

In 2000 Illinois Governor George Ryan imposed a moratorium on executions in Illinois. He was influenced by the 16 years that an innocent Anthony Porter spent on death row before his release on Feb. 5, 1999. Five months earlier Porter came within 50 hours of being executed before a stay was issued. Governor Ryan said, "I cannot support a system which, in its administration, has proven so fraught with errors and has come so close to the ultimate nightmare, the state's taking of an innocent life. How do you prevent another Anthony Porter – another innocent man or woman from paying the ultimate penalty for a crime he or she did not commit?"¹

The legal system was prodded into correcting Porter's erroneous 1983 conviction and wrongful death sentence by the investigative efforts of a group of Northwestern University journalism students under the guidance of Professor David Protess. They gathered three key pieces of evidence that led to Porter's exoneration:

- By going to the South Side Chicago park and re-enacting the crime, the students proved the State's star eyewitness, William Taylor, could not have seen the August 1982 double murder from where he was standing in the park.
- A private investigator working with the students videotaped a detailed ten-minute long confession by Alstory Simon to the double murder. Simon voluntarily agreed to the videotaped interview, and while was under no external pressure whatsoever he admitted that he shot the two people because of a dispute over drug money. Simon said on tape, "I just pulled it up and started shooting."
- The students obtained a signed affidavit from Simon's wife that she witnessed him shoot the two victims over a drug money debt.

Taylor later corroborated the student's finding by admitting that he didn't see the shooting, although he was in the park the night it occurred. After the shooting Taylor was questioned extensively by the police, and he repeatedly told them he didn't see the shooting. He said later that he only identified Porter at his trial because the police threatened and coerced him into doing so.

More than a year after Porter's release, in May 2000 the Illinois Court of Claims awarded Porter \$145,875 for almost 17 years of "unjust imprisonment."²

Porter also filed a state lawsuit in 2000 against the City of Chicago for false imprisonment, alleging that the city police didn't have probable cause to arrest him in 1982 for the murders. The lawsuit sought \$24 million

Jury Rejects Anthony Porter's \$24 Million Lawsuit For 16 Years On Death Row

By JD Staff

in damages. Five years later Porter's lawsuit went to trial. After a weeklong trial, on November 15, 2005, a Cook County jury deliberated for six hours before arriving at their unanimous verdict in favor of the city.

When interviewed after the trial several jurors indicated that they would have voted for Porter if the case had been about misconduct by the Chicago PD's investigating officers, because his lawyers proved extensive misconduct had occurred. However, they didn't prove to the jurors' satisfaction that Porter had been arrested without probable cause. One juror said, "There was real misbehavior. We unanimously believed he was innocent, that he was wronged. But we couldn't [find for Porter]. The case was, 'Was there probable cause?'"³

Porter's attorney, James Montgomery Jr., was perplexed by the jury's decision. He said after the verdict, "We are shocked," and, "I can't get into the minds of the jury. This was not a jury of Mr. Porter's peers and is not typical of juries in the Daley Center of the city of Chicago." What Montgomery was referring to the fact that the jury pool for the trial was composed so that Porter – who is African-American – wound up with an all-white jury, even though only 31% of Chicago's population is white, and 36% is African-American.⁴ A family friend of Porter's told a Chicago television reporter, "They have come up with an all-white jury ... So we just know there's been a terrible miscarriage of justice."⁵ One of the jurors took exception to the allegations of racism in denying Porter any compensation. He said, "We didn't believe the police story." However, he explained the jury thought the assistant state's attorney believed he had probable cause to approve the charges against Porter, which he based on the faulty information provided by the investigating officers.

Mitigating the possible racism of the all-white jury's verdict against Porter is the jurors thought he should get some compensation for the police misconduct that led to his wrongful imprisonment. One juror said, "We told the judge we really want to make sure this guy gets compensation somehow."⁶

After the verdict, Chicago's attorney demonstrated that almost seven years after Porter's exoneration the city is unwilling to acknowledge it made a mistake in prosecuting him. He

pointed to where Porter had been sitting in the courtroom and said, "The killer has been sitting in that room right there all day."⁷

Kathleen Zellner is an experienced Chicago area civil attorney not involved in Porter's case who has won large sums for clients. She observed that jurors consider the actions of the police against the character of the person seeking compensation for their wrongdoing. Porter had a criminal record before his wrongful conviction and he was charged with domestic battery after his release – although those charges weren't prosecuted. In light of Porter's "character," Zellner said, "It is not enough to show that police didn't have probable cause, you've got to show your client has lived an exemplary life. Juries don't want to award any money unless they think your client is a good character. The dilemma for plaintiff attorneys is being able to present a sympathetic client. Jurors don't want to award millions to someone who may commit another crime."⁸

Zellner used the example of James Newsome, an African-American who sued the City of Chicago for the police department's rigging of the line-up in which he was identified as the murderer of a grocery store owner during a hold-up. He was wrongly convicted in 1979 and imprisoned for fifteen years on the basis of his erroneous identification in the rigged line-up. Zellner didn't represent Newsome, but she called him a "dream client. He got an education in prison and he came out looking stellar when he was presented to the jury, which awarded him \$15 million."⁹ Newsome won his lawsuit in 2002, and the jury awarded him \$1 million for each year of his wrongful imprisonment.

Twenty-two years after Porter's wrongful conviction and almost seven years after his sixteen years on Illinois' death row ended, he has been awarded total compensation of \$145,875. Since his release, Porter has been working at Chicago's Inner City Youth Foundation.

Endnotes and Sources:

1 Sorry remark in Porter case begs an apology, Eric Zorn, *Chicago Tribune*, November 20, 2005.

2 *Id.*

3 Jurors explain why they backed city over ex-Death Row inmate, Frank Main and Steve Patterson, *Chicago Sun-Times*, November 17, 2005.

4 Demographic Trends in the Chicago Metropolitan Area, Kenneth M. Johnson, PhD, Loyola University, October 2005, <http://www.luc.edu/depts/sociology/johnson/ChicagoCensus2004.html>.

5 Former death row inmate loses suit against CPD, John Garcia, ABC 7, Chicago, IL, November 15, 2005, <http://abclocal.go.com/wls/story?section=local&id=3636495>.

6 Jurors explain why they backed city over ex-Death Row inmate, *supra*.

7 Sorry remark in Porter case begs an apology, *supra*.

8 Wrongful arrest suits are tough sells: As in Porter case, big payouts often denied, Charles Sheehan, *Chicago Tribune*, November 17, 2005.

9 *Id.*

