

Rodney Addison was released in December 2005 after nine years of wrongful incarceration. Addison was 23-years-old when convicted of second degree murder in the October 1996 shooting of Lewis Jackson in northwest Baltimore. Addison was sentenced to 30 years imprisonment.

Rodney Addison Freed From Nine Years Of Wrongful Imprisonment

by Douglas Scott Arey

In 1994 Addison had pled guilty to a drug charge when he claimed he wasn't guilty. It was a mistake he vowed not to repeat again. His attitude was, "I'd rather be innocent and in there for 30 years than say I'm guilty." After his conviction Addison haunted the prison law library researching legal citations in an effort to find a way to overturn his conviction.

The Maryland Office of Public Defender Innocence Project adopted Addison's cause and discovered a major Brady violation: three witness statements contradicting the testimony of the state's sole witness, Frances Morgan, were obtained by Baltimore police during their initial investigation. Yet they had not been released to Addison prior to his trial. A Public Information Act request for all police documents in Addison's case led to disclosure of the exculpatory statements.

In October 2005 Baltimore City Circuit Court Judge Edward Hargadon ordered a new trial. He said the state's failure to disclose the three exculpatory witness statements "undermined the confidence of the entire verdict." Two months later, the Baltimore State's Attorney Office dismissed the murder charge, stating they did not have the evidence or witnesses to pursue another trial. The dismissal resulted in Addison's release.

Ironically, according to the trial transcript, Addison exclaimed during his trial, "I think I can prove the witness was lying on the stand yesterday when she said she looked out her window." He made that statement two days before he was convicted. The concealed witness statements proved Addison was telling the truth, and that members of the prosecution knew it at the time of his trial.

Suzanne Drouet, an assistant public defender associated with the Maryland Innocence Project, told Baltimore's paper *The Sun*, "This is a beautiful case for showing how an innocent person can wind up getting convicted. Every step of the process somebody didn't do their job, and the result is what people don't think can happen - a totally innocent person winds up getting convicted. It's everybody not doing their job. You have fault at every level." Drouet further said, "We showed that the state had not

turned over certain information about three eyewitnesses that would have shown that this woman who testified ... was in fact lying. They should have turned those things over."

The Sun also reported that in "a photo line-up from 1996 that included Addison, Ernest Green identified someone else as the shooter and testified that he saw the suspect flee on foot. Glenn Maxey had also given police a verbal description of a suspect that did not match that of Addison in 1996." Both men testified at Addison's post-conviction hearing in 2005.

Margaret T. Burns, a spokeswoman for the prosecutors' office agreed the "case pointed to poorly organized paperwork, the possibility that not all evidence from police was transferred to prosecutors and Addison's initial inadequate legal representation."

The Sun reported Addison's dismay with prison, which he characterized as "living in a time warp, a vacuum. It was miserable ... and not a place anyone should have to live in." Addison coped as best he could, "completing a General Educational Development program, joining book clubs and doing a lot of drawing and writing on his own." Drouet said, "He was always persistent but patient. He never seemed to get frustrated or angry. But he never wavered from the fact that he was absolutely innocent and he was going to keep fighting this for as long as it took."

Several days after his release Addison said, "A lot of times I dreamed that I was home, and I woke up and I was there, in prison. Now, when I wake up, I'm not in a cell. I'm in a house, with people, family members. That's when I know it's real. I'm free."

Addison's case is the first time the Maryland Innocence Project has aided reversal of a conviction on grounds other than DNA evidence.

Maryland has a wrongful conviction compensation statute that requires a pardon by the governor. A hurdle for Addison to overcome in obtaining a pardon is that the State's Attorney Office is taking the position that Addison wasn't exonerated by the dismissal of the charges. They are claiming it only means there is no evidence he was involved in Jackson's murder - not that he is innocent. State's Attorney spokeswoman Burns also emphasized that dismissal of the charges didn't expunge the police record of Addison's "arrest for first-degree murder."

