

Fritz Moen was 36 when convicted in 1978 of raping and murdering 20-year-old Torunn Finstad in Trondheim, Norway. (Trondheim is a city of more than 100,000 and is 285 miles north of Oslo, Norway's capital and largest city.)

Finstad's body was found four days after she was last seen on October 2, 1977. Moen was arrested the day after her body was discovered, but he told police he had the alibi of being with many people at a woman friend's birthday party the night Finstad disappeared. The police questioned those witnesses who all corroborated that once Moen arrived at the party he did not leave until it was over in the wee hours of the morning.

Doubtful of Moen's alibi, the police repeatedly subjected him to intense and lengthy questioning. During the next several weeks Moen undermined his own alibi by giving varying accounts that ranged from staying until the party ended to leaving before the other partygoers. He also gave a number of conflicting statements that ranged from denying involvement in the crime to admitting his guilt ... sometimes during the same interrogation session. Moen's statements not only conflicted with each other, but the details he provided had inconsistencies with the crime and the crime scene. The accurate details Moen provided were included in newspaper articles he was known to have read. After participating in a crime scene reconstruction where Finstad's body was found he was able to provide several accurate details about the area, but a number were still incorrect.

There was no physical or forensic evidence linking Moen to the crime, and no witnesses saw him with Finstad on the night she disappeared. Consequently, his indictment was based on the assumption his confessions were truthful, while his denials of involvement were false. Although of normal intelligence, Moen was deaf and an interpreter was needed for him to communicate effectively. His right arm was disabled, but his impaired physical condition evidently wasn't considered enough of an impediment to have prevented him from man-handling and strangling Finstad. Moen was convicted and sentenced to 20 years imprisonment with up to 10 years of post-release supervision. Moen's conviction was upheld on appeal, but his prison sentence was reduced to 16 years.

Moen convicted of second murder

Several years after Moen's conviction, and at the same time his lawyer was considering submitting a petition to reopen the Torunn

Exonerated Of Two Murders, Fritz Moen Posthumously Awarded \$4 Million

By Hans Sherrer

case, Moen was subjected to repeated questioning about the unsolved September 1976 strangulation murder and attempted rape of 20-year-old Sigrid Heggheim in Trondheim, near where Finstad was murdered. The police claimed that Moen confessed during his seventh interrogation – and the only one during which he did not have the benefit of an interpreter. Moen recanted his alleged confession, claiming it was the product of coercion and confusion, nevertheless it was relied on to charge him with murdering Heggheim and attempting to rape her.

Moen's trial was in December 1981. Heggheim's assailant was identified as having type-A blood from his semen collected from her. Since Moen didn't have type-A blood, the prosecution speculated the presence of the E-coli bacteria might have influenced a false test result. Likewise, the prosecution discounted Moen's alibi that the police had confirmed: He stayed overnight in a town about 45 miles from Trondheim and returned on the afternoon after Heggheim was last seen alive about 2:30 a.m. The prosecution argued that after last being seen Heggheim could have been alive and spent the night at her student apartment, and then been around Trondheim the next day without a single person seeing her until Moen returned to the city that afternoon.

Agreeing with the prosecution, the jury relied on Moen's disputed confession to convict him of both charges. He was sentenced to five years imprisonment to be served consecutive with his existing 16-year sentence.

Moen's attorney Olav Hestenes was so convinced of Moen's innocence that after his conviction he exclaimed, "For the first time at this desk, I allow myself to say that a travesty of justice has been committed." The judge was offended at Hestenes' remark and defended Moen's conviction.

Moen's appeal was denied.

When Moen was released in March 1996 after more than 18 years imprisonment, he was placed under preventative supervision. He was considered enough of a continuing threat that in October 1999 a District Court judge authorized his supervision for an additional five years.

