

## Clyde Kennard: Gone, But Not Forgotten

Clyde Kennard's name is cleared thanks to effort spearheaded by three Illinois high school students

By Callia and Anya Watner

He was innocent. But how to get a pardon? This was the question in the minds of students Callie McCune, Agnes Mazur, Mona Ghadiri, and their teacher, Barry Bradford, of Adlai E. Stevenson High School, in Lincolnshire, Illinois, as they began their effort in May 2005 to secure a posthumous pardon for Clyde Kennard.

Kennard, an African-American living in Mississippi, was unjustly accused and convicted in 1959 of whisky possession and reckless driving in order to hinder him from continually trying to enroll at the segregationist Mississippi Southern College (now the University of Southern Mississippi). He was fined \$600. After Kennard continued his effort to attend MSC, segregationist leaders trumped-up false burglary charges against him in 1960. He was convicted of participating in the theft of \$25 worth of chicken feed and sentenced to seven years of hard labor. Clemency was shown by Mississippi Governor Ross Barnett in January 1963 when he suspended Kennard's prison sentence due to fast-failing health from cancer. Kennard died six months later in Chicago where he had gone to live with his sister.

The three students firmly believed that Kennard deserved to be pardoned. Their belief was proven well founded when his innocence was plainly proven in the January 27, 2006, sworn affidavit of Johnny Lee Roberts, Kennard's accuser. That affidavit states in part: "Kennard did not ask me to steal... [and] did not ask me to do anything illegal. Kennard is not guilty of burglary or any other crime." The students played a key role in Roberts' decision to break his decades of silence and publicly declare that Kennard was innocent.

"All Kennard wanted to do was better himself," said Callie McCune in September 2006. "It's that conviction that drew me to Kennard, [and] what I think caused all of us to stick with it, to fight for him." She remarked on how they became connected with his case, "We chose to participate in a club at our school called National History Day, where students conduct original research projects and present them in a variety of formats."

Three main sources of material helped the young women investigate Kennard's case –



views, writing congressmen, and dealing with paperwork were among the many details in their drive for Kennard's pardon. Two of the students traveled to Mississippi and gathered information firsthand.

"Organizing the research [was the hardest part of the project,]" commented Mona Ghadiri. A five-inch binder, four extra-large file holders, and three small boxes held papers which the students collected in research for the case. "Professor Steve Drizin, of the Northwestern Center of Wrongful Convictions took our research, compiled it in an application for clemency for Mr. Kennard, and thus started our three attempts to clear Mr. Kennard's name," wrote Ghadiri in September 2006.

As their campaign gained momentum, beginning in December 2005 the Jackson *Clarion-Ledger* published a number of articles detailing that Kennard had been wrongly convicted, and the newspaper editorially supported the clearing of his name. Students from the University of Southern Mississippi provided logistical support and circulated a petition supporting Kennard's exoneration that was signed by about a thousand people, and a number of Mississippi politicians and current and former judges went on record as supporting Kennard's exoneration.

The first attempt to exonerate Kennard was a pardon petition submitted to Mississippi Governor Haley Barbour. After Governor Barbour refused to pardon Kennard, the second attempt was consideration of Kennard's pardon by the Mississippi State Parole Board. "... [T]his failed mostly because Mr. Barbour [was]...present in that committee," said Mona. "The third time we went straight through the court system, and Mr. Kennard was actually exonerated in the same courthouse where he was originally convicted."

Forrest County Circuit Court Judge Bob Helfrich declared on May 17, 2006: "Because this matter did begin here, it should end here. To me, this is not a black and white issue – it's a right and wrong issue. To correct that wrong, I am compelled to do the right thing, and that is to declare Mr. Kennard innocent, and to declare that the conviction of Mr. Ken-

public libraries, the Mississippi State Sovereignty Commission Files, and the numerous interviews that were conducted with acquaintances and relatives of Kennard. Speaking to reporters, organizing inter-

nard is hereby null and void." Thus Kennard's criminal record was wiped clean. Forty-five years earlier, in March 1961, the Mississippi Supreme Court had overturned Kennard's 1959 reckless driving and liquor convictions.

