

Troy Hopkins Awarded \$229,419 For 10 Years Wrongful Imprisonment

Virginia Legislature

An Act for the relief of Troy D. Hopkins.

[S 609]

Whereas, on December 21, 1990, Troy D. Hopkins (Mr. Hopkins) was convicted by a jury in the Circuit Court of the City of Richmond, Virginia, for the murder of Curtis Kearney and for attempted robbery, use of a firearm in the commission of murder, and use of a firearm in the commission of attempted robbery; and

Whereas, on March 20, 1991, Mr. Hopkins was sentenced to 28 years in the penitentiary; and

Whereas, on March 13, 2001, Mr. Hopkins was released on parole after serving 10 years, two and one-half months; and

Whereas, after the trial, numerous witnesses came forward and testified during hearings that Mr. Hopkins did not kill Curtis Kearney, but that Mr. Kearney was killed by Adrian Epps; and

Whereas, Adrian Epps subsequently admitted killing Mr. Kearney and signed an affidavit in 1992 confessing to the murder; and

Whereas, Joseph Morrisey, the Richmond attorney for the Commonwealth at the time of Mr. Hopkins' trial in 1990, concurred in a request by defense attorneys representing Mr. Hopkins for a new trial based on newly discovered evidence, but the court denied the request; and

Whereas, David Hicks, the Richmond Commonwealth's Attorney who succeeded Mr. Morrisey in that office, stated the following in a 2003 affidavit: "In light of the wealth of exculpatory evidence, it is my position that Hopkins was convicted for a crime which he did not commit and that he is innocent for the crime in question. The continued existence and possible dissemination of information relating to Hopkins' unjust conviction represents a manifest injustice given the fact that Hopkins is wholly innocent of all crimes for which he was convicted. Hopkins should not be subject to the negative consequences that flow from his erroneous conviction. Therefore, in the interest of justice, Hopkins' conviction should be invalidated, the record should be corrected in order to reflect Hopkins' innocence regarding the crimes for

which he was convicted, and all of Hopkins' rights should be restored to that of every citizen recognized in the Commonwealth of Virginia"; and

Whereas, Mr. Hopkins is currently employed and is married and has led a law-abiding life since his release from prison; and

Whereas, on July 21, 2004, Mr. Hopkins petitioned Governor Mark Warner for a grant of executive clemency based on the existence of substantial evidence that Mr. Hopkins was unjustly convicted and is innocent; and

Whereas, on August 3, 2005, Governor Warner issued an absolute pardon from all offenses for which Mr. Hopkins was convicted on December 21, 1990; and

Whereas, Mr. Hopkins spent \$15,750 for attorneys fees related to his legal defense and appearances before the Parole Board; and

Virginia Governor Mark Warner pardoned Troy Hopkins in August 2005, stating: "I am convinced that Mr. Hopkins is innocent of the charges for which he was convicted."

Whereas, Mr. Hopkins has also suffered severe physical, emotional, and psychological damage as a result of this incarceration and has no other

means to obtain adequate relief except by action of this body; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. That the following shall be paid for the relief of Troy D. Hopkins from the general fund of the state treasury, upon execution of a release and waiver forever releasing (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof, (ii) any legal counsel appointed pursuant to § 19.2-159 of the Code of Virginia, and (iii) all other parties of interest from any present or future claims he may have against such enumerated parties in connection with the aforesaid occurrence the sum of \$229,419 to be paid to Troy D. Hopkins on or before August 1, 2006, by check issued by the State Treasurer on warrant of the Comptroller.

§ 2. That Troy D. Hopkins shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on July 1, 2011.

Signed by Governor Tim Kaine
April 6, 2006

Ben LaGuer Denied New Trial

Justice Denied reported on Benjamin LaGuer's more than twenty year quest for a new trial in Issue 33 (Summer 2006).

In LaGuer's case the victim said she was raped repeatedly and beaten over an eight hour period in her apartment by a lone intruder. No physical evidence linked LaGuer to the crime and he denied involvement. The prosecution's case rested on the victim's identification of LaGuer initially made under the influence of the investigating detective.

Eighteen years after the attack, LaGuer discovered that the prosecution had not disclosed that days after the attack he was excluded as the source of four fingerprints found on the base of the telephone where the intruder would have grasped it to yank off the phone cord he used to tie-up the victim. The only reasonable source of the fingerprint set is the assailant, and LaGuer filed a motion for a new trial.

On March 23, 2007 the Massachusetts Supreme Judicial Court denied LaGuer a new trial. (*Commonwealth v. Laguer*, No. SJC-09765 (Mass. 03/23/2007)) The Court ruled the four prints weren't exculpatory and their non-disclosure wasn't a *Brady* violation, because they don't change that the (now deceased) victim identified LaGuer. The Court also emphasized that prior to LaGuer's trial it was disclosed to him that a lone partial fingerprint found on the phone didn't match his prints, so they reasoned the non-disclosed set of four fingerprints was cumulative to the evidence considered by the jury that convicted him.

The Court's rationale didn't take into consideration that the new fingerprint evidence proves that someone other than LaGuer handled the telephone, and presumably that was the person who removed the phone cord. Neither did it consider that the trial judge concealed the victim's long history of psychiatric problems — that could have affected her testimony — from the jury.

Two weeks after the Court's decision a Massachusetts newspaper exposed that the full extent of the victim's ongoing psychological problems wasn't disclosed by the prosecution prior to LaGuer's 1984 trial. This new evidence further undermines the reliability of the victim's identification of LaGuer — and thus his conviction. (See, "Tragedy Times Two," By Eric Goldscheider, *Valley Advocate* (Easthampton, MA), April 5, 2007). The new evidence may provide the opportunity for the Court to reassess their March 23 ruling.

The SJC's March 2007 ruling is available at, www.justicedenied.org/comm_v_laguer.htm

Ben LaGuer's website is, www.benlaguer.com

