for the evidence.

Repeat offender

The Tennessee Supreme Court had previously characterized Weirich’s inflammatory comments as “improper” and “unseemly” where she nicknamed two people accused of murder as “Greed and Evil,” using that phrasing twenty-one separate times during opening and closing statements in a capital murder trial. After the court ordered a new trial, the Tennessee Supreme Court concluded that Weirich *again* committed misconduct in the retrial.

Cheating or incompetent?

That’s the question the United States Court of Appeals for the Sixth Circuit suggested was at issue in a case where Weirich **successfully secured a death sentence**. At trial, Weirich asked a key witness for the prosecution whether she had “**collected one red cent**” for her testimony on behalf of the state. The woman said no. It was a lie. She had received a \$750 payment from law enforcement. Weirich had a duty to know about and disclose the existence of this payment which she failed to discharge. The federal appellate court reversed the man’s conviction, and then went out of its way to indict Weirich’s behavior, saying that “**any competent prosecutor**” would have known about the payment. Then, to make the point more clear, the court repeated the same sentiment later in its opinion: “*Were we to presume that the State’s prosecutor engaged in diligent preparation for trial, we would conclude that she knew of the payment at trial.*”

“Do not show defense.”

Back when Weirich was a staff prosecutor in the office that she now runs, she secured a conviction of a man in the murder of his wife. Years later, as prosecutors and defense lawyers prepared for appellate hearings in the case, the lawyers found a sealed manila envelope with a sticky note that said, “*Do not show defense.*” The initials on the note—“A.P.W.” are Weirichs. When these lawyers first raised the existence of the note with a judge, the transcript captured the court’s response: “*Oh, my gosh.*” The envelope later went missing, so its contents remain unknown.

“Inexplicable and improper.”

An expert witness, who works with the Memphis Police Department and frequently testifies on behalf of the prosecution in criminal cases, was set to testify in a murder trial on behalf of a person who was accused of murder. The upshot of the planned testimony was that it was likely that a different person committed the murder. However, Weirich called the Memphis Police chief, who then called the expert, to arrange for that person to no longer testify at trial. A court called Weirich’s interference in the case “*inexplicable and improper.*”

Formally reprimanded

Disciplinary Counsel for the Tennessee Board of Professional Responsibility filed a **Petition For Discipline**, stating that Weirich “*failed to conduct herself in conformity*” with the rules of professional conduct and urged the full Board to publicly censure Weirich based on her misconduct. Disciplinary Counsel then had to file a **supplemental petition** based on additional inappropriate behavior. Ultimately, the Board of Professional Responsibility **issued a private reprimand**.

Cruel, Counterproductive, and Out of Touch With Memphis Values

Weirich has fought to execute people with crippling disabilities and uncertain guilt. She's fought to jail the parents of kids who miss school. And fought to keep kids—almost all of whom are Black—out of juvenile court and treat them as adults. That's just who Amy Weirich is.

Fought against DNA testing for a likely innocent and intellectually disabled man on death row

Pervis Payne, then 20 years old, was convicted in 1987 for the murder of a woman and her daughter. For three decades, Payne has insisted that he's innocent of the crime and that he was merely helping the woman, who was an acquaintance, after he heard screams coming out of her apartment. Multiple witnesses at trial testified that there was a man leaving the building shortly before Payne arrived. In January 2021, DNA evidence confirmed that another person's DNA was found on the murder weapon. That testing was done over the explicit objection of Weirich. And then she did it again. Tennessee executed **Sedley Alley** in 2006 for a murder for which he claimed he was innocent. New information recently arose that a man arrested for another murder in 2019, who also is suspected in multiple additional murders, was near the crime scene on the night of the murder that led to Alley's execution. Following this newly discovered evidence, Mr. Alley's daughter requested that previously untested DNA evidence be tested to help prove that her father did not commit the murder. Weirich opposed this request.

Personally sent a brain damaged and intellectually impaired man to death row

Richard Odom was born with brain damage and scarring of the brain tissue linked to fetal alcohol syndrome. His mother drank excessively when she was pregnant with Richard and then permanently abandoned him when he was 2-and-half-years old. When just 3-years-old, Richard was found with cigarette burns all over his body, including on his feet that were described as so severe that he was "unable to wear socks and shoes." He wet his bed until he was nine years old. His adopted mother would "pull down his pants and smack his privates in front of the other children," while her husband hung the sheets outside of the house "to embarrass" him and "would pull and tug on his penis, call him names and make fun of him." Later in his childhood, Richard was sexually abused, beaten "with belts and stuff like that," left at daycare for days at a time and, according to his adopted brother, "never was loved." As a teenager, a psychologist noted that Richard lacked "insight, memory, and reasoning" skills. As an adult, Richard scored a 67 on the verbal portion of the I.Q. test, which places him among the most impaired people on the planet. Weirich herself sought and obtained the death sentence for this man.

Then she did it at least three more times

Pervis Payne, the man who likely is innocent, has an I.Q. score of 72 and, according to Dr. Daniel Martell, a clinical psychologist at Vanderbilt University, is intellectually disabled. Payne also scored in the bottom 1% of the population on two other tests that measure frontal lobe "executive" brain function. | **Charles Rice** has an I.Q. of 76, is borderline intellectually disabled and diagnosed with a cognitive disorder, and, even as an adult, "his reading skills remained at a third-grade level, much of his language and speaking skills were at a fourth-grade level and his memory scores fell within the kindergarten to first-grade level." | **Leonard Jasper** also has a 77 I.Q. score, his verbal I.Q. places him among the lowest 1% of people, and he has brain damage likely stemming from being struck in the head and rendered unconscious on at least three occasions. Amy Weirich personally sought and obtained the death sentence for each of these men.

Jailing parents of children who missed school

In a sleek **powerpoint presentation**, Weirich explained that when it comes to getting children to school her philosophy is to *“always be open to new ideas.”* One of the ideas was a public service announcement from a professional basketball player which included insightful advice for students such as *“Go get that education. Grit-n-grind.”* Another idea was free bicycles for students with *perfect* attendance. But one of the ideas that her office put into effect is much darker. Weirich explained that she would *“use the weight of prosecution to motivate parents to have their children in school.”* Despite acknowledging the *“drawback”* of how incarcerating the mothers of children who miss school *“removes the parent from the child and creates instability for the child,”* Weirich said that her office would sometimes *“seek an appropriate period of incarceration.”*

Fought to keep kids in adult courts and prisons

In most places in the country, prosecutors err on the side of keeping children accused of crimes in juvenile court, only moving kids to adult court after careful review and in the most extreme circumstances. This is not how it works in Shelby County, which, according to the U.S. Department of Justice has had *“serious and systematic failures in the juvenile court which violate children’s due process and equal protection rights.”* A federal monitor appointed by the DOJ to oversee this crisis in Shelby County noted that, *“the prosecutor of Shelby County routinely files notices of transfer on ALL possible cases without conducting meaningful review”* resulting in *“egregious due process”* violations. The monitor continued: *“the combination of prosecutorial gamesmanship and the prosecutors refusal to provide discovery (in contrast to all other Tennessee Counties) is a toxic combination for African-American youth.”* **Black children bear the brunt of Weirich’s policy.** In 2019, for example, of the 90 children transferred to adult court, 86 were Black.