

Cincinnati Teen Facing 34 Years Imprisonment Exonerated After Assault and Kidnapping Conviction



By James Love

On June 6, 2005, two African-American teenagers climbed aboard a Cincinnati Metro bus, waving a gun at passengers and demanding to know if any of the passengers were from Bond Hill in Cincinnati, or knew anything about the murder of Eugene Lampkin that same day. A mother and child were so terrified that they refused to leave their seats even after the two gunmen had left the bus. The bus driver was so frightened she needed medical attention for breathing problems.

The community reacted to high profile news coverage with demands the gunmen be caught and brought to justice. Witnesses identified Brandon Mincy, 18, and Dante Allen, 16, as the two teenagers who had invaded the bus, and they were arrested by Cincinnati Police the same day. Both were charged with felonious assault, kidnapping, inducing panic and disturbing public service. They faced 34 years in prison if convicted. Allen insisted from the beginning that the police had arrested the wrong person and that he was innocent.

On July 22, 2005 Allen was bound over by a Hamilton County Juvenile Court Judge, and the case was moved to adult court. Indictments were returned on September 9, 2005.

At the two-day bench trial, held before Hamilton County Common Pleas Judge Mark Schweikert on November 30 and December 1, 2005, Mincy's attorney, Carl Lewis, admitted that Mincy was on the bus, but argued he meant no harm and was grieving over the loss of his friend, Lampkin. In contrast, Allen's attorney, Richard

Bouchard, argued the police had the wrong person. Mincy testified that Allen had not been the other person on the bus with him.

A surveillance camera on the bus recorded the crime, but its perpetrators weren't identifiable from the video. So the prosecution relied on the bus driver and a passenger to identify Allen as one of the two teens on the bus. Three police officers also testified against Allen. Both teens were found guilty by the judge, and sentencing was set for December 13, 2005.

However, before their sentencing the Cincinnati Police received an anonymous telephone call telling them that Allen was innocent, and naming a 17-year-old, as the person who had been on the bus with Mincy. Acting on that information the police arrested the teen on December 7, 2005. After the 17-year-old admitted that he, and not Allen, was the second teen on the bus, he was charged him with the same crimes for which Allen had just been convicted.

The next day and only eight days after his conviction, Judge Schweikert ordered Allen's release without bond pending a final dismissal of the charges against him.

"It was a real struggle, I cried every night," Dante said after his release from more than six months in an adult jail, "It was scary."¹

Ms. Eddie Allen, Dante's mother, said, "They just wanted to arrest someone, they didn't care who."²

Hamilton County Prosecutor Joe Deters commented, "This was based on a witness who said it was him. Identification cases are very difficult."³ Deter's statement is somewhat curious considering that this same prosecutor's office regularly argues in court how reliable their eyewitnesses are in order to obtain convictions of defendants – including Allen less than two weeks before.

Comment By James Love

A December 10, 2005, *Cincinnati Enquirer* editorial raised disturbing questions as to how an innocent teen such as Dante Allen could be convicted. Allen's case seemed to catch the attention of the mainstream media because he was a teenager. Yet, the trauma of being wrongfully convicted and imprisoned is so vast and indescribable that the age at which it occurs has very little bearing on the impact it has on a person at the moment of conviction. Your knees go weak, your breath stops and the whole courtroom takes on an Alice in

Wonderland quality. As you are handcuffed and marched to your cell, anger at the injustice of it all replaces the shock, if you are a strong person. If not, the jail or prison staff where you are at are only too ready to prescribe you some happy pills to keep you quiet, and render you incapable of fighting your case. Thorazine is one of their favorites.

The *Cincinnati Enquirer* headlined its editorial, "Innocent but convicted: We must ask how, why." But there is another important question that must be asked: How often are wrongful convictions not corrected? How many Dante Allen's remain imprisoned?

Allen told the media, "I feel good, I thank my lawyer. He kept fighting for me. He believed me when I said I was innocent."⁴ Allen's attorney said a lawsuit "had not been ruled out."⁵

After his release, Allen reflected on his stunned reaction when Judge Schweikert pronounced him guilty of crimes he had nothing to do with, "I was thinking, what happened? The justice system is not supposed to work like this."⁶

Allen's co-defendant, Brandon Mincy, was sentenced to 18 years in prison on December 30, 2005. Since Allen was convicted of the same crimes, that likely would have also been his sentence if the exonerating evidence hadn't surfaced.

Endnotes:

- 1 "Wrongly convicted boy, 17, is freed," by Sharon Coolidge, *Cincinnati Enquirer*, December 9, 2005.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 *WCPO.com*, 12/11/05, "Tri-state Teen Wrongly Convicted, Now Released," by Lance Barry.
- 6 "Wrongly convicted boy, 17, is freed," *supra*.

John Spirko Update

John Spirko's first-person story of being on Ohio's death row when there is evidence he was over 100 miles from the scene of Elgin, Ohio Postmistress Betty Jane Mottinger's 1982 abduction and murder, was in *Justice Denied* Issue 27, Winter 2005.

Ohio Governor Bob Taft granted Spirko a fourth stay of execution on June 19, 2006. Spirko's scheduled July 19, 2006, execution was stayed until November 29. Ohio Attorney General Jim Petro requested the stay to allow time to complete testing of the painting tarp and duct tape wrapped around Mottinger's body, and 30 to 100 cigarette butts found near her body. for the presence of the killer's DNA. A witness has identified the killer is a house painter who the witness also claims was the tarp's owner.

Rob Warden, Executive Director of the Center on Wrongful Convictions at the Northwestern University School of Law has said of Spirko's case, "This is the weakest capital case I have ever seen reach this stage in any state, including Texas, Florida and Alabama."

In Nov. 2005 Spirko described his situation, "I don't think there's ever been any case before this governor ... that had so much evidence, a mountain of evidence, that I'm innocent. Still, I'm running against a wall here. ... Where's the justice?"