

# Nightclub Owner Awarded \$2.28 Million For Drug Conviction Frame-Up

By Hans Sherrer

In 1992 Frank Shortt was the 57-year-old owner of the Point Inn, the largest and most successful nightclub in Donegal, Ireland. Donegal is a coastal town, located about 120 miles northwest of Dublin.

Drugs, particularly Ecstasy, were prevalent around Donegal, and Shortt wanted to make sure they stayed out of his nightclub. To that end he approached a senior police official and requested that undercover officers be deployed in the Point Inn to catch anyone trying to deal drugs. No undercover officers were assigned to patrol Shortt's nightclub in response to his request.

However, unbeknownst to Shortt, in the summer of 1993 Donegal police Inspector Kevin Lennon and Detective Noel McMahon made three surveillance visits to Shortt's nightclub. Lennon and McMahon submitted reports alleging that not only were drugs being dealt in the Point Inn, but that Shortt was knowingly allowing it to happen.

On the night of August 2, 1993, the Point Inn was raided by the police and a known dealer was arrested. Shortt, a millionaire and one of Donegal's most prominent citizens, was charged with knowingly allowing drugs to be sold in his nightclub.

Shortt pled not guilty and his trial was assigned to Dublin's Circuit Criminal Court.

The prosecution's case against Shortt seemed solid. It was based on circumstantial evidence and several witnesses, including a police informant and Detective McMahon. At Shortt's 1995 trial McMahon testified that he witnessed Shortt observing drug deals being made in the Point Inn, and Shortt did nothing to either stop or report them. However, one curious aspect of the case is no one was prosecuted for allegedly selling or buying drugs at the Point Inn — Shortt was the only defendant.

The jury considered the evidence was sufficient to prove Shortt knowingly allowed drugs to be sold in his nightclub. He said later that his lawyers told him he "wouldn't be going to jail. And then an hour later I was being led off in handcuffs to prison."<sup>1</sup> Shortt was sentenced to three years imprisonment. He was sent to Dublin's 150-year-old Mountjoy Prison.



Shortt's daughter, Sabrina, said years later during a radio interview, "When I was sixteen my father was sent to prison. A lot of my friends weren't allowed to come to my house anymore. My brothers and sisters got a lot of harassment at school, both from teachers and from their friends — having papers and things thrown at them on the bus."<sup>2</sup> Every Sunday Shortt's family visited him by making the 6-hour round-trip from Donegal to his prison. Sabrina, said of those visits, "We got one to two hours with my father, who spent the entire time talking to my mother about getting him out of prison, about dealing with finances at home, dealing with bills, people to talk to, ministers to talk to. By the time he had finished giving her the list of things to do, it was time to go back again. That was the way it went, every weekend."<sup>3</sup>

The efforts of Shortt and his wife were for naught. His appeal was denied and he served his entire sentence. With time-off credits, he was imprisoned for 27 months.

After his release, Shortt — whose financial fortunes were devastated when the Point Inn was destroyed by fire before he had a chance to sell it — continued his quest to clear his name.

By the fall of 2002 Shortt and his lawyers had acquired documents and witness statements that painted the picture that not only was he innocent, but he had been the victim of a premeditated frame-up orchestrated by Lennon and McMahon. That is why no one else was prosecuted for the alleged drug activity at the Point Inn — there was no actual evidence it occurred.

Lennon and McMahon were meticulous note takers of everything they did and observed during an investigation. That "anal retentive" attention to detail proved to be their undoing once Shortt and his lawyers obtained copies of their notes and reports.

Some of the key documents exposing what happened were obtained from an unlikely source — McMahon's ex-wife, Sheenagh McMahon. When the McMahon's were divorced in 1999 Sheenagh kept some of the incriminating memos her husband had written. She also provided testimony, corroborated by her ex-husband's chief informant, Adrienne McGlinchey, that McMahon and Lennon concocted evidence to convict Shortt, including planting drugs at the Point Inn.

Although it was unrelated to Shortt's case, they also provided evidence that Lennon and McMahon had also set up a bogus arms find. McGlinchey said that the two police officers and her drove a van loaded with explosives to Rosstown (near Donegal) and unloaded them into an unused shed. The next day police discovered the "arms cache" after being given an anonymous tip. The police then took claimed the explosives had been seized from IRA terrorists.

