

By Anne Blythe

Ben Chavis fell to his knees in prayer on Monday after learning that Gov. Bev Perdue had pardoned him some four decades after a tainted and racially biased Civil Rights-era prosecution wrongfully sent him to prison.

With five days left in office, Perdue issued a full pardon of innocence for Chavis and the nine others who became known as the Wilmington 10.

"It's been a long, arduous – and at times, torturous – 40 years," Chavis said. "But this is a joyous day."

Chavis, who went to Wilmington in 1971 as head of the United Church of Christ's Commission for Racial Justice, has lived much of his life clouded by a smoldering injustice.

In 1971, Chavis was arrested with eight other black men and one white woman and accused of firebombing a white-owned grocery store in a black neighborhood in Wilmington. They also were accused of shooting at emergency workers who responded to the blaze.

The accused denied any role in the fire or the shooting, but they were convicted of arson and conspiracy and sentenced to prison.

The pardon of innocence means the state no longer considers that any of the 10 committed a crime.

Perdue said she granted the pardon to right a long-standing wrong after spending a great deal of time over the past seven months reviewing the request.

"This topic evokes strong opinions from many North Carolinians as it hearkens back to a very difficult time in our state's past, a period of racial tensions and violence that represents a dark chapter in North Carolina's history," Perdue said in a statement. "These cases generate a great deal of emotion from people who lived through these traumatic events."

It was a time of racial unrest in the Southern port city over the recently integrated schools. Fires simmered figuratively and literally, across Wilmington and beyond.

Amnesty International and journalists took up the cause of the Wilmington 10, questioning not only their arrests, but the fairness of their trials and convictions.

Gov. Jim Hunt commuted their sentences in January 1978, but he withheld a pardon while the cases remained on appeal.

No conviction, no acquittal

In 1980, the U.S. Fourth Circuit Court of Appeals overturned the convictions, citing prosecutorial misconduct and denials of due process. But the charges of four decades ago lingered. State prosecutors did not seek a new trial, but there was no acquittal, either.

Chavis, 64, is president of an educational services company that provides online tools and programs to historically black colleges.

This year, Chavis, the NAACP and other advocates for the Wilmington 10 appealed to the governor for a pardon.

Perdue said she worked to separate fact from rumor and innuendo as she evaluated the requests for clemency.

"I have decided to grant these pardons because the more facts I have learned about the Wilmington 10, the more appalled I have become about the manner in which their convictions were obtained," she said.

The trial of the Wilmington 10 was tainted by racial bias, and key testimony was recanted. It was a case born in an era of racial confrontation over school integration and civil rights.

Recently, Tim Tyson, a North Carolina writer and historian, uncovered notes from Jay Stroud, the prosecutor in the case. Stroud, based in Wilmington, was later disbarred for other problems.

The notes include the prosecutor's efforts to select a favorable jury based on race. When the prosecutor failed in the first instance – the selected jury was two whites and 10 blacks – his notes written on the back of a legal pad indicate he feigned illness to cause a mistrial.

The second trial had a jury of 10 whites and two blacks, and it produced the conviction that was tossed out.

The notes, Perdue said, showed "with disturbing clarity the dominant role that racism played in jury selection."

Stroud noted on a legal pad certain white jurors believed to be Ku Klux Klan members. By their names he had written "good." By the name of at least one African-American juror, Stroud wrote "Uncle-Tom type."

Perdue described the conduct as "disgraceful."

"It is utterly incompatible with basic notions of fairness and with every ideal that North Carolina holds dear," Perdue said in the statement released Monday. "The legitimacy of our criminal

justice system hinges on it operating in a fair and equitable manner with justice being dispensed based on innocence or guilt – not based on race or other forms of prejudice.

"That did not happen here. Instead, these convictions were tainted by naked racism and represent an ugly stain on North Carolina's criminal justice system that cannot be allowed to stand any longer."

Perdue praised

Chavis, who was in his office in Ft. Lauderdale, Fla., on Monday when he heard the news, had much praise for the state's first female governor.

"We deeply appreciate and take note of the tremendous courage of Gov. Perdue," said Chavis. "We know it was not easy. It was a controversial case 40 years ago, and it still is a controversial case today."

Issues of race, Chavis said, evoked strong opinions four decades ago and continue to do so today. Amid his celebration, Chavis promised to pick up the mantle to fight for a justice system that is blind to race.

"I want to, on this day of celebration, to recommit ourselves to civil rights for all – to recommit ourselves to justice for all," Chavis said. "Truthfully, it should not have taken 40 years to get to this day. Sometimes the wheels of justice grind slowly, but they can eventually grind smoothly. We have justice today."

Several of the Wilmington 10, stigmatized by the charges and time in prison, had trouble getting their lives back on track. Four of them are now dead. Several are in ill health.

In addition to Chavis, the surviving members of the Wilmington 10 are Reginald Epps, James McKoy, Wayne Moor, Marvin Patrick and Willie Earl Vereen. Those who have died are Jerry

Jacobs, Ann Shepard, Connie Tindall and Joe Wright. Wright was the youngest, arrested when he was 16 years old.

The news of the pardon prompted widespread plaudits for Perdue.

U.S. Rep. David Price, a Democrat from Chapel Hill who wrote to Perdue in May, urging her to issue a pardon, commended the governor for what he described as a "principled and courageous act" that delivered "justice long denied."

"Today's pardon reaffirms that prejudice has no place in our criminal justice system, and that we have a moral obligation to correct past wrongs," Price said in his statement.

The Rev. William Barber II, head of the state chapter of the NAACP, said Perdue has restored integrity to the state's criminal justice system with the stroke of a pen.

"The Wilmington 10 were wrongly framed, convicted and incarcerated through a racist manipulation of the court system," Barber said. "This lets us know that those who were hounded as criminals have now been lifted as heroes."

No protests from DA

Benjamin R. David, the current district attorney in Wilmington, said his office would respect and abide by Perdue's decision.

No one in that office now was there when the prosecution occurred.

"The best that I can say, years later, is I am not satisfied that we can know the truth about what happened," David said in a statement. "Simply saying that we cannot know the truth, however,

does not settle the question of whether justice was done. We must ask whether the trial was fair."

When jurors are excluded from the judicial process on the basis of race, David said, the defendant and the entire community are denied a fair trial.

"As prosecutors, the truth is our only client," David said. "For guilty defendants, the truth hurts. For the innocent, the truth will set them free. Sometimes the truth remains elusive.

"Where, as here, the process that was in place to search for the truth is determined to be so fundamentally flawed that we cannot know it, the verdict cannot stand the test of time."