It took one year of effort to finally exonerate Kennard, though, McCune observed, "the exoneration itself took one day of trial."

Victoria Gray, an NAACP official, said, speaking of Kennard after his release from prison in 1963, "I would be mad...[and] angry. I would be thinking of how I could get even. There was absolutely none of that [in Kennard]. He was the same Clyde—kind, caring, thoughtful."

Kennard's own words about his prison experience were, "Be sure to tell them what happened to me isn't as bad as what happened to the guard, because this system turned him into a beast, and it will turn his children into beasts." Shortly after saying that, he died on the 4th of July, 1963, one hundred eight-seven years after the signing of the Declaration of Independence, which proclaimed "All men are created equal." Those words were taken to heart by Kennard and his close friend Medgar Evers, who was murdered by a segregationist three weeks before Kennard died.

In June 2006, the documentary the three students produced about Kennard's case, "Carrying the Burden: The Story of Clyde Kennard," was honored as the 2006 National History Day's "Outstanding Senior Division State Entry from Illinois." It was also awarded 7th place nationally in the "Senior Group Documentary" classification.

McCune responded to Kennard's exoneration and the honors bestowed on their documentary by saying, "None of this would have been possible without Mr. Bradford....He hates to take credit for things [and] likes us girls to take the spotlight, but if there is anyone to thank for Kennard's cleared name, it's [he]."

We all owe a debt of gratitude to the three high school students, and their teacher who inspired and encouraged them, for their valuable contribution to clearing the name of an innocent and remarkable man 46 years after he was wrongly branded as a criminal.



Callie McCune, Agnes Mazur and Mona Ghadiri (left to right)

Kennard sources on page 6



Nino Lyons

# Businessman's Convictions Tossed After Disclosure Federal Prosecutors Purchased Perjurious Testimony From 26 Witnesses

By Hans Sherrer

Three years after being convicted of conspiracy to distribute cocaine and crack, carjacking and trafficking in stolen merchandise, all charges were dismissed against Cocoa, Florida businessman Antonino (Nino) Lyons.

As a child, Lyons' family wasn't well-to-do and they lived in a public housing project in Cocoa, on Florida's central eastern coast. Lyons developed into a star basketball player at Cocoa's Rockledge High School, and in the late 1970s he was honored as a High School All-American. Awarded a scholarship to attend the University of Florida. Lyons graduated with a degree in Managerial Science after transferring to the Florida Institute of Technology. He also assisted his mother in raising his six brothers and sisters, five of whom graduated from college.

Lyons became a successful businessman, and by his early 40s he owned several clothing stores in central Florida and a popular nightclub in Cocoa (Brevard County). He was a community activist, and served for a time as the vice-president of the Central Brevard NAACP. He also donated money to programs intended to keep kids off the streets and drugs. One of his charitable acts was providing uniforms for kids at Cocoa's Joe Lee Smith Recreation Center. <sup>1</sup> Lyons's wife, Debbie, rose in her education career to being a high-school principal.

## Kennard sources cont. from page 5

The official Clyde Kennard website is, <http://clydekennard.org>.

Merle Evers wrote about Clyde Kennard's 1960 burglary conviction in her 1967 book, *For Us, The Living*, that detailed her life with husband Medgar Evers before his 1963 murder by a Ku Klux Klan member.

### Sources:

Stevenson Team Tackles Documentary On Civil Rights Hero, By Abby Scalf, *Daily Herald* (Arlington Heights, IL), February 12, 2006.

1960 case inspires teens to take action: Stevenson High team wants Mississippi to pardon ex-Chicagoan, By M. Daniel Gibbard, *Chicago Tribune*, March 24, 2006.

Ms judge tosses 1960 conviction of black veteran, *Sun Herald* (Gulfport, MS), May 17, 2006.

*Kennard v. State*, 240 Miss. 488 (Miss.03-06-1961) Email from Callie McCune to the authors, dated Sept 6, 2006.

Email from Mona Ghadiri to the authors, dated Sept. 6, 2006.