Ireland's Court of Criminal Appeal held a hearing in the late summer of 2002 to consider the new evidence of his innocence. At the hearing McMahon testified, "I am renown[ed] and laughed at by people that live with me for making notes. I have to make a note of everything or I will forget something. It is a habit I have."<sup>4</sup> In response to that admission, "Justice Adrian Hardimon scathingly noted that during the detective's three visits to the Point Inn, McMahon, the self-proclaimed compulsive note taker, had not once made a record in his notes about seeing Frank Shortt witnessing drug deals."<sup>5</sup>

It was also disclosed during the hearing that the money and drugs found in the coat pocket of an alleged drug dealer arrested at the Point Inn during the raid on August 2, 1993, had not been there when he was arrested that night. They were "discovered" the next day, which means they were planted by someone within the police department. That alleged dealer was not charged with any crime, although the "evidence" of the money and drugs "found" in his coat was used against Shortt at his trial.

In July of 2002 the appeals court quashed Shortt's conviction based on the overwhelming evidence he had suffered a miscarriage of justice. The evidence presented during his appeal conclusively showed that Lennon and McMahon had suppressed exculpatory evidence, planted bogus evidence, and perjured themselves during Shortt's trial.

Shortt then filed a lawsuit to recover compensation for his ordeal. On October 12, 2005, Ireland's High Court awarded Shortt payments totaling \$2,280,000<sup>6</sup> That included \$955,000 for losses related to Point Inn plus \$652,000 in lost profits. It also included an award of \$593,000 under the Criminal Procedure Act, exemplary damages of \$59,000, and costs of \$21,000.<sup>7</sup> It was the first award of compensation by the High Court in a case of wrongful conviction.

Shortt, now 70 years old, wasn't pleased with the award considering what he has gone through in the 12 years since he was falsely

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# *The Death of Innocents:* An eyewitness account of wrongful executions

By Sister Helen Prejean

Random House, 2005, 310 pages, hardcover

Review by Katherine E. Oleson

Sister Helen Prejean's second book, *The Death of Innocents: An eyewitness account of wrongful executions*, is equally as compelling as her first, *Dead Man Walking*. As the title suggests, Prejean looks at the death penalty from another angle: cases of innocent individuals accused of crimes and sentenced to death. Former Supreme Court Justice Blackmun's fear of "the gross injustice if an innocent man were sentenced to death..." has come true more than once.

Prejean weaves personal accounts, legal arguments and criticism together to paint a fuller

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accused — including the loss of his thriving business. He said, "Sally (his wife) and I are very disappointed with the judgement."<sup>8</sup> His daughter Sabrina wasn't as restrained in her comments. In a radio interview days after the award was announced, she said, "I am completely outraged, and I do take it as a personal insult."<sup>9</sup> She said that her father's experience in fighting the charges against him prior to his trial, his conviction and imprisonment, his quest to clear his name, and then his fight for compensation — all of which lasted for 12 years — has permanently altered his personality, "He is a different person now. He is completely obsessed with this case because he was so wronged, and he continues to be wronged and he was wronged again on October 12th."<sup>10</sup>

### Endnotes:

1 Shocking Shortt Story, by Barry O'Kelly, GET SOURCE, August 11, 2002.

2 Daughter of Frank Shortt 'Outraged,' Irish Rights Watch, October 16, 2005.

3 *Id.*

4 Shocking Shortt Story, by Barry O'Kelly, GET SOURCE, August 11, 2002.

5 *Id.*

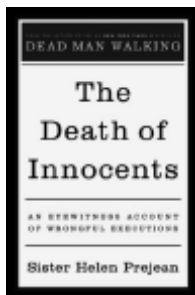
6 That is the dollar amount, since Ireland uses the Euro. The actual award was €1,923,871 (Euros). Based on an exchange rate of 1.1853 Euros per Dollar on December 23, 2005.

7 That is the dollar amount, since Ireland uses the Euro. The actual award amounts were €806,221 for losses related to Point Inn plus €550,000 in lost profits. It also included an award of €500,000 under the Criminal Procedure Act, exemplary damages of €50,000, and costs of €17,500. See, Shortt Awarded €1.93m for wrongful conviction, Irish Corruption website, October 13, 2005.

