

**#freepervispayne: How Social Media Discourse Affected a Capital Punishment Case in  
Tennessee**

**Graduate student paper**

## ABSTRACT

Pervis Payne is an intellectually disabled Black man who was on death row for more than 30 years after being convicted of murder in Tennessee. The Innocence Project launched a social media campaign in 2020, using the hashtag #freepervispayne, and after over a year of fighting, Payne was given commutation. This study used textual analysis to examine the discourse around Payne's case and found five themes: perceived innocence, systemic corruption, racism, urgency, and apparent slacktivism.

Keywords: Death Penalty, Criminal Justice System, Critical Race Theory, Social Media Discourse, Digital Activism, Slacktivism

Social media has affected almost every aspect of society. What once served as a method to stay in touch with loved ones and exchange amusing memes has developed into an extension of one's values and ideals. For navigating the digital world, one must understand how mass communication affects the criminal justice system. Because of social media and the global pandemic, the criminal justice system is getting more attention. This study examines a particular court case, Pervis Payne, to comprehend activism, social media, and justice's linked relationships.

Payne, a mentally disabled man, was convicted of murdering both a woman and her child in 1987 (Chaney, 2022). Despite having happened three decades ago, this Millington, Tennessee, murder shook up the Shelby County criminal justice system in 2020. The Innocence Project – a national non-profit organization that seeks to prove the innocence of incarcerated death row inmates – launched a social media campaign in July 2020 leading with the hashtag, #freepervispayne (Innocenceproject, 2022). After much discourse demanding a rightful trial for Payne, he was given his day in court (Lemley, 2021). Then Shelby County District Attorney Amy Weirich conceded Payne lived with an intellectual disability and therefore could not be executed by the state. After 34 years of sitting and waiting on death row, Payne was given commutation (Max, 2021).

This research seeks to understand how the public, on social media, felt about this Memphis, Tennessee, capital punishment case. Critical discourse analysis is applied to better understand how this case affected the public. This study aims to give the mass communication industry more information about how social media affects the criminal justice system. Further research and evolution into the role social media plays in legal cases is indispensable hereupon. Discourse theory on criminal justice cases is limited, particularly in cases involving the death

penalty. Although data from the Death Penalty Information Center (2022) suggests that death penalty sentences are decreasing and public perceptions of capital punishment are more progressive, cases like Payne's still happen frequently.

## LITERATURE REVIEW

The following literature review discusses discourse theory and its effect on other social media activism cases, critical race theory and its history within media and culture (Martinez, 2014), an overall look at recent examples and research on how social media affects the criminal justice system (Lev-on & Steinfeld, 2020), and digital activism and Slacktivism (McLean & Marks Malone, 2022). Additionally, this review concludes with an overview of the Pervis Payne case to provide historical context before analyzing data and themes.

### *Discourse Theory*

Discourse theory proposes that individuals' daily activities, including the way people write and speak, are significantly shaped by the power structures within society, and because society is defined by conflict and struggle, peoples' discourses reflect and create conflicts (Laclau & Mouffe, 1985). The influence of discourse in shaping and defining the realities of contemporary societies cannot be underestimated because it carries the speakers' history, tradition, culture, and way of life (Dahlberg, 2011). Discourse theory is, at its center, a theory of politics of discourses or formation of social relations that involve power and connections of inclusion and exclusion hierarchies, which essentially makes it political (Dahlberg, 2011; Laclau & Mouffe, 1985).

Within criminal justice cases, the court of public opinion should not be undervalued. The primary way for public opinion to form is through "elite discourse" (Simon et al, 2000). Yet, discourse has not always been a major tool for activism. For example, public opinion didn't start

a policy change after the Columbine shooting (Birkland, 2009). Public opinion contributed to the theory of framing, and accelerated existing policies and resources (Birkland, 2009). However, recent scholarship suggests that in the age of new media, discourse involves more than the traditional outlets of journalism (Cotter, 2015). The standard audience strategy that older generations are used too is gone and with social media as the primary method of communication, “news narratives reflect both stable and emergent ideologies within local and global cultures, hearkening to the historical past, and on the textual level incorporate visual and interactional elements that enhance their multimodal transformations in the digital age” (Cotter, 2015, p. 785). Because of this evolution, government agencies or civic organizations use social media to promote public trust and confidence in the criminal justice system (Warren et al., 2014).

Warren, Sulaiman, and Jaafar (2014) surveyed 502 U.S. citizens and found social media positively affect perceptions of local government agencies; most mistrust comes specifically from police departments. They argued government social media accounts – to gain more social capital – needed to humanize police officers and offer more transparency to citizens. Although people can challenge the trust within government systems, the very same systems themselves can show their worth through social content and interactions (Warren et al., 2014). This study further illustrates the important tool of discourse in both social justice activism and boosting civil engagement and trust.