Moen's case partially reopened

Moen had been protesting his innocence for two decades when in the autumn of 1998 a psychiatrist at the prison where Moen served his sentence contacted journalist and private investigator Tore Sandberg. Sandberg was well-known in Norway, and he was instrumental in the 1994 exoneration of Per Liland of a gruesome double murder committed in 1969, for which Liland served a term of 24 years in custody (14 years in prison and another 10 years of preventive supervision). Sandberg was familiar with Moen's case because as a television reporter for the Norwegian Broadcasting Corporation he covered discovery of the women's bodies in 1976 and 1977, and Moen's 1978 trial.

Sandberg knew that Moen's judge, Karl Solberg, had also presided over the 1984 trial of Atle Hage, who tragically committed suicide after he had been wrongly convicted of sexually abusing his son and daughter. So with his curiosity aroused, Sandberg had several meetings with Moen. Believing that something could be wrong with his convictions, Sandberg agreed to work on Moen's case *pro bono*.

Since Sandberg had recently worked with Oslo attorney John Christian Elden on a case that resulted in the exoneration of a man wrongly convicted of rape, he asked Elden to request the police investigation files. After reading the verdicts and police files, and "speaking" with Moen through an interpreter, Elden believed his convictions could be unsound and he agreed to represent him *pro bono*.

After looking into the case for about a year, in the fall of 1999 Sandberg held a press conference in Trondheim to publicly announce that he and Elden were investigating the possibility of seeking to have Moen's case reopened. A few months later, in January 2000 Elden filed a petition in the Court of Appeal that sought the official reopening of both murder cases. The petition was based on Sandberg's investigation that exposed irregularities in Moen's "confessions" and the police investigation, exculpatory biological evidence, and the prosecution's failure to disclose favorable witness statements in both cases to Moen's trial attorney.

Elden was subsequently assigned as Moen's court appointed attorney. The prosecution opposed Moen's petition and more than two years later it was dismissed. Elden appealed the ruling to Norway's Supreme Court Appeals Committee.

Moen cont. on p. 18

Moen cont. from p. 17

Moen acquitted of Heggheim's murder

Biological evidence (semen and blood) left by their assailant was recovered from both Heggheim and Finstad. At the time of Moen's prosecutions blood typing was the available forensic testing technique, and it didn't link him to either crime – but the prosecution raised doubts about the veracity of the test results. Sandberg and Elden discovered the biological evidence no longer existed for either case. However, with the help of a medical expert Sandberg was able to prove E-coli could not have caused the semen collected from Heggheim's body to return a false type-A blood test result. That proved Moen's blood-type didn't match the semen.

Sandberg also contacted the forensic expert who autopsied both Heggheim and Finstad. In a new report the expert excluded the possibility the semen recovered from Heggheim was not from her assailant. That was important because the judge speculated in advising the jury before it began deliberating that Heggheim's boyfriend might have had sex with her shortly before she was attacked. However, there was no evidence of any such encounter, and the expert's report excluded it as a possibility.

In October 2003 the Appeals Committee announced there are "strong indications that the biological material could not come from anyone other than the perpetrator," and since Moen wasn't its source, the reopening of Moen's Heggheim convictions was allowed. However, the petition for reopening his Finstad convictions was denied.

Moen was ecstatic that it was finally being recognized that he might have been falsely branded as Heggheim's murderer. He told reporters, "They should have understood this long ago. There are many who should be ashamed."¹ A year later, on October 7, 2004, the Court of Appeal acquitted him of Sigrid Heggheim's murder and attempted rape.

Moen dies after petitioning CCRC to reopen Finstad case

Less than a week after his acquittal of Heggheim's murder, Moen petitioned the newly established Norwegian Criminal Case Review Commission (CCRC) to investigate his conviction in the Finstad case. When it began operating on January 1, 2004, the CCRC was charged with recommending a case be reopened "only when an acquittal, etc, seems a reasonable possibility" after an assessment of the "new evidence" or the "new circumstances" presented by a petitioner.

After a preliminary review of Moen's petition, in November 2004 the CCRC appointed attorney Elden to represent Moen. When the 63-year-old Moen died four months later while living in a home for the deaf, his half-brother wrote the CCRC that he wanted consideration of Moen's petition to continue.