Lyons' idyllic life was suddenly upset on December 20, 2000: His home and clothing stores were searched by agents with U.S. Customs, the Secret Service, the BATF, the Florida Department of Law Enforcement, and the Cocoa Police Department.

Lyons was indicted nine months later, in August 2001, by a federal grand jury in Orlando on a variety of charges that included conspiracy to distribute counterfeit clothing, drug trafficking, carjacking, possession of counterfeit currency, and possession of cocaine. Although Lyons had lifetime ties to the community and was a well-respected businessman who had never before been arrested or otherwise in trouble with the law, he was taken into custody on August 20, 2001, denied bail, and jailed as a federal detainee at the Seminole County Jail.

Lyons' trial began in November 2001. The government's case revolved around its theory that Lyons' clothing stores were fronts for his involvement in the drug trade and the fencing of counterfeit clothing. Since no drugs, drug related paraphernalia, or records tying Lyons to the drug trade or knowingly selling knock-off clothing were found during the searches of his home and stores or the subsequent investigation, the government's case hinged on the testimony of 26 people convicted of federal drug law violations. Those witnesses testified that Lyons sold them more than \$6 million in cocaine. However there was no independent evidence – no drugs, no non-felon witnesses, no wiretaps, no tape recordings by an undercover agent or informant, etc. – supporting the claims of the witnesses.

Nevertheless, after an 11-day trial, Lyons was convicted on November 26, 2001, of drug trafficking, carjacking, and distributing counterfeit clothing. The convictions were serious enough that he faced a sentence of up to life in prison under the federal sentencing guidelines.

Lyons's family and friends were so outraged at his conviction by specious testimony unbacked by evidence, that they set up The Committee To Free Nino Lyons. They wrote letters and made phone calls in support of Lyons, they held protests outside the courthouse in Orlando, and they set up a website, [freenino.org](http://freenino.org). Lyons's wife Debbie spearheaded those efforts.

Lyons's sentencing was delayed by his motion for a new trial. The crux of Lyons's argument was that the prosecution withheld documents potentially undermining their case, and that the testimony of the 26 convicted drug felons was unreliable. Lyons alleged the testimony of those witnesses was not just unreliable because it was procured with the promise of a reduced sentence, but the prosecution presented no independent evidence to corroborate their allegations.

Furthermore, there was no mention of Lyons in any wiretap, recorded conversation, or report by any undercover agent generated during the investigation of those 26 witnesses for their convicted crimes. Most of the witnesses cooperated with the government by naming names of bigger fish in order to get a lesser sentence when they were prosecuted. Yet Lyons' name wasn't raised by any of them. Then suddenly when they were offered the inducement of a sentence reduction, they started describing Lyons as a prominent drug kingpin in central Florida, even though they had spent years in prison out of the drug trade loop. Lyons' lawyer knew how the government had procured the witness testimony, because "Lyons received letters from prisoners who said they were approached by the government, but refused to testify, because they would be lying."<sup>2</sup>

In May 2002, U.S. District Judge Gregory Presnell granted Lyons's motion for a new trial, based on prosecutorial misconduct: namely the prosecution's knowing reliance on perjurious testimony and *Brady* violations by deliberately concealing exculpatory evidence. The government appealed the judge's order.

Judge Presnell then granted Lyons bail on June 25, 2002, to be secured by a \$250,000 cash surety bond. The judge stayed Lyons's release pending the prosecution's appeal of his ruling to the federal Eleventh Circuit Court of Appeals – which subsequently reversed Judge Presnell's bail order. So Lyons remained jailed while awaiting his retrial.

Then in November 2002 the Eleventh Circuit Court of Appeals reversed Judge Presnell's order for a new trial. The Court ruled that although the prosecution withheld *Brady* discovery evidence from Lyons, their actions constituted harmless error and not reversible prosecutorial misconduct.

With the case back in Judge Presnell's court, Lyons's lawyers filed a new motion for retrial based on additional evidence of prosecutorial misconduct. In May 2003 Judge Presnell ordered the prosecutors to turn over their case notes and other materi-

Lyons cont. on page 7