Social media discourse considerably increased during the COVID-19 pandemic, as it was the only way to communicate while everyone was quarantined (Lamphere, 2020). Beyond discussing the COVID-19 virus, the summer of 2020 brought systemic racism and critical race theory to the forefront of the cultural zeitgeist.

### *Critical Race Theory*

Critical race theory is a framework for examining racism and racial inequality across historical and contemporary contexts. Critical race theory posits that race is a societal construct created to enslave people of color (Ladson-Billings & Tate, 1995). Critical race theory supporters say the judicial system and institutions are racist (Peno, 2018). Critical race theorists aim for black-and-white equality in society, the economy, and politics (Ladson-Billings & Tate, 1995). Essential theorists of race use their broad grasp of racism to create a proven approach for eliminating racial hierarchies (Ladson-Billings & Tate, 1995). Philosophy (Delgado & Stefancic, 2023), law (Carbado & Gulati, 2002), and sociology (Yosso & Solórzán, 2005) are linked to critical race theory. The theory claims racism permeates U.S. politics and law (Peno, 2018). Racist legal injustices lead to political, economic, and social inequality (Ladson-Billings & Tate, 1995). Critical race theory examines power, law, and racial disparities in culture and society (Peno, 2018).

Modern critical race theory discussions can be traced back to the events surrounding the death of Michael Brown, a Black man who was shot dead by police in Ferguson, Missouri, despite being unarmed and having raised hands as a sign of surrender (Moody-Ramirez, 2018). The media framed Brown as a criminal and used sensational pictures to attract public attention to his race (Martinez, 2014). The police department, however, provided a statement in contrast to the media information (Martinez, 2014). Brown's case contributed to America's state of divisiveness regarding the issue of race as portrayed by U.S. media reporting, social media blog posts and comment sections, and articles about Brown's death (Martinez, 2014). Following the police officer's shooting of Brown, the U.S. media focused more on the reactions and interactions between the police and the public rather than facts precipitating the event, thus

affecting public perception of the truth of the incident (Martinez, 2014). According to Pew Research Center (2014), approximately 80 percent of Black people felt discriminated against because of skin color, while 47 percent of white people believed that Brown's death was attracting unworthy attention. While the mainstream media claimed to have adhered to news production rituals, social media protesters used the hashtag #IfTheyGunMeDown to bypass the mainstream media and create attention about racial killings (Moody-Ramirez, 2018). The use of phrases, such as riots rather than demonstrations, may portray the news as stories and frame information because of the choice of words (Moody-Ramirez, 2018).

The grand jury, who decided on officer Darren Wilson's case after shooting Brown, did not indict the officer, citing a lack of probable cause (Moody-Ramirez, 2018). The prosecutor also released information such as pictures and forensic reports that are usually kept secret as evidence of the crime (Buchanan, 2015). While white people revealed confidence in the investigations following Brown's death, Black people had no confidence in the criminal justice system, thus causing a public division (Moody-Ramirez, 2018). The events surrounding Brown's death, reporting, and justice portray – for many – the need to challenge the white status quo in various spheres of life, including media and criminal justice (Moody-Ramirez, 2018).

DisCrit – a combination of disability and critical race theory – focuses on the ways racism and ableism perform interdependently in neutralized and invisible ways that uphold normalcy in society. It maintains that race and being disabled are both social constructs. It considers historical and legal aspects and how both race and disabilities have been used together to deny the rights of citizens (Annamma et al., 2013). Critical race theorists often use digital activism to shed light on corrupt systems (Jackson et al., 2020). Nonetheless, some activists that engage with the content in a lackluster manner.

### ***Digital Activism and Slacktivism***

"Slacktivism" combines the words "slacker" and "activism" to make an adjective that means digital politics that require almost no time or responsibility often replace physical, "real world" activism instead of adding to it. It usually has little political influence and ends up serving only the self-centered necessities of those participating. (Joyce, 2010). Successful social transformation necessitates hierarchical, aggressive digital combat social norms (Kaun & Uldam, 2018). Kaun and Uldam (2018) contend that digital or social media are brilliant for a range of purposes, including wisdom displacement and integrated logistics features, but are counterproductive for "elevated" activism because they only encourage weak or subpar social connections (Kaun & Uldam, 2018), while activism requires deeper links of togetherness among individuals (Glenn, 2015). Social networking is inadequate for promoting improvisatory, prolonged, and meaningful political action without building deep bonds, since important social revolutions are powered by the connections among members (Glenn, 2015).

