Henry Myron Roberts Exonerated Five Years After He Died In Prison!

Was Karlyn Eklof Framed For A Friend’s Murder By Police And Prosecutors?

Fed. Appeals Court OKs Lawsuit Against Los Angeles County Prosecutors!

U.S. Supreme Court Tightens Filing Deadline For False Imprisonment Lawsuits!

Man Proclaims – “I am alive!” – After Woman Is Arrested For Murdering Him!

South Korean Awarded $1.4 Million After Wrongful Spy Conviction!
Wrongful convictions are not a recent phenomena. They have occurred during the thousands of years since people first began organizing a tribunal of some sort to determine whether a person would be judged guilty of committing an act that was deemed to be criminal. However, the near instantaneous communication techniques available today may make it seem to the uninitiated that their prevalence is unique to our age.

The correction of a wrongful conviction, publicizing their occurrence, and analyzing their causes or prevention only occurs because of the efforts of interested persons. There have been many such people through the years, and Justice: Denied is inaugurating a Wrongful Conviction Hall of Honor to publicly recognize the contribution these people have made in one form or another, to rectifying, alleviating, or publicizing wrongful convictions.

The initial eight honorees are a diverse group. Two are from England, one is from France, one is from Germany, and four are from the United States. They include two authors, a law professor, an actor, a movie director, a seminary graduate, and two lawyers. Six are deceased. What they share is a personal significance when looking at wrongful convictions from a historical perspective. These eight are far from being the only people deserving of recognition. Their accomplishments, however, sets a standard to evaluate future selections. In the order of their birth, the eight honorees are:

- Voltaire. 1694-1778. Father of the innocence campaign and compensation after exoneration. (See p. 29)
- Erle Stanley Gardner. 1889-1970. Founder of the world’s first innocence project and publicist of wrongful prosecutions in books, and on radio and television. (See p. 23)
- Alfred Hitchcock. 1899-1980. Director of many movies portraying the plight of a wrongly accused person. (See p. 24)
- David Janssen. 1931-1980. Portrayed Dr. Richard Kimble’s four-year search for evidence to exonerate himself of murder as millions watched The Fugitive weekly. (See p. 25)
- Gareth Peirce. Living. Wrongful conviction lawyer whose many successes inspired creation of England’s Criminal Case Review Commission. (See p. 21)
- James McCloskey. Living. Founder and director of Centurion Ministries, the United States’ oldest innocence project. (See p. 20)

Following this introduction are articles about each of the eight honorees.

The search for difficult truths has defined James (Jim) McCloskey’s life, the founder of Centurion Ministries, the oldest innocence project in the country.

Centurion Ministries is a secular organization that has freed 40 people convicted of crimes they did not commit through exoneration or early parole by exhaustively re-examining their cases and finding new evidence.

McCloskey left a successful career in international business after feeling compelled by God to join the ministry. His life changed again when he met an innocent man in prison and couldn’t walk away.

“The Jim McCloskey the world knows now is not the Jim McCloskey his friends knew. They were shocked when he decided to do this.” said Kate Hill Germond, Assistant Director of Centurion Ministries.

She marvels at McCloskey’s decision, knowing it didn’t ‘come easily.

“For me, I’ve always done this but for Jim, he hasn’t—but then his heart changed.” says Germond.

Jim McCloskey grew up in suburban Philadelphia and graduated from Bucknell University in 1964. McCloskey was awarded the Bronze Star for courage under fire as a naval officer in Vietnam, though he declined to discuss the circumstances, saying he did “nothing really heroic.”


“I didn’t share my decision to leave the business world with anyone. It took two years to come to the decision and the only person I consulted with was my minister.” he says.

McCloskey entered Princeton Theological Seminary in 1979, and in 1980 was assigned to chaplain Trenton State Prison where he met Jorge De Los Santos.

McCloskey became convinced De Los Santos was innocent. He delayed his studies for a year to prove it. When he told his parents “they thought all kinds of dark thoughts but eventually came to support me.”

“He had to right a wrong, and that became his life’s work.” says Germond.

Through McCloskey’s efforts, De Los Santos was freed in 1983. After McCloskey earned his degree, several things coalesced, causing him to incorporate Centurion Ministries that same year.

De Los Santos introduced him to two other New Jersey inmates he believed were innocent. His parents gifted him $10,000 which could be used as “seed money.” Then McCloskey had a dream he came to see as a spiritual message.

