

Alan Newton Awarded \$18.6 Million For 12 Years Wrongful Imprisonment

By John Schutty

Alan Newton was wrongfully incarcerated a total of 22 years for a rape he did not commit. He was released in 2006 after DNA testing of the victim's rape kit excluded him as her assailant.

Newton filed a federal civil rights lawsuit against the New York City, the NYPD, and several officers. False arrest and malicious prosecution claims were dismissed by the judge prior to trial, principally on the ground that the arresting police officers could reasonably rely on the two eyewitness identifications that allegedly led to Mr. Newton's arrest and conviction. The judge also ruled



Alan Newton

that Newton could only claim damages for the last 12 years of his incarceration. During those years New York City failed to produce a misplaced rape kit to him for DNA testing between 1994 and 2005. After a 3-½ week trial the jury awarded Newton a total of \$18 million in damages against New York City; the jury also awarded Newton \$500,000 against a senior police supervisor, Deputy Chief Jack Trabitiz; and \$92,000 against another supervisor, Sergeant Patrick McGuire, for "intentionally inflicting emotional distress" upon Newton.

About the author: John Schutty was Alan Newton's civil attorney. His website is, www.johnschutty.com

Five Camden, New Jersey Police Officers Charged In Fake Evidence Scandal

The FBI's two year investigation into the Camden, New Jersey Police Department has resulted in the United States' largest scandal involving the framing of innocent people since the discovery that 38 innocent people were convicted of drug charges in Tulia, Texas in the late 1990s and early 2000s, and the discovery that over 100 innocent people were convicted based on wrongdoing by the Los Angeles Police Dept's Rampart Unit in the late 1990s.

From May 2007 until 2009 a group of Camden police officers systematically robbed drug dealers of money and drugs, and then planted the drugs on people who they had no evidence were involved in drug activity.

In early 2010 three Camden police officers pled guilty to federal charges resulting from the FBI investigation. Those officers, Kevin Parry, 30, Jason Stetser, 32 and Dan Morris, 47, are awaiting sentencing and face up to 10 years in prison.

On October 13, 2010, two more Camden police officers were indicted on federal charges related to falsifying police reports and planting drugs on innocent people. The two officers are Antonio Figueroa 34, and Robert Bayard, 32.

The Camden County Prosecutor's Office

reports the FBI investigation has resulted in the dismissal of charges against at least 210 people. That includes at least 171 defendants whose indictments were dismissed either prior to or after their conviction. Because a judge has sealed the court records, the prosecutor's office has declined to provide specific information about the cases.

Dozens of defendant's have been released from prison, and numerous lawsuits have been filed against the Camden Police Department, the City of Camden and the officers involved.

At the news conference announcing the indictment of the two officers, U.S. Attorney Paul Fishman said the Camden police officers "intentionally and systematically abused their authority" and carried out a "lengthy and frightening pattern of crimes."

Sources:

Officers accused of planting evidence on drug suspects, *Courier Post* (Camden, NJ), October 15, 2010.

Camden drops charges against 185 people after police misconduct investigation, *The Associated Press*, March 19, 2010.

"A lie goes 'round the world while truth's still putting its boots on, sweetheart."

Dialogue in *A Cry in the Dark*, a movie about the 1982 wrongful conviction of Lindy Chamberlain for the murder of her infant daughter who was actually killed by a dingo.

Murder Conviction Overturned Because Of Prosecution's Reliance On Blind "Eyewitness"

Tony Williams was convicted in 1999 of the 1998 murder of his fiancée in Baltimore based on the testimony of two witnesses. His conviction was overturned in 2003 and a new trial ordered because the prosecution failed to disclose that one of their two key witnesses was a paid police informant who was expecting a sentence reduction for his testimony.

The other witness was a woman who testified that from her bedroom window she saw Williams leaving the apartment building where the shooting took place. It was disclosed for the first time by a detective during a hearing preceding Williams' 2007 retrial that the woman was legally blind when she identified Williams from a lineup and at his trial. The woman had died, but the prosecution sought to admit her videotaped testimony from his first trial. Williams' lawyers objected on the ground that because she was dead Williams was unable to use the new evidence to cross-examine her about her eyesight and the accuracy of her identification. However, the trial judge allowed her videotaped testimony, ruling that the defense could argue during opening and closing statements that her blindness prevented her from accurately identifying that Williams was the person she saw leaving the apartment building after the woman was shot.

The informant did not testify at Williams' second trial.

On November 3, 2010, Maryland's Court of Appeals overturned Williams' conviction and ordered a retrial. The Court ruled the prosecution had an obligation to disclose the woman's impaired eyesight to Williams' lawyers prior to his first trial, and therefore his lawyers did not have an opportunity to effectively cross-examine her about her impaired vision. Consequently, the judge abused his discretion in allowing her videotaped testimony at his second trial about anything she may have seen.

Although the Court didn't bar Williams' from a third trial, the prosecution now has no witness identifying him as being involved in the crime.

Source: *Tony Williams v Maryland*, No. 30 (MD Ct of Appeals 9-27-2010). Available at, www.mdcourts.gov/opinions/coa/2010/30a09.pdf