

## Two women cont. from p. 8

money. The prosecution's assertion that defendant took the money is based on pure speculation." (*Michigan v Tevya G. Urquhart*, c246001, MI Ct of Appeals, May 4, 2004, 2 (unpublished).) Thus the judges decided, "The conclusion that defendant aided and abetted [the robbers] in taking the money was supported only by impermissible inferences and not by evidence." (*Id.* at 3.)

Regarding Urquhart's conviction of a false report of a felony, the appeals court wrote, "There was no statement by defendant that she knew the robbery was faked. The videotape showed her being walked back to the safe, removing a white bag/envelope and sliding it towards an unidentified man. The videotape then showed that she was very upset, crying, and ill. [Sykes] testified that defendant was hyperventilating after the robbery under the counter and the police officer who interviewed defendant conceded that it was difficult to take defendant's statement because she was so upset.... there was no evidence that defendant knew it was a faked robbery." (*Id.* at 4.)

Having found insufficient evidence to support the charges against either Urquhart or Sykes, the appeals court unanimously reversed their convictions. In the fall of 2004 the charges against both women were dismissed with prejudice in the Wayne County Circuit Court.

### Women file separate civil rights lawsuits

Sykes then retained a civil attorney to look into suing the city. In November 2004 the lawyer submitted a state Freedom of Information Act request to the Detroit Police Department for an unedited copy of the Sprint store's 24-hour surveillance video. They responded by turning the video over to the city attorney's office – which did not provide Sykes' attorney with a copy of the unedited video. However, in February 2005 they did provide a copy of the edited version that was shown to the jury.

In 2005 Urquhart and Sykes (who had hired different lawyers) filed separate civil rights lawsuits in Detroit's federal district court. The defendants were six Detroit police officers and the city of Detroit. The two suits, which were later joined, claimed that the defendants caused the women to be falsely arrested and maliciously prosecuted without probable cause, that the defendants intentionally or recklessly misrepresenting the facts of the crime by improperly tampering with or editing the Sprint store's surveillance videotape of the robbery, and that the defendant's actions violated the women's right to a fair trial and to due process of law. The suit's allegations against Detroit included that it failed to

adequately train its police officers to perform their constitutional duty to disclose exculpatory evidence. The lawsuits requested compensatory and punitive damages to be determined by a jury. (*Tevya Grace Urquhart v City of Detroit, et al*, No. 05-73725, EDMI; and, *Kimberly Sykes v. Derrick Anderson, et al*, No. 05-71199, EDMI.)

The women's lawyers submitted a discovery request to the Detroit city attorneys office for the unedited surveillance video. After they didn't comply, the federal magistrate overseeing the case ordered the city's attorneys to produce the video. They responded that the video had disappeared. Among the discovery the women did receive was a cautionary letter from the Motor City Casino that the prosecution had failed to disclose to Sykes and Urquhart prior to their criminal trial. The letter showed Holmes' gambling wagers in the days after the robbery had been misrepresented to the jury. The amount of money the casino reported for Holmes' transactions was cumulative winnings and losses – which meant she could have actually wagered much less money and simply churned it over as her luck changed. The letter also explained the reported figure of Holmes' wagers was unedited, so it may have been incorrect.

In August 2007 U.S. District Court Judge Bernard Friedman denied the defendant's summary judgment motion to dismiss the lawsuit. However he did rule that Urquhart's false imprisonment and false arrest claims were time-barred because she did not file her lawsuit within three years of her arrest. After Friedman became ill the case was assigned to Judge Nancy Edmunds for trial.

Judge Edmunds ruled against the women on every substantive pre-trial issue, and even barred the jury from being informed that the city had failed to turn over the 24-hour surveillance video in spite of being ordered to do so by the Court. Judge Edmunds, who was described by a courtroom observer as openly hostile to the women's attorneys, also declined to sanction the city for its failure to comply with the Court's discovery order to turn over the unedited video.

### Jury awards total of \$2.58 million

Although hamstrung by Edmunds' rulings, during the trial Sykes and Urquhart's lawyers were effective in presenting their case against the defendants by techniques that included a PowerPoint presentation. After a trial that extended over three weeks, the jury deliberated about seven hours before arriving at a verdict. On February 25, 2008 the jury found detectives Anderson and Nichols liable for malicious prosecution and violating the

women's right to a fair trial. The jury awarded 28-year-old Sykes \$1.063 million in compensatory damages and \$250,000 in punitive damages for a total of \$1.313 million. Urquhart, 37, was awarded \$1.02 million in compensatory damages and \$250,000 in punitive damages for a total of \$1.27 million. Afterwards, Julie Hurwitz, Sykes' lawyer, said of the women, "They feel tremendously vindicated."

The trial's outcome was somewhat ironic for the defendants. During a pre-trial mediation conference the women's lawyers submitted a settlement figure that Judge Edmunds thought was excessive and which the defendants rejected, but that figure was less than the jury awarded.

No one outside the Detroit Police Department or the city attorneys office has ever seen the full surveillance video, and the extraordinary lengths to which the city has gone to prevent its public release suggests that it may provide conclusive visual proof of the women's innocence.

### Additional sources:

2 get million in false prosecutions, *The Detroit Free Press*, February 26, 2008.

Bad cops cost city millions, *The Michigan Citizen*, March 2, 2008.

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## Cuba Commutes Death Sentences

Cuba has been heavily criticized for its legal process that has been used to imprison a number of people who claim to be innocent. Prisoners on death row who may be innocent were spared execution by Cuban President Raul Castro: He announced on April 28, 2008 that all but three death sentences were being commuted to terms of 30 years to life in prison. The three death row prisoners whose sentences were not commuted, are all still on appeal from terrorism related convictions. The Cuban government's official announcement said the commutations were taken for "humanitarian" reasons. However, it may have been to bring Cuba in conformance in spirit with two United Nations human rights agreements that Cuba signed in early March. Former President Fidel Castro had opposed Cuba being a signatory to those human rights agreements.

Source: Cuba's Raul Castro commutes most death sentences, *Reuters*, April 28, 2008