“I had a dream I was in Vietnam in the Mekong Delta,” says McCloskey. He describes standing on a riverbank and a boat loaded with Vietnamese villagers sank before him. Just as he was mourning their fate, a helicopter full of green berets appeared in the sky. They dove into the churning water and saved the Vietnamese.

McCloskey decided, “I am going to come to the prisons and bring them out.”

Centurion Ministries is named after the Roman Centurion who stood at the foot of Christ’s cross and said, “Surely, this one is innocent.”

For the first seven years of the project, McCloskey’s worked and lived rent free in
Max Hirschberg – One Of The World’s Great Wrongful Conviction Lawyers

By Hans Sherrer

Even though Hirschberg is virtually unknown in the United States, he is one of the greatest lawyers in history at rectifying wrongful convictions. The impressiveness of his achievements is magnified by the fact that it was in Germany during the tumultuous years preceding Hitler’s ascendance to power in 1933 that he accomplished overturning the convictions of plainly innocent defendants.

**Brief biography**

Born in Munich, Germany in 1883, Hirschberg passed the state legal examination in 1911. He started a private law practice in Munich and soon gained respect for his skill as a criminal defense lawyer. His career was interrupted by WWI, when he was mobilized into the German army in 1914. He served on the Western Front and was awarded two decorations for valor before his discharge after the Armistice in November 1918.

Hirschberg resumed his legal career, and he became the leading criminal defense lawyer in Munich, and some say all of Germany.

In 1925 the German Reichstag passed legislation allowing the appeal of a conviction by the People’s Court. Hirschberg’s legal work resulted in him receiving letters from imprisoned people claiming innocence. Since he had represented a person convicted of treason in spite of his innocence, Hirschberg didn’t casually dismiss the pleas for help. When Hirschberg became convinced of a person’s innocence, he dedicated himself to overturning their conviction – oftentimes working pro bono for years on a case. He would methodically deconstruct a case to understand the flawed evidence relied on to convict the person, and he then proceeded to accumulate new evidence exposing the flaws and establishing the person’s innocence.

The first person that Hirschberg helped exonerate illustrates his technique. Johann Pfeuffer was a married father of six whose pregnant young mistress died while the two were alone in the woods. Pfeuffer claimed she became ill while she was aborting her pregnancy. He was convicted of second-degree murder based on the prosecution’s argument that he suffocated her after she refused to abort her pregnancy, and he was sentenced to fifteen years imprisonment.

Hirschberg investigated Pfeuffer’s case and discovered scientific evidence that his mistress didn’t die from suffocation, but from an embolism caused by her attempted self-abortion. Pfeuffer was granted a new trial, and released from prison after his acquittal of murder. When word began circulating through Germany’s prisons about Pfeuffer’s release, Hirschberg received “hundreds of letters from convicted persons asking for help.”

After Hirschberg was successful in exonerating another man wrongly convicted of murder – the man’s fiancée died during a botched self-abortion – a play was written in 1929 and produced across Germany that attacked the country’s law criminalizing abortion.

Hirschberg also invested time and energy promoting awareness of the problem of wrongful convictions among his German legal peers, by writing nine articles on the subject.

At the same time Hirschberg was defending accused criminals and aiding the wrongly convicted, he was involved in a number of high-profile political civil cases. Munich was the birthplace of Nazism and during the 1920s and 30s he butted heads with the Nazis in the courtroom. There was even one major case in which Hitler was personally involved.

A particularly memorable exchange between Hitler and Hirschberg occurred during the 1930 factual appeal of Hitler’s successful libel suit against the Munich Post newspaper (and several individuals) for reporting that Hitler made a secret deal with Italy’s Prime Minister Mussolini: In exchange for a large sum of cash from Mussolini, Hitler would, if he became Germany’s Chancellor, surrender territorial claims to the German-speaking region of South Tirol (The northernmost Italian province on the border with Austria.). During the appeal’s hearing, Hirschberg ignored an associate’s warning that he was endangering his safety by presenting a former Nazi as a witness who had personal knowledge of the deal. Hitler’s lawyer and personal legal advisor, Hans Frank, later reported that during the ex-Nazis’ testimony Hitler became more “enraged” than he had ever seen him.

