

## Lynn DeJac Sues For \$30 Million For Wrongful Murder Conviction

Lynn DeJac was convicted in 1994 of a second-degree murder in the 1993 death of her 13-year-old daughter Crystallynn in Buffalo, New York. DeJac was sentenced to 25 years to life in prison.



Lynn DeJac's daughter Crystallynn Girard

The prosecution's theory was that after a night of drinking DeJac strangled her daughter while she was in a drunken rage. DeJac's prosecution was based on the testimony of three men. Wayne Hudson had two felony convictions and was facing a mandatory 25 years to life sentence

as a three time loser. A felony indictment against Hudson was dismissed in exchange for his testimony that DeJac confessed to him. Keith Cramer, an ex-boyfriend of DeJac, and Dennis P. Donohue, another ex-boyfriend, testified that when drinking DeJac had an unpredictable temper. In exchange for his grand jury testimony Donohue was given transactional immunity from prosecution and a reduced sentence for an unrelated crime.

Buffalo cold case detective Dennis Delano wasn't convinced of DeJac's guilt and diligently worked on her case. By September 2007 Cramer had recanted his testimony and DNA testing unavailable at the time of DeJac's trial revealed that Donohue's DNA was found on the bedding Crystallynn's body was laying on, it was mixed in with her blood on the bedroom wall, and it was found inside her. The DNA evidence did not place DeJac in Crystallynn's bedroom at the time of her death. Based on the new evidence DeJac filed a motion to vacate her conviction.

DeJac's motion was granted on November 28, 2007, over the opposition of Erie County District Attorney Frank Clark. After 13 years and 7 months of imprisonment, the 43-year-old DeJac was released later that day on bail pending her retrial.

DA Clark announced he would retry DeJac, but with the Buffalo media and a firestorm of callers to talk radio programs openly questioning why a new trial was being pursued, Clark hired nationally known forensic pathologist Dr. Michael Baden to review the medical evidence. Baden determined that Crystallynn died from "acute cocaine intoxication" and not strangulation. The Erie County Medical Examiner then reviewed the evidence and determined Crystallynn died from a cocaine overdose and a head injury of unknown origin. The ME issued a new death certificate reflecting Crystallynn's revised causes of death.

DA Clark held a press conference on February 13, 2008, and announced the findings of Baden and the medical examiner. He said that the bruises on Crystallynn's head could have resulted from a fall after an overdose, which would explain the overturned table in her bedroom. He said DeJac wouldn't be retried, and the charges were dismissed against her two weeks later.

DeJac's exoneration was a mixed bag. She vigorously denied that her daughter used cocaine, and even though the DNA evidence suggests Donohue was involved in her death, he can't be prosecuted because of the immunity he was granted for his grand jury testimony, and even if he could be prosecuted, the revised cause of death doesn't identify Crystallynn's death as a homicide. Donohue was convicted in 2008 of strangling a woman to death in South Buffalo in 1993, and he is serving a sentence of 25 years to life. The judge told Donohue at his sentencing that he is a, "cold-blooded murderer. You brutally murdered a woman you knew. You're smart,



Lynn DeJac in November 2008

but DNA technology caught up with you." Donohue's DNA matched skin cells found under the dead woman's fingernails.

In 2008 DeJac filed a claim with the New York's State Court of Claims for almost \$14.5 million. Her claim is pending.

On November 24, 2010, DeJac (now Lynn DeJac Peters) filed a \$30 million dollar federal civil rights lawsuit that names Erie County, former District Attorney Frank J. Clark and former Deputy District Attorney Joseph J. Marusak, the City of Buffalo and the Buffalo Police Department as defendants. The lawsuit alleges that the Erie County DA and the Buffalo police knew at the time of DeJac's prosecution that she did not murder her daughter, and that all the evidence pointed to Donohue, which was why he was granted immunity for his grand jury testimony.

In June 2010 Anthony J. Capozzi settled his claim against New York State for \$4.25 million. Capozzi was wrongly imprisoned for almost 22 years after being erroneously identified as Buffalo's notorious Bike Path Rapist. Buffalo PD Detective Dennis Delano also assisted in overturning Capozzi's convictions.

*Justice Denied* published a detailed article about Lynn DeJac's case in Issue 40.

### Sources:

- DeJac Peters sues police, county for \$30 million, *Buffalo News*, November 24, 2010.
- Capozzi gets \$4.25 million from state in settlement, *Buffalo News*, August 20, 2010.
- Forensics Exonerates Lynn DeJac In Her Daughter's Death After 13 Years Imprisonment, *Justice Denied*, Issue 40, Summer 2008

## Federal Court Dismisses Drew Whitley's Lawsuit For 17 Years Wrongful Imprisonment

Drew Whitley was convicted in 1989 of the August 1988 murder of Noreen Malloy, a 22-year old McDonald's restaurant night manager in Duquesne, Pennsylvania. Ms. Malloy was confronted in the McDonald's parking lot at 3 am by a



Drew Whitley after his release in May 2006 (Carrell Sapp, Pittsburgh Post-Gazette)

masked man who demanded money. She was shot in the back when she ran to her car. The shooter took off his mask, hat and coat as he fled the scene.

A neighbor of Whitley's worked at the McDonald's and even though he didn't see the killer's face, he told police he recognized his voice as Whitley's.

Whitley, 32 was charged with Malloy's murder. At his trial his neighbor and two other witnesses identified Whitley as the killer. A jailhouse snitch also testified that Whitley confessed to him while he was in jail awaiting trial. Whitley was convicted and sentenced to life in prison.

In 2001 The Innocence Institute of Point Park University began working on Whitley's case, and in November 2005, the court approved Whitley's motion for DNA

**Whitley cont. on p. 10**