Man makes death bed confession to murdering Heggheim and Finstad

As months passed with the CCRC processing Moen's petition, the case suddenly took a dramatic and unexpected turn. Hospitalized with his health failing, Tor Hepsø confessed to three nurses on December 18, 2005 that he had murdered two women. After talking with Hepsø the nurses contacted a priest and the local police in North-Trøndelag County. (Trondheim is in Trøndelag County.) The next day Hepsø repeated his confession to the priest, two policemen and a hospital official. Hepsø said he murdered two women in Trondheim in the 1970s, and he mentioned the names of both Heggheim and Finstad. In his weakening condition he also mentioned that Moen had been convicted of murdering Heggheim. He was somewhat hazy about some details of the murders, since he was apparently drunk when he committed the crimes. Hepsø, 67, died the next day without having made a recorded or transcribed statement, but seven people over two days witnessed his confession. Hepsø was in his late 30s when the murders were committed.

Since the CCRC was already investigating Moen's case, it was decided by the authorities that they would investigate Hepsø's admissions to evaluate their truthfulness.

Hepsø's confession investigated

The CCRC thoroughly investigated Hepsø's adult life. They learned that he lived in Trondheim in 1976 and 1977 when both murders occurred. They also determined from his employment and other records that he was probably in Trondheim on the day that each murder was committed.

The CCRC also learned Hepsø had regularly been a heavy drinker and that he had been afflicted with mental problems throughout his adult life, including being hospitalized for mental illness before and after when the murders occurred. In 1979 he was admitted to a psychiatric institution after suffering a mental breakdown while working on an oil platform in the North Sea.

Hepsø's medical records also showed he was bothered by anxiety and depression until his death. However, in spite of his drinking and mental issues, the CCRC did not find any evidence that Hepsø ever experienced delusions or that he had ever had any inclination to admit guilt to a crime that he did not in fact commit.

The CCRC also discovered that in December 1986 Hepsø's live-in girlfriend reported to the police that from 1983 to 1986 he had committed extreme violence against her, and that on several occasions he had put his hands around her neck and strangled her to the point that she fainted. The times when he "throttled her" he also "forcibly had sexual intercourse" with her. She also said that when attacking her Hepsø hit her on the head and threatened to kill her. All of those actions by Hepsø matched the *modus operandi* of



Fritz Moen after his exoneration of Sigrid Heggheim's murder

the Heggheim and Finstad murders, except that Hepsø's woman friend survived being strangled. What the Commission learned about Hepsø's violent streak was consistent with what was found in his bible at the hospital where he died: he marked several passages concerning "a scoundrel," "a mischievous man," and a "man of violence."²

Charges were filed against Hepsø for his alleged attacks against his woman friend, but they were dropped for lack of evidence. She said that at the time of Hepsø's assaults she had been afraid to go to the hospital for her injuries or call the police, and when questioned he denied they occurred. However, in support of her allegations the CCRC discovered that Hepsø's medical records showed that in October 1987 he admitted while confined in a psychiatric hospital that he "had ended the relationship by being violent to his cohabitant."³

When interviewed by the CCRC the people Hepsø confessed to in the hospital expressed the opinion that his admissions seemed genuine. One witness said she "had the impression that it was important for Hepsø to "settle this before he died."⁴

CCRC finds the new evidence is sufficient to acquit Moen of Finstad's murder

After completing its investigation of Hepsø's confessions and background, on June 15, 2006 the CCRC submitted to the Court of Appeal its "Decision" concerning Moen's petition.

Moen cont. on p. 19

Moen cont. from p. 18

The CCRC framed Hepsø's confessions within the context of his known behaviors and the circumstances in which he gave them, and found his death bed confessions to murdering the women were credible.

The CCRC also related a lengthy review of Moen's confession in Finstad's case, since they were the basis of his conviction. The CCRC noted that they only included publicly reported information, his prior knowledge of the Trondheim area, and information he could have learned when he was taken to the crime scene by the police. Moen's confession did not include key information such as that the cord from her rain jacket was wrapped around her neck. (The same was true for Heggheim, and Moen likewise didn't mention the cord in his discredited confession in that case.) Neither did Moen mention anything about the bag Finstad had with her.