Sources: Prosecutors drop murder charges, *The Sun*, Baltimore, December 17, 2005; and Readjusting to freedom, *The Sun*, Baltimore, MD, December 24, 2005.

Boston Agrees To Pay \$3.2 Million To Neil Miller For False Rape Conviction

By JD Staff

In 1989 by a student at Boston's Emerson College reported a screwdriver wielding man forced himself into her apartment after she answered the door. She said the man robbed and raped her.

Neil Miller was twenty-two when convicted in 1989 of raping and robbing the woman by a jury that depended on her identification of him as her attacker. There was no crime scene evidence or other witnesses tying him to the crime. He was sentenced to 45 years in prison. His daughter was three-years-old.

After ten years imprisonment Miller was successful in getting a judge to order DNA testing of a bed sheet and the victim's vaginal swabs. The tests excluded Miller. He was released in June 2000 and his conviction was vacated.

In 2003 Miller filed a federal civil rights lawsuit against the city of Boston, its police department, and several officers. He claimed the police led the victim to falsely identify him, and they ignored evidence clearing him of the crimes.

Miller alleged that after the attack, police had the victim look through 600 pictures of males. When she didn't pick any of the pictures they had her look through about a dozen photos that included a six-year-old picture of Miller. The woman indicated Miller's picture resembled her attacker. However, she couldn't identify him with certainty, so the police told her she should go with her first impression. As time went on she became more positive that the old picture of Miller was her attacker. The lawsuit alleged that the police's conduct in guiding the woman to select Miller amounted to "deliberate indifference" to performing their duty to find the woman's assailant.

On March 8, 2006, four days before Miller's lawsuit was scheduled to go to trial, a settlement for \$3,200,000 was announced. Although denying any responsibility for what happened to Miller, the city of Boston issued a press release explaining the settlement acknowledged "the terrible tragedy of an innocent man incarcerated in 1989 for a crime he did not commit."

Miller's settlement is the largest in a wrongful conviction case in Massachusetts history.

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Justice:Denied Introduction: A wrongly convicted person is usually thought of as someone who in the course of their daily life became ensnared in the nightmare of a prosecution, and convicted of a crime that he or she did not commit. However, after someone is convicted and imprisoned for a crime the person may or may not have committed, that person becomes vulnerable to being wrongly accused of a crime that occurred within the prison. The following story of Kenneth Krause illustrates that the same factors can be

involved in the prosecution of a person who may be innocent of committing a crime in a prison, as someone accused of committing a crime on the street. Those factors involved in Mr. Krause's case include: using suspect informant testimony; concealment of exculpatory evidence; fabrication of prosecution favorable evidence; piling on of unjustified charges to try and coerce a guilty plea; non-existent independent expert evaluation of crime scene evidence; and inadequate pre-trial, trial, and post-trial legal representation.

Exculpatory Surveillance Video Not Analyzed Prior to Trial - The Kenneth Krause Story

By Kenneth Krause

On May 8, 1999, I was in the special housing unit (SHU) at the United States Penitentiary in Lompoc, California. I was serving a 12-1/2 year sentence for a 1993 bank robbery conviction. I was in a two-man cell that I shared with Jeff Milton. At approximately 10 a.m. on the 8th, I commented to Officer Alexander White as he passed me my food tray that he should give my rotten apple to Officer Anita Pahnke and tell her to stick it where the sun don't shine. About an hour later when Pahnke was passing out coffee she stopped at our cell (D-15), and told me to "Grow up and get some balls."

Apparently my cellmate Milton was personally affronted by Pahnke's comment, because he immediately jumped up from the lower bunk. As he approached the closed cell door he told Pahnke, "That's tough talk behind a cell door." Rising to Milton's challenge, Pahnke ordered Officer Cintora, who was manning the control panel, to open our cell door. Against (SHU) regulations, Cintora responded by opening the cell door. As the cell door opened Milton punched Pahnke in the mouth so hard it spun her around 180 degrees before she fell down between our cell (D-15) and the one next to it (D-14). Jumping down from the top bunk - I peeked out of the cell door at her in disbelief. I then took approximately two steps out of the cell onto the tier, but I never touched Pahnke.

