

## Steven Truscott: His Victory After 48 Years

By Fiorella Grossi

**"I**t's a dream come true," said a gracious and grateful Steven Truscott on August 28, 2007, his first day in nearly 50 years that he was no longer living as a convicted murderer.



Steven Truscott the day of his exoneration in August 2007

"This is a day for all of us to celebrate something that has taken a long time and will really take a long time to sink in." The dream certainly became real for the 62-year-old when he and his family were greeted with thunderous applause by friends and supporters, and media cameras and microphones, as they arrived at a Toronto press conference just moments after hearing the decision of the Ontario Court of Appeals.

A panel of five judges unanimously acquitted Steven of his 1959 conviction of raping and murdering his classmate, 12-year-old Lynne Harper. Fourteen-year-old Steven then became the youngest person in Canadian history sentenced to hang. His death sentence was later commuted to life in prison and he was paroled in 1969 after ten years imprisonment.

"Never in my wildest dreams did I expect this to come true," Steven said. He thanked his "dream team," of lawyers from the Toronto based Association in Defence of the Wrongly Convicted who worked on his case during the 10 years it took to clear his name – James Lockyer, Phil Campbell, Marlys Edwardh, Hersh Wolch and Jenny Friedland.

AIDWYC uncovered a mountain of evidence that ultimately convinced the court of appeal that Steven's conviction was a "miscarriage of justice and must be quashed." The evidence AIDWYC presented:

- Supported that the prosecution's version of the timeline of events that lead to the murder – and pointed to Steven as the murder – was false;
- Proved the prosecution's time of death was "scientifically unsupportable"; and
- Cast serious doubt on the honesty of a key prosecution witness.

Steven also thanked his children Lesley, Ryan and Devon, for their unwavering belief in his innocence, and his wife Marlene, his "strongest supporter in the world ... I don't know what I would've done without her." True to his courageous and generous spirit, Steven identified that there were friends in the audience who have also gone through the ordeal of being wrongly convicted, and vowed to help exonerate them.

One battle is behind Steven, but another looms: the issue of compensation. How much should a man receive after being initially condemned to hang, spending 10 years behind bars for a crime he never committed, and who, along with his family, was forced to live for decades with the stigma of a murder conviction?



Steven Truscott in 1959 when he was convicted of murder as a 14-year-old

Ontario Attorney General Michael Bryant, who apologized to Steven after the decision was released, immediately appointed retired Judge Sydney Robins to advise the government on the compensation issue. In 2003 Thomas Sophonow received \$2.3 million for the wrongful murder conviction of a doughnut shop waitress in 1981. Since Steven's life has been severely circumscribed by this tragic event, we should expect the government to honor a moral obligation by generously compensating him for the experience he and his family have had to endure.

Reprinted with permission. Originally published in *The AIDWYC Journal*, Fall 2007, Volume 8.



**J**esse Friedman filed a federal habeas corpus petition on June 23, 2006 challenging his 1988 conviction of charges related to the alleged sexual assault of children by him and his father in the basement of the family's Great Neck, New York home. (See accompanying review of *Capturing the Friedmans*, a documentary about the case that was nominated for the 2003 Academy Award for best documentary.)

Friedman's petition was based on three grounds: (1) the prosecution failed to disclose eyewitnesses who denied that Petitioner committed any wrongdoing; (2) the police officers investigating the case used overtly suggestive and aggressive interrogation methods with the child witnesses; and, (3) the state failed to disclose that at least one child witness underwent hypnosis prior to alleging that Petitioner sexually abused him.

Friedman first learned of the information underlying his petition when in 2003 he saw interviews of possible witnesses in the documentary *Capturing the Friedmans*. The documentary about the investigation and prosecution of Jesse and his dad was produced by an independent filmmaker who had no direct association with the Friedmans.

### Jesse Friedman's Federal Habeas Dismissed As Untimely

By JD Staff

U.S. District Judge Joanna Seybert dismissed Friedman's first and second claims as time-barred by the AEDPA, but she reserved judgment about the third claim. Oral arguments were held by Seybert on October 3, 2007, concerning the timeliness of Friedman's claim that the state failed to disclose the use of hypnosis to enhance the memory of Friedman's accusers.

Three months after the hearing Friedman's third claim was dismissed by Seybert on January 4, 2008. The AEDPA imposes a one year statute of limitations for filing a federal habeas petition beginning on "the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence." (28 U.S.C. 2244(d)(1)(D)) Seybert's dismissal was based on her analysis of when Friedman first "knew, or could have known through the exercise of due diligence, that the prosecution may have withheld information regard-

ing the use of hypnosis" on his accusers. Seybert ruled that calculating the one year time limit beginning from the date she considered most favorable to Friedman, his habeas petition was filed "eighteen days late."

Consequently, Friedman's habeas petition that challenged the underlying factual basis of his convictions has been dismissed in its entirety without having any of his claims considered on their merits.

In a March 2008 email Jesse wrote: "With what we've been able to uncover it is apparent that the children were subjected to dangerous therapeutic methods. It appears that nearly all complainants were subjected to therapeutic practices not limited to hypnosis, but also guided imagery, suggestive questioning, and treatment for suspected "disassociation disorder", all of which are now known to induce false memories. This was the evidence we were hoping to present to the judge, had we been granted the opportunity. Had Judge Seybert granted our motion for discovery, we believe extensive evidence would have been uncovered to support our initial indication that hypnosis therapy was

**Friedman cont. on page 11**