Significantly, the CCRC enlisted a linguistics expert, Professor Arnfinn Muruvik Vonen, to determine if Moen's deafness contributed to miscommunication between him and his police interrogators and other officials. Vonen examined the one extant statement of Moen in an official proceeding: his statement to the Court of Appeal on December 17, 2001 regarding the post-conviction petition he filed in 2000. Vonen found there were misunderstandings of Moen's meaning – even though two interpreters for the hearing impaired were present to ensure his statements were properly understood. That strongly suggested that any number of Moen's statements to the police during their investigation of Finstad's murder were misconstrued. That same situation existed in the Heggheim case he had been exonerated of in 2004. Interestingly, the CCRC did not present any evidence, or make any argument about the prevalence of false confessions in general, or the specific circumstances and police conduct that are known to contribute to their occurrence – even though Moen claimed his confession to Finstad's murder was coerced.

The CCRC also related in its Decision that it “finds grounds to point out that there are clear similarities (the same *modus*) between the Sigrid and Torunn cases: both victims were young women on their way home from the students' union in Trondheim at night, they were closely related in time, the two crime scenes are located not far from each other, there was sexual abuse and both victims had suffered head injuries. Both victims were also found with the cord of their own outer jackets around their throats. In the Commission's view, these are factors which indicate that the perpetrator is the same in

both cases.” (p. 15) The similarities between the crimes is what led to Moen's conviction of them both, and Hepsø's confessions to them is consistent with the evidence they were committed by the same person.

The CCRC accepted Moen's petition to reopen his case by stating it found “grounds for concluding that the new evidence and circumstances which exist in the case in connection with Tor Hepsø's confessions on 18 and 19 December 2005, together with the remaining evidence in the case, are likely to lead to the acquittal of Fritz Moen for the murder of Torunn Finstad in 1977.” (p. 15)

Moen acquitted of Finstad's murder

Two months after the CCRC referred Moen's case, on August 24, 2006 the Court of Appeal posthumously acquitted him of Finstad's rape and murder. Having been exonerated of both murders, Moen's case was publicly decried as one of Norway's most shameful miscarriages of justice.

In response to the public outcry, on September 8 – only two weeks after Moen's acquittal – Norway's cabinet appointed a prestigious four-person commission with the mandate to “find out why Moen was wrongfully convicted and evaluate whether changes are needed in the criminal justice system to avoid wrongful convictions in the future.” After conducting an exhaustive examination of Moen's case, on June 25, 2007 the commission submitted its findings in a 492 page report: *Fritz Moen and the Norwegian penal system*.⁷ The commission determined there are three key reasons for Moen's two false convictions:

- The police and prosecution did not objectively consider the evidence.
- The prosecution's expert witness was not thorough in his examination of the evidence and he wasn't objective in his evaluation of the meaning of the evidence.
- Neither the prosecution nor the trial court abided by the principle that a person is considered innocent until proven guilty beyond a reasonable doubt.

The commission also singled out the Trondheim police for their failure to present a complete and unbiased report of the case to the prosecutors, the defense and the court. For example, the police did not disclose that Heggheim's diary was found, and that while she made entries each day, the last one was for the day before she was last seen. That strongly suggested the last day she was seen was the day she was murdered – which means Moen couldn't have committed the crime because the police confirmed his alibi until the afternoon after she disappeared. Further police



Attorney John Christian Elden and investigator Tore Sandberg at Fritz Moen's gravesite

wrongdoing was that they coached witnesses. Norway's Minister of Justice Knut Storberget said at a news conference, “the commission's report shows that grave errors have been committed leading to grave results.”⁸

Sandberg awarded human rights awards

Tore Sandberg's role in uncovering the truth of Moen's wrongful prosecutions was widely recognized in Norway. After Moen was exonerated of Heggheim's murder, he was honored with the Zola Prize for 2005, which is annually awarded to “A person who openly and courageously has uncovered or opposed conditions that threaten human dignity, democracy and the rule of law in Norway.” (The prize is named after French writer Emile Zola whose open letter to the French people in 1898, *J'accuse*, was instrumental in making the public aware that Alfred Dreyfus had been wrongly convicted of espionage.)

