

Sixteen-year-old Charlie McMenemy was held incommunicado by the Royal Ulster Constabulary (RUC) after his arrest in March 1978 for the terrorist offense of allegedly shooting at a British officer in Derry City, Northern Ireland. He signed a confession after three days of beatings and other mistreatment inflicted on him during eight interrogation sessions. He was subsequently charged with a variety of offenses based on his confession. Those charges included conspiracy to murder and illegal possession of a firearms and ammunition.

In December 1979 McMenemy pled guilty to the charges at the urging of his lawyer who told him that if he was convicted after a not guilty plea he could be given a 20-year sentence. In spite of his plea, McMenemy maintained he was innocent and that he only signed the confession to stop his mistreatment. McMenemy was sentenced in January 1980 to three years imprisonment in a youth detention facility.

McMenemy didn't appeal his conviction or sentence based on his lawyer's advice that he got a "good deal."

At the urging of his mother, in September 2003 McMenemy filed an application with the United Kingdom's Criminal Case Review Commission for consideration of whether his convictions could be overturned as a miscarriage of justice.

After accepting his case, the CCRC's investigation discovered documents showing that prior to McMenemy's convictions the RUC had proof that on the two days he had been charged with shooting at British soldiers, he was 75 miles away at a juvenile training school he had to attend after running away from home. The records obtained by the CCRC also showed that the police knew that some of the offenses McMenemy confessed to and pled guilty to committing, had in fact never occurred – including the alleged hijacking of a car. The CCRC also obtained medical records of five examinations conducted of McMenemy during his three days of intense interrogation. The doctor noted during two of those exams that McMenemy had harmed himself when he tried to commit suicide by slashing his wrists with items available to him. The doctor also noted that the youngster made numerous allegations of physical mistreatment, including being thrown to the floor and kicked like a football. The doctor further noted that McMenemy had injuries consistent with his allegations. None of the police or medical records had been disclosed to either the prosecutor or McMenemy's counsel.

Although McMenemy had pled guilty and he didn't file an appeal, after a three year investi-

## Attempted Murder Conviction Tossed 29 Years After False Confession By Juvenile Who Wasn't At Crime Scene



Charlie McMenemy in 1978.

By JD Staff

gation the CCRC relied on the "exceptional circumstances" in his case to refer it in August 2006 to Northern Ireland's Court of Appeal for review on several grounds. One ground was that McMenemy was a juvenile when he was interrogated, and the law required the presence of a lawyer, parent, or independent adult at all times when he was questioned. Thus the CCRC argued his confession was invalid, and since it provided the sole evidence for his convictions, they must be quashed. Another ground of the appeal was that the police (RUC) failed to disclose the exculpatory evidence that McMenemy was known to have not been at the scene of the soldier's attempted murder, or committed non-existent crimes, and therefore his convictions must be quashed.

At the conclusion of the Court's hearing on May 10, 2007, the three-judge panel announced that it agreed circumstances of McMenemy's case were exceptional, so it was immediately quashing his convictions.

After the Court's decision McMenemy, now 45, told reporters, "This is something

that I have campaigned on for a number of years and it is great to finally see it. I confessed under duress and was advised to plead guilty by my legal representatives at the time but I have always known I was

innocent. I was one of the lucky ones in that I only served three years while many others who were wrongfully convicted served much longer sentences, but I felt it was important to prove that the original convictions were totally wrong."

**Charlie McMenemy was coerced to confess to non-existent crimes, and other crimes that occurred when he was miles from the crime scene.**

McMenemy also said, "My mother always said to me through the years that she did not know how they got away with sending me to jail and I was pleased that she could be in court to hear that the convictions have been quashed. For years after my release from prison my family was harassed by the RUC and our home was raided and I was arrested many times. My mother had to put up with all of that and now my family has been vindicated."

The Court of Appeals issued its written opinion on June 19, 2007. (*The Queen v. Charles Columba McMenemy*, no. [2007] NICA 22, June 19, 2007) The Court explained its agreement with the CCRC that McMenemy's con-

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**A**fter voting to convict Joyce Buffaloe of obstruction of justice and making a false 911 call during a late night traffic stop, jury foreperson Patricia Klugherz stayed in the courtroom for her sentencing.

The 73-year-old Klugherz had been the last hold out juror, and after the verdict was announced she realized she had made a mistake: She didn't think Buffaloe was guilty. Buffaloe, a black woman, had been stopped by the police in Bradenton, Florida while her 8-year-old son was in her car. Buffaloe, who had just helped change the tire on a friend's car, felt like the two police officers were harassing her. She called 911 for help after one of the officers pointed a stun gun at her and threatened to use it on her. The police arrested her for obstructing justice by calling 911. Ironically, she wasn't cited for any traffic violation.

Klugherz then thought Buffaloe was genuinely afraid for her and her son's safety

### Juror Regrets Wrongly Convicting Woman Of Obstruction

when she called 911, and that the police were out of line in how they treated her. After the judge sentenced Buffaloe to a fine and court costs that amounted to \$220, Klugherz gave Buffaloe, a single mom, that amount of money.

Klugherz later told the *Sarasota Herald-Tribune*, "It made me feel very guilty that I did it. I will always feel like I made a mistake." She said about paying Buffaloe's fine, "It's to help me as much as to help her."

When asked about Klugherz's regret at convicting Buffaloe, Prosecutor Shelli Freeland defended the charges as appropriate for her conduct. Freeland said that she gave the 35-year-old Buffaloe a break by only recommending a fine and no jail time, because she had no criminal history and her testimony seemed sincere.

Source: Juror regrets conviction and pays woman's fine, *Sarasota Herald-Tribune*, December 2, 2007.

Fort Lawton, on Puget Sound within the city limits of Seattle, Washington, was one of the military's major west coast debarkation facilities for men and materials during World War II. It also served as a German and Italian POW camp.