The counterargument to the slacktivism concept is that political activity on media platforms has always been in conjunction with, not instead of, what individuals might ordinarily conduct in their overall political lives (Sivitanides & Shah, 2011). Essential policy discussion is taking place on social media, and it gets more acrimonious around political developments (McLean & Marks Malone, 2022). For instance, studies have revealed that using social networking sites promotes people's personal identification and awareness programs, which may result in monetary donations to appropriate organizations of civil society (Rotman et al., 2011; McLean & Marks Malone, 2022). Nevertheless, social networking, like certain digital interactions, contributes to enhancing consumption of political, electoral, and policy-making knowledge, allowing individuals to become more opportunistic in their knowledge. Those



political opportunists continue to depend on mainstream broadcast media to provide information but frequently rely on online or digital media for political involvement (Mutsvairo, 2016).

Recent shifts in social, legal, and financial methods and developments, along with the emergence of digital media activism, have altered how public activism is supported and carried out. According to Joyce (2010), digital activism offers new ways for social movement people involved and activist organizations (SMOs) to interact and organize activity because it is thought to reach a larger audience and have a bigger, more powerful, and far more profound impact than more traditional forms of activism.

Twitter has become a popular platform for discussions and interactions about sociopolitical topics (Sivitanides & Shah, 2011). Users obtain and communicate sources of information about different issues with enhanced speed (Sivitanides & Shah, 2011). Social movements frequently use Twitter because the platform's accessibility for transmitting and providing information aids activist groups in mobilizing and recruiting people to become involved in political expression by removing the necessity for leadership endorsement (Cabrera et al., 2017). Twitter has been dubbed a tool that is "beginning to transform politics" (Rotman et al., 2011, p. 819). Twitter, like numerous other social networks, has evolved into a channel and catalytic instrument in the form of social and digital movements (Joyce, 2010). After the Arab Spring sparked revolutions in Tunisia and Cairo in early 2011, the effect of social media on progressive reform in totalitarian states has gotten increased attention (Kaun & Uldam, 2018). According to a study of protestors, individuals who used blog posts and Twitter to assess their basic knowledge and communicate about the events were much more likely to participate in the rallies, protests, and political demonstrations (Kaun & Uldam, 2018).

### ***Social Media and The Criminal Justice System***

Some researchers suggest social media is damaging trust in criminal justice systems and are creating a space for greater “vigilante behavior” and “desire for vengeance” (Fox & Rose, 2014, p. 771). More users were leveraging social media to “communicate thoughts or feelings directly to the suspected perpetrator of a crime” than the “suspected victim of a crime” (Fox & Rose, 2014, p. 771). In fact, 12.1 percent of users utilized social media to discuss the perpetrator and 9.6 percent of users shared about the victim (Fox & Rose, 2014).

Online communities have increased discord about a corrupt criminal justice system (Lev-on & Steinfeld, 2020). The Tair Rada and the Roman Zadorov trial, one of Israel's most prominent and controversial legal cases, had to deal with social media pressure. The case involved an Israeli man accused of murdering a 13-year-old Ukrainian girl. After many appeals and increased social media activism, the defendant was released from jail (Staff, 2021). A qualitative case study highlighted five themes within social media discourse: the critical role of group administrators in setting agenda and running online discourse, response from group based on mainstream traditional media coverage, campaign strategies used to convince users of Zadorov’s innocence, critical analysis of key public figures and structures, and the search for the alleged truth amidst a “corrupted justice system, an innocent man wrongly convicted and a Facebook group in the search for the truth” (Lev-on & Steinfeld, 2020, p. 315).

Justice cases will often go unnoticed. A study that examined street harassment victims in Melbourne, Australia, through focus groups found that while social justice can be achieved online for specific legal matters, many walls are stopping it going all the way (Fileborn, 2017). “Validation, affirmation and voice are core justice needs, suggesting that online spaces have much to offer as a site of justice in this regard” (Fileborn, 2017, p. 149). Online discourse has a political element for many participants (Fileborn, 2017).

The role the COVID-19 pandemic played in many justice cases was prominent. While everyone quarantined at home, social justice campaigns skyrocketed. A 2020 study highlighted that social discourse, education, activism, and connectivity around criminal justice was a bright spot during the pandemic. (Green et al., 2020)

## RESEARCH QUESTIONS

Based on the review of the discussed literature of discourse theory, critical race theory, digital activism, and slacktivism, this study asks the following research questions:

RQ1: How did Twitter users discuss the Pervis Payne innocence movement on Twitter?

RQ2: How, if at all, did race play a factor in that discussion?

RQ3: How did Twitter users utilize the platform to protest and advocate for the release of Pervis Payne?