Hitler’s rage was directed at Hirschberg when he objected to a question during Hitler’s vigorous cross-examination of the former Nazi. Hitler was personally conducting the cross-examination and he lashed out at Hirschberg, “We listened to you without interruption for an hour.” Hitler attempted to undermine the witness’ credibility, but a newspaper reported, “Hitler foamed” when Hirschberg “proffered rebuttal evidence point by point.”

Assassination and assaulting of public and political figures occurred in Germany during the 1920s and early 1930s, as various factions (of which the Nazis were only one) jockeyed for political influence and power. Although Hirschberg was able to avoid physical harm, it was only a matter of time before he would experience the Nazis’ wrath. That happened five weeks after Hitler became Germany’s Chancellor in January 1933, when Hirschberg was arrested in a pre-dawn raid on his home. After almost six months of imprisonment without charges, Hirschberg was released.

Knowing it wasn’t safe to stay in Germany, Hirschberg, his wife and 12-year-old son Erich went into exile in Milan, Italy in April 1934. Five years later the family obtained visas and emigrated to the United States in 1939. Hirschberg settled in New York City, and it was shortly after he arrived in the U.S. that he wrote his two perceptive articles about wrongful convictions. Hirschberg did not practice law in the U.S., but he became a citizen in 1944.

After WWII ended, Hirschberg began representing dispossessed Jewish families seeking restitution and reparation from the German government for their losses. Since he was only dealing with overseas legal matters he did not have to be a bar member to represent his Jewish clients. He was very successful at recovering compensation for property stolen or destroyed by the Nazis.

Hirschberg’s experiences and thinking about the causes and prevention of wrongful convictions was synthesized in his 1960 book written in German and published in Germany, Das Fehlurteil im Strafprozess: Zur Pathologie der Rechtsprechung. (English translation, Miscarriages of Justice in Criminal Trials.). Although Hirschberg’s biographer Douglas Morris considers Hirschberg’s book to be the best one published on the subject of wrongful convictions, it has not been translated into English.

Hirschberg cont. on page 28
Hirschberg was recently honored for his courage in risking his life to aid journalists and politically unpopular people in pre-Nazi Germany by the naming of a street after him in a Munich suburb – Max Hirschberg Way.

Erich Hirschberg, who as a youngster delivered food for his dad to the prison where the Nazis imprisoned him, is in his mid-80s and lives in Greenwich, Connecticut.

**Endnotes:**

1 “Wrongful Convictions,” 13 Rocky Mountain Law Review 20 (December 1940)
2 “Pathology Of Criminal Justice: Innocent Convicted In Three Cases,” 31 Journal of the American Institute of Criminal Law and Criminology 536 (Jan.-Feb. 1941)
3 The People’s Court was a special court with truncated procedures, established in the chaos following WW I. They were abolished in 1924, but were resurrected by the Nazis.
4 Morris, Douglas: Justice Imperiled: The Anti-Nazi Lawyer Max Hirschberg in Weimar Germany (University of Michigan Press 2005), pp. 67-155. (The man wrongly convicted of treason was Felix Fehrenbach in 1922.)

Justice Denied Comments

Although published almost seventy years ago, the *Pathology Of Criminal Justice* has perceptive insights that are still not a part of general discussion’s concerning wrongful convictions. Four of Hirschberg’s most compelling observations are:

- **Wrongful convictions are a breakdown in the legal process that need to be as systematically examined for their cause and correction, as are medical errors.**
- **The psychology of judges and their role in wrongful convictions needs to be examined.**
- **Reliance on the probability standard of “reasonable doubt” is inadequate to prevent wrongful convictions.**
- **Expert witnesses are given too much deference for the alleged authoritative-ness of their opinions.**

A second main reason for wrongful conviction is the superficial judgment, which contents itself with probability or half-evidence and overlooks the doubt still remaining. The Court contents itself with a feeling of certainty; but only *exact evidence* excluding every possible doubt justifies a sentence which may destroy the life and happiness of a man and his family forever. Criminal justice often soothes the remaining doubts light-heartedly with the common-place idea, that it is human to commit errors and that only “reasonable doubt” must be eliminated. Even Nathaniel F. Cantor (Crime Criminals and Criminal Justice (1932), p. 243) states: “In scientific research, evidence is rejected unless accompanied by data which support one hypothesis and do not support alternative hypotheses. Judicial proof rests on probability rather than certainty.” Here we have the main problem: criminal justice which is satisfied with probability instead of certainty is exposed to endless wrongful convictions. The task of the defense of tomorrow will be to analyze every inference with the weapon of exactness as long as some doubts remain. Every doubt is “reasonable” when life or death of our fellow-beings are at stake. ...