Following a night of violent disturbances between Italian POWs and American soldiers, on August 15, 1944 an Italian POW was found lynched in a remote area of the fort. After an Army investigation, 43 African-American soldiers were charged with rioting, and three of those were also charged with murder. It was the first (and only) time in American history that African-Americans were charged with a mob lynching.

The court martial at Fort Lawton was the largest and longest conducted by the military during World War II. It was front-page news across the country. After a five week trial, on December 18, 1944 twenty-eight soldiers were convicted of rioting and two were found guilty of manslaughter. Several of the men were given long prison sentences, but no one served more than four years. All but one was given a dishonorable discharge.

The POWs lynching and court martial had become an obscure historical event by the time Jack Hamann, a Seattle based award winning broadcast journalist, produced a report in the 1980s based on the Army's official version of the lynching and court martial.

Some of what Hamann reported didn't match other information he learned, so in the mid-1990s he decided to look into the case further. With the aid of his wife Hamann embarked on what became years researching

### McMenamin cont. from p. 14

fession to crimes that he couldn't have committed because he was elsewhere at the time they occurred, and his confession to crimes that never occurred, were "exceptional circumstances" that trumped his guilty plea and failure to appeal his conviction. His false convictions of those crimes was compounded by the illegally conducted interrogations that resulted in his confessions, and the quashing of all his convictions was warranted as the remedy. McMenamin's exonerations enables him to seek compensation for his nearly three decade ordeal.

#### Source of quotes:

Republican 'couldn't be happier' after convictions quashed, By Michael McMonagle, *Derry Journal*, May 11, 2007.

Commission Refers Terror-Related Convictions of Charles McMenamin to NI Appeal Court, Criminal Case Review Commission, September 7, 2006, [http://www.ccrcc.gov.uk/NewsArchive/news\\_433.htm](http://www.ccrcc.gov.uk/NewsArchive/news_433.htm)

## Soldiers Exonerated 63 Years After Wrongful Rioting Convictions

By Hans Sherrer

the events leading up to the lynching and the subsequent court martial.

Discovery of the original investigation and trial documents that had remained buried untouched for half-a-century in Washington DC archives, provided Hamann with many of the missing pieces to the puzzle of what happened at Fort Lawton on that August 1944 night.

Hamann discovered there was no evidence linking the two men convicted of manslaughter to the lynching. He also discovered there was no evidence that many, if not most of the men convicted of rioting had actually participated in the disturbance in the Italian POWs barracks. He further learned that the 43 defendants were represented by two lawyers who only had 13 days to prepare for the mass trial. Hamann also discovered exculpatory documents that weren't turned over to the defense. These documents included the Army Inspector General's 1944 report that detailed many errors in the investigation of the riot and lynching, and criticized many Army officials, including Fort Lawton's commander. Even more disturbing, Hamann identified that the person likely responsible for the lynching was a Caucasian MP. Hamann also tracked down the few surviving court martialed soldiers and got their account of the events.



Jack Hamann

Hamann's condensed his voluminous research into a book published in April 2005, *On American Soil: How Justice Became A Casualty Of World War II* (Algonquin Books).

After reading the book, in July 2005 U.S. Congressman Jim McDermott introduced a resolution with 24 co-sponsors in the House of Representatives that required the Army to investigate the appeal process afforded the 28 convicted soldiers. If it was deemed inadequate, the cases would be reopened. At the time McDermott said, "I don't think this will be controversial. Whether you're a Republican or a Democrat, you want the servicemen to be treated fairly."

One of the ex-soldiers still living that had been convicted of rioting, Samuel Snow, said in a telephone interview that there were huge problems with the case and the lack of evidence:

"They didn't take no fingerprints. They didn't take no footprints. We had no representation in this trial. It wasn't a fair trial. [Maj. William] Beeks had all those men." Beeks was defense co-counsel for all 43 defendants.

The Army did re-open the case, and after 15 months of evaluation by the Army Board for Correction of Military Records, the Secretary of the Army approved setting-aside the convictions because the defendants had been denied due process by the prosecution's failure to disclose exculpatory evidence, the defendants had not been provided with effective assistance of counsel, and the defendant's counsel was not allowed sufficient time to prepare for trial.

The decision was released on October 26, 2007, and it immediately applied to the four men on whose behalf a petition had been filed to set-aside their conviction. The other 24 convictions will be set-aside as petitions are filed with the Army, although only one of those men is still alive. The four men whose convictions were immediately set-aside are Samuel Snow, Booker W. Townsell, Luther L. Larkin and William G. Jones. Snow, 83, is the only one still living, so the other exonerations were posthumous.

The Army's decision paves the way for the men to be issued honorable discharges, and for them or their families to be restored "all rights, privileges and property lost as a result of the convictions." In November 2007 the Army responded to Snow's exoneration by sending him a check for \$725 in back pay.



Samuel Snow in November 2007.

The lawyers and staff of the Army Review Boards Agency acknowledged that the research documented in *On American Soil* was valuable in their evaluation of the case.

Most of Fort Lawton has been deeded to Seattle, which made it into Discovery Park, a scenic outdoor recreational area of hiking trails and play fields.

#### Sources:

Memorandum For US Army Review Boards Agency Support Division, St. Louis, *Board For Correction Of Military Records*, October 22, 2007.

McDermott calls for probe of '44 lynching, *The Seattle Times*, July 2, 2005.

Secretary of army reverses conviction in the largest courts-martial of WWII, *Mass Media Distribution Newswire*, November 6, 2007.

Army pays \$725 in set-aside World War II case, *New York Times*, December 1, 2007.

*On American Soil* is available from JD's online Bookshop at, <http://justicedenied.org/books.html>