## METHOD

To answer the research questions, a critical discourse analysis examined 146 Twitter posts to analyze themes and look at them critically. Tweets were pulled from July 15, 2020, to Feb. 28, 2022, that used the #freepervispayne and #justiceforpervispayne hashtags. These hashtags were chosen as they were the most commonly used by both the Innocence Project and activists. The specified dates were chosen because the Innocence Project started its campaign on July 15, 2020, and the discourse trended downward toward the end of February 2022. The present research study analyzed tweets with more than one comment and more than five likes. The tweets were filtered by both of those specifications. The present research only analyzes original Tweets, not quote Tweets or comments. This research chose Twitter to analyze discourse as it has the highest number of people that talked about the Pervis Payne case during the specified date range. The Innocence Project was not included in this study. Incorporating this

non-profit into the textual analysis would have skewed the findings and conclusions as its mission is inherently anti-death penalty, pro-innocence, and it created this social media campaign.

Tweets were pulled from Twitter's internal advanced filtering system and were then coded based on a grounded theory method. Using open coding and in vivo coding at first, then separating the text into categories through axial coding, the study formed and then analyzed themes. Critical discourse analysis has been used in various mass media studies (Törnberg, 2016) to analyze themes within social media discourse (Fairclough, 2013). The present research study followed a method similar to Moody-Ramirez's (2018) textual discourse analysis of Twitter victim-blaming.

This study defines critical discourse analysis according to Fairclough's (2013) framework for the method. Critical discourse analysis incorporates the critical tradition of social analysis into language studies and contributes to critical social analysis a focus on discourse and the relationships between discourse and other social elements such as power relationships, ideologies, institutions, and social identities. Critical social analysis is normative and explanatory critique. It is normative critique in the sense that it does not only describe actual realities, but also analyzes them, assessing the degree to which they conform to particular principles that are considered - more or less contentiously - important for just or moral societies. It is an explanatory criticism because it tries to show how real things happen, such as that structures cause them through mechanisms or forces that the analyst makes up and whose reality they want to check (Fairclough, 2013).

## **THE CASE**

Pervis Payne was convicted of murdering Charisse Christopher and her daughter, Lacie Jo. According to news reports, Payne was visiting his girlfriend at an apartment complex in Millington, Tennessee – a suburb of Memphis – on June 30, 1987. While waiting in the parking lot, Payne said that he saw a blood-soaked man exiting the building. Before getting into his car, this man dropped a slew of documents and coins. Out of curiosity, Payne picked up these documents. Hearing screams from a nearby apartment, Payne said he shoved the documents in his duffle bag and then stumbled into the crime scene. He then allegedly discovered Christopher, who had been stabbed 41 times and had a knife jabbed into her throat. Payne said he tried to assist Christopher by pulling the knife out of her throat. When the police sirens could be heard, Payne said he fled the scene in fear of being mistaken for the attacker. Later that day, his worst fears came true. The police found his DNA on the scene. Defense lawyers have since argued that the found DNA was his fingerprints from helping Christopher before he ran. Yet, Payne was arrested for murder, tried, found guilty and put on death row in 1988 at the age of 20.

The Innocence Project started a social media campaign on Payne's behalf in July 2020 (Burgess, 2021). Users instantly began engaging with the content. Shortly following the initial social media postings, Memphians gathered outside then Shelby County District Attorney Amy Weirich's office, bombarded her social media accounts, and challenged her stance on the case. Payne lives with an intellectual disability. The Eighth Amendment to the U.S. Constitution prohibits cruel and unusual punishment; many believe it is unconstitutional for Payne to be on death row because of his disability (Lemley, 2021). Payne was given a hearing in the fall of 2021 and was removed from death row on Nov. 23, 2021, by the Shelby County Criminal Board after Weirich conceded that Payne has an intellectual disability (Papadimas, 2021). Payne will be eligible for parole in 2025 (Max, 2021).

## FINDINGS AND DISCUSSION

In the following section, this study will report findings by addressing the research questions and discussing the five emerging themes: Pervis Payne's innocence, systemic corruption nationally and in Tennessee, racism within the case, sense of urgency, and slacktivism. In the midst of this discussion, the study will simultaneously highlight how critical race theory and discourse theory helped shape the chosen discourse. Lastly, the findings will illustrate the role of online activism and offer suggestions for how future research can elaborate on these findings.

***“He was wrongfully convicted for a crime he did not commit.”***

The first theme that emerged when analyzing the #freepervispayne Twitter discourse is that an overwhelming majority of users believe Pervis Payne is innocent. Many of the social media users postulate that this is a common occurrence in the criminal justice system. A March 16, 2021, tweet posted by @sapnapwashere said, “...yet ANOTHER innocent man named Pervis Payne is on death row...” This post is inherently critical and the inclusion and subsequent emphasis on the word “another” suggests there is a pattern within the criminal justice system to convict innocent people to death row.