Within seconds officers began to arrive in response to the alarm Cintora had activated

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In 2005 a Boston man, Larry Taylor, pled guilty to three rapes, including the 1989 rape Miller had been convicted of committing. Prior to his conviction, Taylor had been arrested several times for various crimes after Miller's 1989 conviction.

Source:

City of Boston Reaches \$3.2 million settlement with wrongly convicted man, Brandie Jefferson, *Boston Globe*, March 9, 2006.



and both Milton and myself stepped back into the cell. Minutes later both of us were dragged out of the cell and severely beaten before being stripped and chained hand and foot to a concrete slab for a solid week. We were not only

forced to lie naked in our urine and fecal matter for the week we were chained to the slab, but we were repeatedly brutalized by several guards who punched and kicked us.

At the end of that first week, I was given two incident reports. They falsely claimed that I had not only been recorded by video surveillance camera as personally punching and kicking officer Pahnke, but that a razor blade used by Milton to cut Pahnke had been discovered in our cell's toilet. Although the videotape was too blurry to discern very much, the prison staff relied on it during an institutional disciplinary hearing in order to find me guilty of the charge of assaulting Pahnke. That resulted in my security reclassification and my subsequent transfer to the highest security federal prison in the United States - the federal supermax prison in Florence, Colorado.

Pre-Trial Events

In March of 2000, I was indicted by a federal grand jury in Los Angeles for: Conspiracy to Assault, Assault on a Federal Officer, and Aiding and Abetting. I soon discovered that to protect Pahnke from any wrongdoing regarding the opening of the (SHU) cell door against policy, an "official story" had been concocted that inmate Milton and myself had conspired to assault officer Pahnke by pretending to be in a fight when she came to our cell. Then when she ordered the opening of the cell door, ostensibly to break up the fight, we supposedly both turned on her. This staged cell fight story was the basis of the conspiracy charge that alleged seven overt acts.

I repeatedly assured my court appointed lawyer, Judith Rochlin, that I was innocent and that if she could have the surveillance tape expertly analyzed it would prove beyond any shadow of a doubt that at no time did I touch Pahnke. Regrettably, before any progress could be made in that regard, differences of opinion and a clash of personalities forced us to go our separate ways. But before she withdrew as my lawyer, she filed an *ex parte*

motion for funds to have the original surveillance videotape analyzed. I immediately notified the court appointed lawyer who replaced Rochlin about the pending videotape motion. He repeatedly assured me he would follow-up on having a defense expert analyze the video. However, he failed to do so, and I was thereby denied the only realistic means of conclusively proving my innocence.

After a severance, Milton went to trial first since he admitting striking Pahnke, although he claimed doing so in self-defense. During Milton's trial several important aspects of the government's case were debunked:

- Cintora testified there had not been a fight in the cell at the time Pahnke ordered him to open the cell door. His testimony proved the story of a staged cell fight was a concocted lie to cover up Pahnke's breach of (SHU) security. That lie formed the basis of the conspiracy charge. Corroborating Cintora's testimony is an internal report I obtained under the Freedom of Information Act, after the trial, that there was no cell fight.
- Testimony established that a correctional officer had actually planted the razor blade in the cell toilet.

Milton was found not guilty of the conspiracy charge and found guilty of the lesser included offense of 'intentionally striking an officer.' He was sentenced to serve an additional 3 years. Soon after Milton's verdict, the government superceded my indictment twice to include the allegation that I had directly kicked Pahnke and that my foot was a dangerous weapon. Not until Milton's favorable verdict had the prosecution ever accused me of personally assaulting Officer Pahnke.

The Trial

During my trial the government produced two inmate witnesses.

The first was Lamont Nelson who had been in cell D-16 on the day of the incident. He testified that by protruding a one-inch mirror on a stick through his cell door crack, he witnessed me rush out as soon as the door opened and begin kicking Pahnke in the buttocks both

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