

Derek Tice's Conviction Reinstated by VA Sup. Ct.

Derek Tice is one of four former Navy men known as the Norfolk Four, convicted of charges related to the 1997 rape and murder of an 18-year-old woman in Norfolk, Virginia. Tice was convicted largely due to a confession that he claims is false and coerced by the police. He was sentenced to life in prison.

Tice's defense was that Omar Ballard committed the crime. Ballard, the only non-Navy man convicted of the rape and murder, has confessed multiple times that he acted alone. Ballard's confessions are supported by crime scene DNA evidence that implicates him as the lone assailant.

The Virginia Court of Appeal overturned Tice's convictions in 2002 and ordered a retrial. Tice was re-convicted in January 2003 and again sentenced to life in prison.

After Virginia's Court of Appeals affirmed Tice's conviction, and the state Supreme Court denied Tice's appeal, he filed a state habeas petition. In November 2006, state Circuit Court Judge Everett Martin Jr. ruled that Tice had received ineffective assistance of counsel, vacated his convictions, and ordered a new trial.

Judge Martin found that Tice was prejudiced by his trial counsel's failure to file a motion to suppress his confession. The police continued interrogating Tice after he clearly asserted his right to remain silent under the Fifth Amendment. The judge noted there is no physical, forensic or scientific evidence linking Tice to the crime, and that without the confession, there is a reasonable probability the jury would have acquitted Tice.

On January 11, 2008 the Virginia Supreme Court reinstated Tice's convictions. The Court ruled, "We hold, as a matter of law, that Tice failed to meet his burden of proving ... there was a reasonable probability of a different result at his criminal trial if the jury had not considered his confession." (*Johnson v. Tice*, No. 070531 (VA SCt 01/11/2008))

Having exhausted his state appeals, two weeks later Tice filed a writ of habeas corpus in federal court. As of early April 2008 Tice's habeas proceeding is in the briefing stage.

The most recent of several *JD* articles about the Norfolk Four is: Third Trial Ordered For Derek Tice, *Justice:Denied*, Issue 34, Fall 2006.

The Norfolk Four's website is:
<http://norfolkfour.com>

Four days after U.S. Congressman John Conyers toured Louisiana's Angola State Prison on March 20, 2008, Albert Woodfox and Herman Wallace were released to live in a dorm after 36 years in solitary confinement.

Woodfox and Wallace, two of the men known as the Angola 3, were convicted in 1972 of stabbing to death Angola prison guard Brent Miller. Robert Wilkerson, the third man of the Angola 3, was released from prison in 2001 after spending 29 years in solitary for allegedly killing a prisoner during a riot - although Wilkerson was never charged with the crime.

The three men were kept in solitary for decades because prison officials contended they were a threat to the prison's security. Prior to Miller's murder Woodfox and Wallace founded a chapter of the Black Panther Party at the prison, and Wilkerson was a Black Panther when he was imprisoned.

Woodfox and Wallace have always claimed innocence of the guard's murder, and they are currently appealing a state judge's reversal of a commissioner's recommendation that they be granted a new trial. The commissioner issued the ruling after reviewing the evidence and holding a evidentiary hearing ordered by the Louisiana Court of Appeals. The commissioner found that the only alleged eyewitness to Miller's murder was a prisoner who was bribed by Angola's Warden Murray Henderson to identify and testify against Woodfox and Wallace. The commissioner decided that it is more likely than not that without the prisoner's tainted testimony the men would not have been convicted, because none of the physical evidence matched either man. Although Woodfox and Wallace were eliminated as the source of four fingerprints found at the murder scene, prison officials have refused for 36 years to compare them to the prints of the more than 200 other prisoners that were in the unit.

Miller's widow recently said that she doubts Woodfox and Wallace killed her husband.

The men's lawyer, Nick Trenticosta said before Conyers visited the prison: "This was a railroad job. The prison authorities decided it was Herman and Albert, they ignored every bit of evidence to the contrary, and they bribed another prisoner, Hezekiah Brown, to testify. They gave Herman and Albert's names to Hezekiah and promised him his freedom if he would help them 'crack the

Angola 3 Released From Solitary After Prison Visit By U.S. Congressman

By JD Staff



The Angola 3
Herman Wallace, Robert King Wilkerson, and Albert Woodfox (left to right)

case'. So Herman and Albert spend the rest of their lives in solitary confinement, and Hezekiah, a convicted rapist, goes free because he did a favor for the warden."

Ironically, former Warden Henderson died in a Louisiana prison in 2004 after being convicted of attempting to murder his wife in 1997. As his physical condition worsened he unsuccessfully petitioned the parole board for a compassionate release. In his plea for release he told the board, "I have a horror of dying in prison."

Prior to Wilkerson's 2001 release the three men filed a federal civil rights lawsuit challenging their indeterminate solitary confinement as a violation of their Eighth Amendment right against "cruel and unusual punishment." As of early April 2008 that lawsuit is still ongoing.

Current Angola Warden Burl Cain is on record describing Wallace and Woodfox as "crybabies" for wanting to be released from more than three decades in solitary. Cain said they had nothing to complain about being in solitary because they could watch television and they ate the same food as other prisoners.

Representative Conyers (D MI) is Chairman of the U.S. House of Representatives Judiciary Committee, which has oversight of federal funds for state prisons, which are required to meet basic standards of fair prisoner treatment. Conyers was briefed about Woodfox and Wallace's case, and after his visit to the prison he issued a statement that the evidence suggests they were wrongly convicted. Days later the men were moved to a dorm.

Justice:Denied reported on the Angola 3 in its first issue. See, "Herman Wallace, Political Prisoner?", By Herman Wallace, *Justice:Denied*, Issue 1. *JD* has published three other articles about their case.

Sources:

US House Judiciary Committee visits Angola, *Godard News Director*, March 20, 2008.
Lawyers call for release of 'Angola 3,' nearly 36 years after guard's murder, *The Times Picayune* (New Orleans), March 17, 2008.
Angola 3 pair move to dorm, *The Advocate* (Baton Rouge, LA), March 27, 2008.