In the case of Pervis Payne, one can observe a clear distinction between the morality and innocence arguments on social media. Payne's intellectual disability questions the system's morality and constitutionality, while the argument for innocence is based off a lack of evidence and DNA testing.

There is criticism for the Millington Police Department, the town where the murder of Charisse Christopher and Lacie Jo occurred. As a small and underfunded police department, social media users say they did little at the time of the investigation in 1987. While the present

study was unable to find a statement from Millington Police Department regarding this case, the lack of resources and lack of systematic infrastructure was used as an argument point in some of the discourse regarding Payne's innocence. Within the larger sociopolitical landscape, the lack of funding of the Millington Police Department didn't stick as a strategy for digital activism. Many of these tweets occurred during the surge of #DefundThePolice and #AllCopsAreBastards movements during 2020. Thus, the concept of a police department needing more funding wouldn't have reached mainstream amidst the other conversations.

On September 16, 2020, the Innocence Project had a court order to test the remaining evidence and while Payne's DNA was found on multiple items, a third-party DNA of a male was also identified. While it wasn't sufficient for a DNA match, Twitter users argue that the existence of another male's DNA on the murder weapon is enough for adequate debate and commutation. On Jan. 19, 2021, a tweet posted by @KarineOmry informed users, "#PervisPayne's DNA result are back: 'results are consistent with Pervis Payne's long-standing claim of innocence. Male DNA from an unknown third party was found on key evidence including the murder weapon'...#InnocenceMatters #FreePervisPayne" While this tweet is mainly informative, the inclusion of the hashtags acknowledges the author's intentions.

Several digital activists used emotion within their tweets rather than logic. For example, @NilaAstrum posted on Jan. 25, 2021, "Pervis Payne is innocent, he spent 32 years on death row. 32 years were taken away from him..." This tweet, as compared to the others, got a large amount of interactions. As a common thread within this discourse, emotion is an excellent strategy for digital activism and often reaps better results than logic.

Furthermore, many users truly believe Pervis Payne should not only be off of death row, but that he didn't commit this crime. @skatetwt on April 8, 2021 tweeted, "Please, we're

begging to help save this man from death row which he should NOT be on. Pervis Payne is on death row for a crime he did not commit.” When discussing his innocence and the tweets overall, they all seem to follow a similar structure. Whether it’s digital activism as a whole, or how the Innocence Project’s posts influenced the discourse, they all use similar vernacular and merely tailor some words to match their own voice.

***“Do not let this man suffer because this system is messed up.”***

Beyond Pervis Payne’s perceived innocence, the second theme that emerged within the discourse is systemic corruption. Twitter users uphold that even if Payne is guilty, he should not be executed because he has an intellectual disability. The Supreme Court ruled in *Atkins v. Virginia* (2002) that, per the Eighth Amendment, it was unconstitutional to execute someone with an intellectual disability. However, the Court left it to states to decide what constitutes intellectual disability. Payne’s defense argued that he had an IQ of 78 at the time of murder. According to the Death Penalty Information Center (2022), the state had previously passed Tennessee Code, Section 39-13-203 that stated “mental retardation” regarding capital punishment cases is determined by the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association. Moreover, in 2021, Tennessee enacted a bill – supported by the Tennessee Black Caucus – that amended the code and allowed for convicted individuals prior to the aforementioned code formation to petition the court to re-determine intellectual disability. Having researched this all during the COVID-19 pandemic, digital activists went to work.

For activists who didn’t know the history of intellectual disability and the death penalty, users pled for fellow Twitter users to educate themselves. On April 9, 2021, @bootwt posted, “Some resources are below – if you have time, go through them and educate yourself...”



Additionally, @raindwt on March 25, 2021, said, “Pervis Payne is a man with an intellectual disability who is set to be WRONGFULLY executed on April 9, please help out.” With the emphasis on the word “wrongfully,” the user acknowledges innocence and understanding of Tennessee law. Furthermore, @MaiMaiMai1312 tweeted on April 7, 2021, “Please help Pervis Payne! Supreme Court has already agreed that death penalty is unconstitutional for people with Intellectual Disabilities. There is no DNA evidence to prove Pervis is guilty!”