After Moen was exonerated of Finstad's murder, Sandberg was awarded Amnesty International Norway's human rights prize for 2006. The award's citation reads: “The prize-winner has, through his untiring and uphill efforts, managed to force the Norwegian judiciary system to admit grave errors. His efforts have uncovered several miscarriages of justice; first against Per Liland and then the double-murder conviction of Fritz Moen. Tore Sandberg's hard work is now the principal reason why the judiciary system's handling of such cases is now standing in the dock.”⁹ Sandberg was also honored in December 2006 as the first recipient of the Norwegian Government's biannual Human Rights Prize.

Infringement (Overgrepet) is Sandberg's book about Moen case. Published in October 2007, the 360-page book is only available in Norwegian.

Moen posthumously awarded \$4 million

Although Moen had two half-brothers, he was an illegitimate child of Germany's

Moen cont. on p. 20

Moen cont. from p. 19

World War II occupation of Norway. So prior to his death on March 28, 2005, Moen named two charitable organizations as beneficiaries of any compensation awarded for his ordeal with Norway's legal system. One of the charities, the Conrad Svendsen Center, operates homes and cares for deaf and blind adults. The other charity, The Signo Foundation, sponsors programs that aid the deaf.

On Moen's behalf, Elden filed an application for compensation under Norway's Criminal Procedure Act. After a period of negotiations, in April 2008 Justice Minister Storbegerget announced that the two organizations would share a posthumous compensation award of \$4 million to Moen.¹⁰ Storbegerget said, "I will tender an unqualified apology and regret in regard to Fritz Moen and those who were close to him, for the injustice he was subjected to. There is no forgiving for so much suffering and injustice as Fritz Moen was subjected to. This must be avoided in the future."¹¹ It is the largest wrongful conviction compensation award in Norwegian history.

Role of three Supreme Court justices in Moen's case questioned

The Norwegian Parliament's Control and Constitution Committee recommended on February 5, 2008 that a commission investigate the circumstances surrounding the Su-

preme Court's denial of Moen's petition in 2003 to reopen his convictions in the Finstad case. The committee also said the commission should determine if the three justices involved in the decision should be prosecuted for impeachment. The judges were severely criticized for their conduct during the Norwegian Parliament's debate about the committee's recommendation. Nevertheless, on May 27, 2008 the case against the Supreme Court justices was closed without indicting the judges.

Nemesis: film about the Fritz Moen case to premiere in November 2008

A Norwegian film about Moen's case is scheduled to be released to theaters in Norway on November 7, 2008. The docudrama is titled *Nemesis*.¹² The film weaves the improbable three-decade long series of events that began with Heggheim's 1976 murder and ended with Moen being recognized in 2006 as a national symbol of a person terribly wronged by imperfections in the judicial system.

Aftermath

The response of Norwegian officials to Moen's case is put in perspective by the fact that it is greater in scope than the repercussions from any wrongful conviction in the United States of a living person – much less someone who has passed away.

It has been suggested that a bust or statue of

Moen should be erected in front of the Ministry of Justice building in Oslo as a symbol of the responsibility of the criminal justice system to seek the truth.

Acknowledgments. Although Fritz Moen's case is one of Norway's most prominent criminal cases, there are few details available in English. So I want to thank Janne Kristiansen, Chairperson of the Norwegian Criminal Case Review Commission, for her assistance by translating the Commission's 5,000 word decision in the Fritz Moen case into English for *Justice:Denied*, and providing other information about the case. I also want to thank John Christian Elden and Tore Sandberg for sharing their first-hand knowledge and insights about the case, and Sandberg for reviewing this article for factual accuracy.