8 Nightclub owner disappointed at €1.9m payout, Irish News, October 12, 2005.

9 Daughter of Frank Shortt 'Outraged,' *supra*.

10 *Id.*



picture of what happened in the wrongful execution cases of two men she believes were truly innocent — Dobie Gillis Williams and Joseph Roger O'Dell.

Williams lived in rural Louisiana, and he was accused of raping and murdering a woman in 1984. His court-appointed lawyer neither investigated the prosecution's contrived crime scenario prior to his trial, nor challenged it during his trial. Williams was executed in 1997. Less than two years later the Supreme Court ruled it unconstitutional to execute a man with Williams' IQ of 65.

O'Dell was convicted in 1986 of rape and murder in Virginia, based largely on the testimony of a jailhouse informant. For more than ten years, O'Dell unsuccessfully sought court ordered DNA testing of crime scene evidence that might have proven his innocence. Supreme Court Justice Harry Blackmun disagreed with the Court's decision not to review his case, because he found "serious questions as to whether O'Dell committed the crime" and warned of "the gross injustice that would result if an innocent man were sentenced to death." O'Dell was executed in 1997. Virginia destroyed the evidence in 2000, so the truth will never be known.

Prejean legitimizes the voices of the accused by the seemingly sheer act of taking the time to ask questions and *listen* to the accused, Prejean brings attention to key pieces of evidence that had been ignored, disregarded, or not included by those at every stage of the judicial process. Sadly, as Prejean shows, these cases exemplify the many faults in the court systems across the United States.

Prejean writes in the preface, "I used to think that America had the best court system in the world. But now I know differently." Throughout the book, this revelation is illustrated. "When I first started visiting the condemned in 1982, I presumed the guilt of everyone on death row. I thought that an innocent person on death row would be a pure anomaly, a fluke. Not with all the extensive court reviews and appeals. Now, after working intimately with so many of the condemned and their attorneys, I know a lot better how the criminal justice system operates and how innocent people can end up on death row." (p. 9).

Prejean addresses many crime-related concerns in depth: contradictions in individual accounts of prosecution witnesses, coercion/hearsay of "confessions" by police, missing evidence from crime scenes, rationalizations used by lawyers and judges,

ridiculous prosecution scenarios with gaping holes in logic, and the list goes on.

Prejean dedicates a chapter to a thoughtful critique of Supreme Court Justice Scalia's support of "the machinery of death", particularly the reasoning he employs. In response to a statement by Justice Scalia that the death penalty is not a "difficult and soul-wrenching question", she states, "I find this morally troubling, because I can't help wondering how any human being could be called upon to decide life or death for his or her fellows and not break a moral sweat." (p. 173).

Once again, Prejean has brought attention to this debate through themes of dignity and respect for our fellow human beings that come forth in her writing. In a system ridden with flaws and injustices, she calls for public discourse and action on the death penalty. In her words, "Its practice demeans us all" (p. 270).

*The Death of Innocents* is available from The Innocents Bookshop at, <http://justicedenied.org/books.htm>.

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The suits make a variety of allegations that interrelate to portray the picture of how the systematic deprivation of Rose's rights to due process and a fair trial contributed to his wrongful conviction. Lodi Police detectives Matthew Foster and Ernest A. Nies Jr. are alleged to have coerced the rape victim to falsely identify Rose three weeks after the attack, and alleged to have failed to disclose exculpatory evidence that would have resulted in Rose's acquittal. Another allegation is San Joaquin County Deputy District Attorney Kevin Mayo "knew or should have known" that he coerced false testimony from the young victim when she identified Rose in court. Another allegation is DOJ Crime Lab technician Kathleen Cuila violated department protocol in the testing and analysis of fluid and hair samples. Other allegations are that Rose's court-appointed lawyer provided deficient representation, and that San Joaquin County randomly appointed the lawyer, who Rose alleges was unskilled and whose incompetence contributed to Rose's wrongful conviction.

The suit naming Cuila as a defendant seeks \$5 million in damages for Rose, and \$1 million each for his three children. The other suits don't specify damages.

Sources: Wrongly Convicted Man Seeking \$8 Million in Two New Lawsuits, *The Record*, Stockton, California, November 10, 2005.

Payback Sought For Years in Prison, *The Record*, Stockton, California, November 5, 2005.

Wrong Conviction Leads Former Lodi Resident to File Lawsuits, Layla Bohm, *News-Sentinel*, November 8, 2005.