While this case got national attention, the discussion around Tennessee’s criminal justice system was prominent. @Tnddeathpenalty posted on Dec. 7, 2021, “Pervis Payne’s case is reason enough for TN to finally end the death penalty.” While Memphians called upon District Attorney Amy Weirich, Twitter users, especially closer to Payne’s reprieve of execution expiration date, called primarily upon Gov. Bill Lee of Tennessee. @NancyLevine used this strategy on April 6, 2021, by pleading “@GovBillLee: He’s been on death row in #Tennessee for 30+ years, despite living with an intellectual disability. #JusticeForPervisPayne.” The users plead for the governor to grant Payne clemency. @Amberisms\_ on April 10, 2021, tweeted, “Here are the action steps you can to get Gov. Lee to grant him clemency!” On July 21, 2021, @Jews4Abolition posted, “May Pervis Payne’s life be spared! May Tennessee see the light, and free itself from the clutches of the Angel of Death...”

***“He had no motive. Race convicted him.”***

The third theme that emerged within the discourse is racism in Payne’s case. As discussed before in the literature review, racism has been blantly apparent from this case’s genesis. In 1987, the prosecution attorney, Thomas Henderson, constantly referred to the victim’s “white skin,” while he referred and framed Pervis Payne as an aggressive black man who was drug and sex crazed (Innocenceproject, 2021). Henderson was later accused of

prosecutorial misconduct in the case of Michael Rimmer that started in 1998 (Connolly, 2022). Payne's jury was all white, despite Shelby County having a predominantly African American community in 1988 (Mosh, 2022). Many Twitter users discussed that Payne didn't have a jury of his peers and he was owed his human right to a retrial. On Sept. 1, 2020, @SuperRegular posted, "What's not included in this report is that Pervis Payne, who is black, was found guilty by an all-white jury in 1988."

On April 10, 2021, @Amberisms\_ tweeted, "Please share, no one deserves to be killed at the hands of the carceral state." The carceral state is a term for the modern penal system. Because America has a long and stained history of convicting more Black people than white people, (NAACP, 2022) critical race theory suggests that society expects Black people to be violent and that prejudice is normalized. Labeling theory, a concept that states that when systems tell people what they are, they will eventually become that thing. If you perpetually tell someone they're a criminal, they will become a criminal (Bernburg, 2019).

A recent report by the Death Penalty Information Center (2022) and the National Registry of Exonerations (2022), discovered that black people are 7.5 times more likely to be wrongfully convicted of murder than white people. The number is even higher if the victim is white. According to studies, the victim's race also increases the possibility that the death penalty will be implemented. According to the Death Penalty Information Center (2022), about 300 black people accused of murdering whites have been put to death since 1976, roughly 14 times more than the number of whites put to death for murdering whites.

Twitter users fixated on an alleged phrase that an arrest officer said to Payne during his June 1987 interrogation. "You think you black now, wait until we fry you" (DPIC, 2022). On March 16, 2021, @jayfuller116 said, "The system is so evil. They're about to murder another innocent

black man knowing he's innocent, on April 9th they will MURDER him. They told him 'you think your black now, just wait until we fry you' wtf is wrong w this world."

Race was brought to the forefront of this discourse time and time again. On Aug. 2, 2020, @miscndrist tweeted, "Being wrongfully convicted for a crime he didn't commit, the racism involved with this and now being set to pay for this crime further is unacceptable. Say his name and spread awareness." The inclusion of the phrase "say his name" has cultural significance. In August 2020, when this tweet was published, the #saytheirname campaign was huge. This campaign not only encouraged social media users to identify police brutality and systemic racism but to also focus on the humanity and individual by using their names. Twitter user, @ImmortalKaiCast posted on Dec. 20, 2020, "There is another black male on the death row that will be executed." Looking at that text, the inclusion of the word "another" yet again reiterates the cycle the criminal justice system perpetuates.

On April 10, 2021, @bethhoffberg tweeted, "He had no motive. Race convicted him." According to Pervis' family, he had never displayed characteristics like the court described. Allegedly, his family life was splendid, and his childhood the same. His father was a pastor, he has two sisters, and his mother – who fought for Pervis until she died in 2004 – was a childcare provider and incredibly loving (Innocenceproject, 2022) They say he struggled in school and later found out that Pervis is mentally disabled. Twitter users argue that he only knew the victims because they were his girlfriend's neighbors. Subsequently, they argue that because he had no motive to kill the Christopher's, systemic racism as causation from cognitive bias (Kahneman, 2002) and systemic racism convicted him.

Twitter users argue that the victim's ex-husband and father had a robust history of being physically, mentally, and emotionally abusive during their marriage. Yet, the police never looked

at him as a suspect, according to the Death Penalty Information Center (2022). Many researchers have written about criminal investigations in which a suspect is charged far too quickly in order to satisfy public attention, perceived safety, and hierarchy within federal organizations (Griffin, 2016). Cognitive bias argues that police officers and detectives find these convicts because they're searching for a person to put behind bars rather than seeking the absolute truth and justice.