Endnotes:

- 1 Murder convict may be cleared after 23 years, *Aftenposten* (Oslo), October 15, 2003.
- 2 Decision by the Norwegian Criminal Cases Review Commission in *Fritz Yngvar Moen v The Public Prosecuting Authority*, Case no. 200400198, June 15, 2006. (English translation)
- 3 *Id.*
- 4 *Id.*
- 5 *Id.* at 15.
- 6 *Id.* at 15.
- 7 Norwegian title: *Fritz Moen og norsk strafferettspleie*
- 8 "Police Kill" ("Politiet slaktes"), *Nettavisen*, TV 2 (Norway), June 25, 2007.
- 9 Amnesty International Prize goes to Tore Sandberg, *The Magazine* (Oslo, Norway), No. 3-4, Dec 2006-January 2007, Vol. 14-15, p. 90.
- 10 Fritz Moen was awarded 20 million Norwegian Kroners, and on the day the award was announced, April 17, 2008, the exchange rate to the U.S. Dollar was .20070. So Moen's award converts to \$4,014,000. Moen's application was for compensation of 28 million Kroners (25 mil. general compensation and 3 mil. in damages.).
- 11 "Apology, compensation to unjustly convicted 'murderer'", *Aftenposten* (Oslo), April 18, 2008.
- 12 *Nemesis*, Norwegian Film Institute website, <http://www.nfi.no/english/norwegianfilms/show.html?id=825>

One of Scotland's darker historical events took place in Prestonpans, East Lothian from the end of 16th century until well into the 17th Century: women and men were persecuted, tortured and executed for being so-called witches. Prestonpans is about 10 miles east of Edinburgh.

The Prestoungrange Arts Festival shows respect for the memory of those who were put to death by conducting a Witches Remembrance each Halloween. The Remembrance is comprised of a play that brings to life the stories of these unfortunate people who were accused of witchcraft, and a memorial event at the Witches Gestalt, an item of public art in Prestonpans that tells the story from the passing of the Witchcraft Act by Mary Queen of Scots in 1563 right through to the 1944 imprisonment of Helen Duncan, the last person convicted of witchcraft in the United Kingdom.

The annual Witches Remembrance started in 2004 when the Baron of Prestoungrange granted an Absolute Pardon to 81 individuals (and their cats) convicted in Prestonpans of witchcraft and executed

Prestonpans Witches Remembrance

By Kelly M. Ross

between 1590 and 1679. Those unfortunate people were identified in Scottish historian Roy Pugh's 2001 book, *The Deil's Ain (The Devil's Own)*.

The Baron also commissioned Roy Pugh to write a trilogy of Witch plays. I first learned details about the witches of Prestonpans when local theatre director Malcolm Watson asked me to play Gelie Duncan in the second of these plays, *The Cauldron*. Duncan was executed for witchcraft in 1591.

After the matinee performance on October 31, 2007 of *The Devil's Craft*, the final play of Pugh's trilogy, Mary Martin, granddaughter of Helen Duncan, joined the Remembrance ceremony. Mary laid the first Healing Herb on the ledge underneath where the 81 executed people are listed on the Witches Gestalt.



Kelly Ross in front of the Witches Gestalt in Prestonpans

After Martin spoke, John Lindsay, a local poet, recited his poem honoring the people executed as witches, which begins:

Death invites us all
but surely not THAT way
damned to a fate
of terror, torture and dismay
The ignorant destroyed
by those more stupid still
and led like flocks of hobbled sheep
to die on Castle Hill, where
hurt, damned, shamed as heretics
they were torched
by star-crossed laws of yesteryear.
....

The fifth annual Remembrance Ceremony will be held on Halloween 2008.

About the author. Kelly M Ross lives in Prestonpans, Scotland. She has produced a series of narrated videos filmed around Prestonpans relating the area's history of prosecuting alleged witches. The videos are on YouTube.com, and can be found by searching on the terms "Prestonpans" and "Witches".