

Temujin Kensu's Murder Conviction Overturned By Michigan Federal Judge

Temujin Kensu? (formerly known as Fred Freeman) was convicted in 1987 of murdering a man in Port Huron, Michigan in 1986. His defense was that at the time of the murder he was 450 miles away in Escanaba, Michigan

Kensu's case was taken up by the Innocence Clinic at the University of Michigan Law School, and Proving Innocence, a Michigan based organization that investigates cases of wrongful conviction.

After almost 24 years of incarceration U. S. District Judge Denise Page Hood granted Kensu's federal habeas corpus petition on October 14, 2010. Judge Hood granted Kensu's habeas petition based on 3 grounds:

1. Ineffective Assistance of Counsel
 - a. Obstruction of Petitioner's Right to Testify in his own Defense
 - b. Failure to Call Michelle Woodworth (his main alibi witness)
2. Prosecutorial Misconduct
 - a. Jailhouse Informant's Concealment

of Promises By Prosecution (Philip Joplin, who made up a Kensu confession in exchange for leniency)

3. Ineffective Assistance of Appellate Counsel

Judge Hood's 52-page ruling concludes:

It is hereby ordered that petitioner's application for writ of habeas corpus is conditionally granted, unless the state takes action to afford petitioner a new trial within ninety (90) days of the date of this opinion. If no appeal is taken, otherwise, within ninety (90) days after any appellate avenues are exhausted and a mandate issued, petitioner may apply for a writ ordering respondent to release him from custody forthwith.

When notified of Judge Hood's ruling, Kensu's wife A'miko Kensu was overjoyed, telling reporters, "It's been 24 years. To say you're innocent for 24 years and to finally have someone acknowledge that things weren't right in the trial is uplifting."

Although the State appealed Judge Hood's ruling, and Kensu has not yet been released, years of effort by the Innocence Clinic at the University of Michigan Law School and Proving Innocence has overcome the huge



A'miko Kensu, left, and her husband Temujin Kensu. (2004 prison photo)

hurdle of getting a federal judge to acknowledge Kensu didn't receive a fair trial.

Ironically, Judge Hood found that prosecutorial misconduct was committed by fellow federal judge Robert Cleland, who in 1987 was the lead St. Clair County prosecutor in Kensu's case.

Sources:

Overturning convictions uncommon, The Times Herald (Port Huron, MI), October 16, 2010.

Freeman v. Trombley, No 07-10350 (USDC ED MI, October 14, 2010).

Woman Too Short To Be Criminal Is Exonerated

Malenne Joseph testified during her June 2010 trial in Orlando, Florida that she was not working as a painter in December 2007 and she was not the "Marlene" who splashed paint in a house causing \$10,000 dollars in damage after she wasn't paid for a painting job.

The contractor who built the house testified, and even though he had not seen the culprit for 2-1/2 years, he identified Ms. Joseph. Based primarily on his identification the jury convicted her of felony criminal mischief.

While awaiting sentencing Ms. Joseph insisted to her new lawyers that she was innocent. Her lawyers decided to interview the contractor and when told that Ms. Joseph was 5'-2" tall, he said she couldn't have committed the crime because the woman who splashed the paint was taller than him and he is 5'-6". Ms. Joseph's lawyers also found new evidence that during the week of the crime she was working two jobs -- one at Burger King and the other at a nursing-home facility -- but not as a painter.



Malenne Joseph after her release. (Joshua C. Cruey)

Her lawyer's filed a motion for a new trial based on the new evidence, and the *Orlando Sentinel* published a story about her case on September 1, 2010. After reviewing the motion and investigating its claims, the Orange-Osceola State Attorney's Office agreed to release Ms. Joseph on bail on September 15, 2010, after she had been jailed for 3 months.

The State's Attorney's Office filed a motion on September 28 to set aside her conviction.

Ms Joseph would have been acquitted if her trial lawyer had simply had her stand up when the contractor testified at trial, because he would have known then that she was the wrong person.

Malenne Joseph's attorneys, Paula Coffman and Nicole Benjamin, deserve credit for believing her when she insisted she was innocent and finding the evidence to prove it.

Source:

Prosecutors ask judge to throw out guilty verdict against Malenne Joseph, *Orlando Sentinel*, September 28, 2010.

Freeing The Innocent A Handbook for the Wrongfully Convicted

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