Many Twitter users brought the conversation back to Tennessee and the locality of this murder trial. According to the National Registry of Exonerations (2022), Shelby County accounts for 46 percent of the people on death row in Tennessee. While Shelby County has the highest crime and homicide rate in Tennessee, according to the 2020 Census, it also has the largest Black community in Tennessee. Critical theorists argue that only way to stop the cycle is to fight against and dismantle the system (Kincheloe & McLaren, 2011).

On March 24, 2021, user @BadFrenchAccent tweeted, “It’s incredible that people deny racism and defend cops/the courts to such a huge extent when you have shit like Pervis Payne and some black guy getting shot by the cops 10 times every other month. Modern day lynching.” Aforementioned, critical race theorists often relate enslavement and present events. As another example of this, @REDRXBIN tweeted on March 25, 2021, “A thread for #rememberslavery, info about Pervis Payne.” Overall, the contention for the criminal justice system regarding systemic racism was wildly evident with the discourse around Pervis Payne and was built on and corroborated by critical race theory principles.

### ***“Help Pervis before it’s too late”***

The fourth theme that emerged within this discourse was the sense of urgency that many users felt in early 2021. Especially for death row social media activism campaigns, digital

activists get angry at other social media users when they don't proactively spread awareness or wait until the last minute to help. A significant influx of tweets were made before Payne's original execution date in April 2021. Before that though, @corpsekkuno44 on Jan. 16, 2021, pleaded, "We have time. We've had time for all of them, but this time I want people to stop waiting until the last minute. Help save Pervis Payne and keep talking about every other black life taken at the hands of a flawed justice system and systemic racism. Fight for them, spread this."

Digital activists often do not address one another in discourse; typically, messages are framed to target decision makers. This positioning is rooted in critical theory. Critical theorists posit the only way to change the superstructure of society is to attack it head on (Kincheloe & McLaren, 2011). Thus, many tweets are written to call on decision makers and global elites. Yet, in this discourse, tweets call upon other activists to change something about their activism or give a call to action that stimulates further activism.

Time was of the essence and digital activists knew it. Everyone was scared they would execute Payne and all of their efforts would be wasted. On March 31, 2021, less than a month away from Payne's original execution date, Twitter user @p6wnage posted, "I'm going to be so fucking disappointed if you guys start retweeting and crying about Pervis Payne's execution at the last minute. This thread will have useful Twitter threads with resources where you educate yourself. We still have time." The tone was angry, scared, emotional.

Twitter users were begging everyone to not ignore Payne. On Dec. 10, 2020, @peevante posted, "Please don't ignore Pervis Payne and share as much as you can send it to anybody you know we can still save pervis payne please"

***"Could you retweet?"***

The fifth and final theme that emerged within this discourse was slacktivism. When COVID-19 spread around the world starting in 2020, activism for injustices switched from a hybrid model of in-person and online activism to solely digital. While protesters were out on the street, digital activism ruled this case. With the Innocence Project at the helm, the activism is innately social.

Aforementioned in the literature review, "slacktivism" combines the words "slacker" and "activism" to make an adjective that means digital politics that require almost no time or responsibility often replace physical, "real world" activism instead of adding to it. It usually has little political influence and ends up serving only the self-centered necessities of those participating. (Joyce, 2010). On March 28, 2021, @dtwtarchives tweeted, “STOP SCROLLING!! Read through the information, sign petitions, and make phone calls.” The text starts with a bold action item for the user to stop strolling and then read, sign, and call. There is little information in the original tweet and seems lackluster. Many users started petitions on “Change.org” and would send those out. For example, on March 30, 2021, @CINNAMATICA said, “educate yourself on pervis payne’s case & consider signing this petition + others.” In addition to the efforts by the Innocence Project, a Twitter user started this petition directed toward the U.S. presidents: Donald Trump in 2020 and then Joe Biden in 2021. While many people signed this petition, it was not being promoted in every tweet – only a subgroup of discourses promoted it.

Even when time was running out, Twitter user @dtwtarchives on March 30, 2021 chimed in and said, “You should still do whatever you can to help him.” While the language is promoting action, it promotes the bare minimum and doesn’t explain what the reader can do to help. Additionally, activists were bargaining with the audience. On March 17, 2021, @btsrilogs

said, “pls just take a minute of your day to watch this and bring awareness to what’s happening w Pervis Payne. I will add additional information/petitions below.” The inclusion of “please just take a minute” bargains with the reader that it will only take a minute out of their day to educate themselves and to help this man. While that bargaining could be true, using verbiage like that frames Payne’s case as unimportant. It harkens upon legacy advertisements that try to catch the consumer’s eye amidst hustle and bustle. Additionally, activists were giving kudos to fellow activists. Twitter user @MemphisHoller on Sept. 10, 2021, tweeted, “Kudos for all those fighting for his justice.”