Of course, wrongful convictions are not altogether unavoidable; it is only indolence in thought and sentiment to resign before the “unavoidability” of error in justice. Today we are able to restrain to a considerable amount these errors and their terrible consequences, in making use of the methods of precision provided by modern criminalology. ...

* Excerpts from: “Pathology Of Criminal Justice: Innocent Convicted In Three Cases,” 31 Journal of the American Institute of Criminal Law and Criminology 536 (Jan.-Feb. 1941) (All italics in original.)
Excuse me? Hank died in prison, but the State’s doesn’t even know what year it was, much less how he passed? Baltimore Sun stories echoed that fuzziness on when Hank died. On April 9, 2002, the Sun headlined their article, “Inmate who died in 1995 was innocent.” On April 10 the Sun reported, “... in May 1997, Roberts died at age 68 ...” And on April 11 the Sun reported Hank “... collapsed outside his cell ... and died a day later, on December 22, 1996!” Thus on three consecutive days the Sun reported that Hank died in 1995, then 1997, and finally got it right that he died in 1996.

The most unsettling aspect of Hank’s case is that if he had been a little less ornery he may have lived to see his vindication.

“You know Hank believed everything people told him,” said Herb. “They told him Jessup had a better program for seniors, that they weren’t locked up all the time. When he first got into processing at Jessup he was locked down almost all day. They went in one morning to check on him and found him deceased. And it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue. And it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue. And it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue. And it happened only about two weeks after he left here, and then he laid in the morgue and it happened only about two weeks after he left here, and then he laid in the morgue. And it happened only about two weeks after he left here, and then he laid in the morgue.

Hank had heart problems after Tomeczewski shot him in the chest, but Hank was in an annex with just a score of prisoners. We looked out for him, and Sergeant Verdiere and Officer Decker also looked out for him. There was something special about Hank; his guardian angels seemed to tell us we’d better keep helping him, and Hank knew it.

And while Hank listened to others, once he had made up his mind about something he was more stubborn than an old mule. He knew about the POPS program—Project for Older Prisoners—from Washington Post and Wall Street Journal articles outlining Professor Turley’s program at George Washington University School of Law. POPS enabled students to conduct exhaustive and detailed investigations into an older prisoner’s background, criminal history and parole plans to evaluate whether they warranted consideration as a low risk for violence or recidivism, and thus might merit release. Ever hopeful, Hank thought the POPS program just might be able to do something for him.

Hank heard POPS was operating from the “Old Man’s Dorm” at the House of Correction in Jessup, where about 100 prisoners 60 years of age or older have their own space. He wanted some freedom. We fussed with Hank and pointed out that as the only older-timer in the annex we could get him prompt medical attention every time he was feeling ill. Also, several times Warden Waters had gone out of his way to see to it that Hank got his prescriptions renewed when the medical contractors tried to skimp on costs.

We begged Hank not to transfer, pointing out that as just one of a hundred old-timers in Jessup’s “Old Man’s Dorm” his voice for care and attention would be overwhelmed by others, and the officers would probably be too burdened to look out for him. They’d have their own concerns and ignore Hank.

But Hank had faith, said it was what he needed to do, and impatiently waited for months until classification got him transferred to Jessup. At Jessup he would also be closer to Gary Garland, so Gary wouldn’t have to travel so far to see him.

Hank never even made it into the vaunted “Old Man’s Dorm” much less into the POPS program. It didn’t seem like ten days after his transfer when we got word by telephone, letters and messages from friends and family members, as well as prisoners at Jessup, that Hank had trouble getting his medication renewed, and he had died.

Adding insult to injury, Maryland’s criminal justice system has never acknowledged its last “oversight” in the case of Henry Myron Roberts. I looked in every paper for his obituary, but never saw it. I guess run-of-the-mill criminals who die in prison don’t deserve one.

But now we know the Hankster wasn’t run-of-the-mill, now we know he was innocent. Perhaps by printing this eulogy and tribute to his spirit, and an anatomy of the body of his case, we can finally say, “Rest in Peace, Hank.”