

# James Love's Indictment Dismissed For Raping A Girl In Cincinnati When He Was 2,000 Miles Away In Mexico

By JD Staff

James Love was charged in 1996 with raping an ex-girlfriend's daughter "sometime in 1988," "sometime in 1989," and "sometime in 1990." Love pled not guilty and told his lawyer that he had never done anything inappropriate with the girl. His lawyer was unsuccessful at finding out prior to Love's June 1996 trial the exact dates of the alleged rapes.

On the next to last day of Love's trial his accuser testified that the rapes occurred in late December 1988, early January 1989 and early February 1989. Love told his lawyer that he was in Mexico during the entirety of those months, and he and his mother feverishly tried to gather together documentary proof he was out of the country. Under the time constraints Love was only able to locate his U.S. Passport, and telephone records of calls to and from Mexico and his mother's telephone number in Cincinnati. Over the prosecutor's objection Love introduced his U.S. Passport that showed he entered Belize on June 2, 1989 and exited it on July 3, 1989. The prosecution's case was solely based on the testimony of the alleged victim, but the alibi records Love was able to gather in one day were not enough to convince the jury that his accuser was lying about the alleged rapes.

Love, 45, was sentenced to four terms of life in prison. After Love's incarceration he began collecting proof he had been in Mexico from November 1988 to June 2, 1989, and then in Belize from June 2, 1989 to July 3, 1989.

Love filed a motion for a new trial in March 2003, based on the formidable evidence he had amassed proving he was out of the United States during the time of the alleged rapes. He had acquired affidavits from people in the U.S. and other countries who spent time with him in Mexico, he had medical records, he had additional phone records, and he had obtained a document from the U.S. Department of State that he personally appeared at the U.S. Embassy in Mexico City in May 1989 to obtain a U.S. Passport. One of Love's affidavits was from Lynn Freed, the best-selling author of *Home Ground* and other books. Freed and Love spent time together in Zihuatanejo, Mexico in December 1988.

In February 2005 Love's motion for a new trial was denied. The judge reasoned that all of Love's new alibi evidence was cumula-

tive to the limited phone records and passport that the jury had considered, and therefore it was insufficient to warrant a new trial. Love appealed to the Ohio Court of Appeals.

*Justice:Denied* published a feature article about Love's case in its Fall 2005 issue (Issue 30), "Man Two Thousand Miles From Alleged Rape Scene Fighting For New Trial – The James Love Story."

On November 22, 2006 the Court of Appeals unanimously vacated Love's convictions and sentence and ordered his retrial. (*State v. Love*, 2006 -Ohio- 6158 (Ohio App. Dist.1 11/22/2006)) The Court wrote: "Love's new evidence, if believed by a jury, would have showed that he could not have committed the crimes alleged by Sarah on the dates she testified to at trial." (§150)

After the Hamilton County Prosecutor failed to act on the appeals court's order for a new trial, Love pressed the issue. The prosecutor responded by agreeing to a stipulation that Love was outside the United States from November 1988 to July 3, 1989. (With the exception of three days in May 1989 when he returned to Cincinnati to renew his driver's license.) The prosecutor then filed an amended Statement of Facts that alleged the rapes didn't occur on the dates Love's accuser testified to at his trial, but after he returned to the United States.

Love filed a Motion to Dismiss the Indictment on the ground of double jeopardy. Love argued the prosecution had conceded he did not commit the rapes of which he was convicted because he was outside the United States, and that when the prosecution had the opportunity to do so during his trial, it did not present evidence that the rapes occurred on the dates it was alleging in the amended Statement of Facts. Love relied on a considerable number of Ohio and U.S. Supreme Court precedents in arguing that his constitutional right against double jeopardy was being violated by the prosecution.

On February 15, 2008 Judge Robert Ruehlman of the Hamilton County Court of Common Pleas granted Love's Motion to Dismiss in a one-page order. The Hamilton County prosecutor is appealing the order, and as of early April 2008 Love remains imprisoned.

Source:  
*Ohio v. James Franklin Love*, Case No. B-9601201, (Hamilton County Court Of Common Pleas 2-15-08), Entry Granting Defendant's Motion To Dismiss Indictment.

# Duke Hoax Rape Prosecutor Mike Nifong Bankrupt



Mike Nifong

Mike Nifong, the former Durham County district attorney who has been disbarred from practicing law in North Carolina and convicted of criminal contempt for his role in the prosecution of three Duke lacrosse players for a rape that never happened, filed for federal bankruptcy protection on January 15, 2008. In his Chapter 7 petition Nifong lists assets of \$244,000 and liabilities of more than \$180 million. The liabilities are primarily legal claims filed against Nifong related to the botched investigation he oversaw of an exotic dancer's false allegations that she was raped her during a lacrosse team party.

The petition was filed on the last day Nifong could respond to a civil lawsuit filed by Dave Evans, Collin Finnerty and Reade Seligmann, the three lacrosse players whose charges of raping and kidnapping the dancer were dismissed in April 2007. The petition includes potential debts of \$30 million each to the three former players.

Nifong describes himself as retired in his petition, and in March 2008 a federal bankruptcy court administrator concluded that Nifong's annual income of \$146,151 from pension or retirement benefits doesn't disqualify him from bankruptcy protection because the bulk of his potential debt is non-consumer.

All civil actions against Nifong are on hold pending resolution of his bankruptcy filing, but if a judge finds that he acted willfully and maliciously in his prosecution of the players, bankruptcy rules will not shield him from financial liability.

After Nifong filed the bankruptcy petition, thirty-eight members of the lacrosse team filed a lawsuit against Duke University and the city of Durham in February 2008, alleging their reputations were damaged by association with the false rape allegations. Nifong wasn't named as a defendant, however, if he loses his bankruptcy protection he could be added as a defendant at a later date.

See previous *JD* stories:  
Darryl Hunt, The NAACP, And The Nature Of Evidence, *Justice:Denied*, Issue 35, Winter 2007, p. 17.  
Duke U. Hoax Rape Prosecutor Mike Nifong Convicted Of Contempt, *Justice:Denied*, Issue 38, Fall, 2007, p. 13.

Sources:  
Mike Nifong Bankrupt: Disgraced Duke prosecutor lists \$180M in liabilities, *SmokingGun.com*, January 15, 2008  
Nifong can claim bankruptcy, court decrees, *The News & Observer* (Raleigh, NC), March 21, 2008.