Some users truly believed they were making a difference. On Feb. 15, 2021, @VOUCHLVJY said, “Here’s a thread of how you can help try prevent his execution and some information on the situation.” And on March 17, 2021, account, @hausofrhiannon\_ said, “Please act now as we can make a difference.” Meanwhile, some users opted for a more simplistic strategy. Twitter user @bucks4ever17 said, on Oct. 4, 2021, “PLEASE RT this and spread the word.” That’s it. According to slacktivism, the act of retweeting or telling people to retweet does not digital activism make. As an even more straightforward approach, on April 9, 2021, @seetheimportant said, “FREE PERVIS PAYNE!!! FREE PERVIS PAYNE!!! FREE PERVIS PAYNE!!! HE IS INNOCENT!!! HE IS INNOCENT!!! HE IS INNOCENT!!! FREE HIM!!! FREE HIM!!! FREE HIM!!! @JoeBiden @VP @KamalaHarris @FLOTUS” While the intentions of tagging decision makers like President Biden and Vice President Harris is understood, it is a slacktivism approach.

Research has shown that social class shapes online collective activism (Schradie, 2018). Scholars are shown that because digital activism is often a lower cost, it increases participation. Twitter user, @justjilly77 on Sept. 8, 2021 had to work, thus they were unable to join in the

rallies for Pervis Payne. Instead, the social media user turned to Twitter and said, “Protest for Pervis Payne outside of my work, wish I could go out and join them.” While many critical theorists might argue that @justjilly77 should leave their job to protest, this an example of the digital capabilities in regard to activism and the accessibility there within.

Digital activism within this discourse also revealed that several politicians and organizations leveraged the Pervis Payne case to necessitate self-serving principals and to build social clout. On May 17, 2021, @ViceChairLTTN posted, “I have supported the efforts to get Pervis Payne’s prison sentenced commuted – before it came acceptable to join the protests. As Governor, (my first day in office), I will be honored to commute Mr. Payne’s sentence.” Further, on Sept. 8, 2021, @margotfriedman tweeted, “Washington, DC stands with Pervis Payne.” And while some organizations are merely well-intentioned, some users utilized this case to be heroes. For example, on Feb. 2, 2022, @VHasanMIF tweeted, “We stood. Every Wednesday. Bearing Witness on The Corner. From the depth of our hearts, thank you.” The last sentence, “From the depth of our hearts, thank you” alludes to a complex framework where the organization believes all the other digital activists were merely helpers for their greater mission.

## CONCLUSION

This research sought to better understand how social media discourse and digital activism affect the criminal justice system – particularly death penalty cases – through the lens of Pervis Payne’s legal battles. This study used discourse theory and critical race theory as a lens to analyze Twitter discourse. The study found five themes: Pervis Payne’s perceived innocence, apparent systemic corruption nationally and in Tennessee, the racism within the case, a sense of urgency from digital activists, and lackluster activism; slacktivism. Twitter users dominantly



believed that Payne didn't commit this crime and based it on a lack of evidence and DNA testing by the Millington Police Department and the Shelby County criminal justice system.

Within the discourse, there is a heavy amount of criticism for the local and state systems in Tennessee. For 34 years, Pervis Payne had been ignored. Twitter users also dissected Payne's original trial in 1988 and discovered the prosecution had relied on racial stereotypes. More dissection of the case led digital activists to believe that the only reason he was convicted was the color of his skin. While there was increased discourse, not all tweets were elaborate, some were merely participatory. The concept of slacktivism was apparent within the discourse with some users barely spreading awareness and asking for retweets. Thus, while social media can be used as a tool to form public opinion and put pressure on the systems at play that exhibit racism, some users are leveraging these campaigns for social clout or to make themselves feel better. Overall, the #freepervispayne discourse created a space for awareness, education, and discussions of racism in the criminal justice system. This digital activism spread awareness of Payne's case. It shifted public opinion on this case and the local, regional, and national legal systems.

The present research is limited in several ways. It performed a textual analysis, yet many of the tweets analyzed were accompanied by visual elements. While most graphics were simply the same picture of Pervis Payne, future research into how the visuals set activist's rhetoric would be compelling. Additionally, this study chose Twitter because it contained the bulk of conversation. Nonetheless, TikTok and Instagram were prominent platforms for this case, as well. Future research into how the discourse changes depending on the platform in regard to the Pervis Payne case would be valuable for the industry. Furthermore, future research projects could duplicate this study with a different legal case.

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