

JUSTICE DENIED

The Magazine for the
Wrongly Convicted



Kathy Gonzalez
Awarded \$350,000 for 5-1/2 years wrongful imprisonment for murder in Nebraska.
See page 7



Robert Lee Stinson
Awarded \$25,000 for 24 years of wrongful imprisonment in Wisconsin for murder.
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Posthumously pardoned of 1970 indecent exposure and profanity convictions in Florida.
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Message From The Publisher

Sidney Storch was a notorious jailhouse informant in the 1980s for the LA County DA’s Office. In a number of cases Storch provided key testimony that a defendant allegedly confessed. Bobby Joe Maxwell’s prosecution as the infamous “Skid Row Stabber” in 1984 was one of those cases. See p. 5.

It is hard to believe, but a man in Texas was convicted of videotaping fully clothed women in public, and then cleared. See p. 8.

The Confessions is a PBS Frontline documentary about the false confessions by four young Navy men convicted of the 1998 rape and murder of an 18-year-old woman in Norfolk, Virginia. *The Confessions* shows that their false confessions weren’t accidental, but were the product of interrogation techniques used every day by police officers throughout the United States. See p. 13.

Lynn DeJac Peters was exonerated in 2008 of the 1993 murder of her 13-year-old daughter. In addition to a \$14.5 million claim she has made against the State of New York, she has filed a \$30 million federal civil rights lawsuit against several government agencies and individuals involved in her prosecution. See p. 9.

Posthumous pardons are unusual, but rock singer Jim Morrison’s widow claims that if he were alive he would have refused his pardon for 1970 convictions resulting from his alleged conduct at a Miami concert in 1969. See p. 15.

Outrageous wrongful convictions occur around the world. Fred Martens has filed a \$45 million malicious prosecution lawsuit against the Australian government after his exoneration of a rape that allegedly occurred when he was 600 miles away. See p. 11.

Common sense prevailed in England when the Criminal Court of Appeals overturned a man’s conviction for escaping from prison because at the time of his escape he was being held illegally. See p. 6.

Hans Sherrer, Editor and Publisher
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Justice: Denied’s logo represents the snake of evil and injustice climbing up on the scales of justice.



“My heart has been burdened by the fact that an innocent man is imprisoned because of my false testimony.” — Amber Crecy Pittman, in her Nov. 9, 2001 Affidavit swearing Jay Van Story “never inappropriately touched me.”

“I did something wrong. I put an innocent man away. I can hardly live with myself for what I’ve done. My life hasn’t been easy for what I’ve done.” — Amber, in her July 17, 2009 testimony in the 140th District Court in Lubbock, Texas.

I am Jay B. Van Story. More than two decades ago I was convicted of sexually assaulting my 7-year-old cousin Amber. But I never abused her in any way, and for more than twenty years she has maintained that she was coached as a child into falsely accusing me. Yet, I remain imprisoned.

In 1987 Amber identified her brother Robert Bates as the one who had sexually abused her, but lead CPS investigator Roger Bowers “would not have it that way” and would only accept me as the alleged perpetrator. Amber insists she “was scared of Roger Bowers more than anybody. ... Other than Travis Ware!” (Ware is a former Lubbock County District Attorney)

As early as my January 1988 trial, Amber revealed that she had been coached. She testified that she wouldn’t have said the same thing if someone hadn’t talked to her, and that prosecutor Rebecca Hisey (formerly Baker/Atchley) had told her what to say in court. Unfortunately, my unprepared, incompetent, court-appointed attorney failed to follow-up on these startling admissions, and I was convicted. However, the conviction was overturned by the Court of Appeals because I had been denied my basic right to defend myself.

During my retrial in August 1989, Hisey again led Amber through the fabricated, rehearsed story that I had supposedly lain nude and motionless on top of her. The prosecution’s case was based on the argument that the alleged lying on top of Amber constituted sexual assault.

During cross-examination the truth came out. Amber tearfully testified that what prosecutor Hisey told her to say in court was not true and did not happen. She also testified she thought she had to keep falsely stating I had abused her or she would get in trouble.

Amber continued to maintain her recantation even under Hisey’s redirect examination.

Amber insists that after she left the stand that day, she was coached, intimidated and threat-

“I Put An Innocent Man Away” The Story of Jay Van Story’s Frame-up

By Jay B. Van Story

ened by her brother, Bowers, and DA Ware into going back the next day to again falsely testify that I had lain on top of her.

The jury convicted me of aggravated sexual assault based on Amber’s restatement of the very testimony she had recanted during cross-examination. I was sentenced to 15 years to life in prison.

My case wasn’t unique for DA Ware and Hisey, who have a well-documented history of coaching witnesses to lie in court.

A 1987 conviction against Zane Hamm was thrown out when an appeals court found that Hisey had intentionally used false testimony. On March 13, 2002, the Texas Court of Criminal Appeals unanimously reversed a 1988 capital murder conviction against Damon Jerome Richardson, citing Ware’s flagrant prosecutorial misconduct, namely the illegal withholding of exculpatory evidence. There is also extensive evidence of Ware’s solicitation of false testimony from three prosecution witnesses in the case.

Ware secured Richardson’s conviction only ten months before helping to secure mine. Amber’s recantation on Aug. 22, 1989 threatened to expose Ware’s ongoing prosecutorial crime spree.

But Ware’s rampant prosecutorial misconduct began to catch up with him. In October 1992, one of Ware’s investigators, Carrie McClain, resigned, citing “a lack of integrity and honesty” in Ware’s office. Also in late 1992, Lubbock County Forensic Pathologist Dr. Ralph Erdmann resigned after it was revealed that he had provided false testimony and fake evidence in numerous cases, often at Ware or Hisey’s behest. The county’s replacement pathologist, Dr. Jodi Nielsen, left in short order due to her discontent with Ware’s unethical ways.

In April 1994 Ware settled for \$300,000 a federal lawsuit that alleged he illegally retaliated against two honest Lubbock cops for them having spoken out about some of Erdmann and Ware’s misconduct. Both Lubbock’s *Avalanche-Journal* and the bilingual Hispanic newspaper *El Editor* called on Ware to leave office for the good of the community. Ware refused, but

he was defeated in the 1994 election.

There was a culture of corruption in the Lubbock County DA’s office throughout Ware’s 1987-1994 tenure.

However, the corruption continues because the Lubbock County D.A.’s Office claims to have “lost” their file for my case. This is not surprising considering it was their file in the Richardson case that provided the evidence of prosecutorial misconduct that resulted in his conviction being reversed.

Mattie B. Perez, a sister of Amber’s mother Dorothy Crecy, stated in her March 17, 2008 affidavit that Dorothy told her soon after the Aug. 1989 trial that, “Jay Van Story did not sexually assault Amber, but that she was ‘not going to lose her kids over it,’” and, “It was clear to me that she was referring to her fear that her children would be taken away from her if she did not testify against Jay Van Story at his trial.”

Dorothy’s sister Mary Mansker testified during an evidentiary hearing in Lubbock on July 17, 2009 that when Dorothy was on her deathbed in 1999 she told Mary, “Jay was not guilty.”

Amber’s other family members and relatives who were around during the time period in question have always insisted there was never any indication that I had abused Amber. There has also never been any physical or biological evidence that I sexually abused Amber. That is why the prosecution only alleged I had lain on top of her.

Amber told CPS investigator Bowers in 1987 that Robert was her sexual abuser, and that Jay Van Story had “never inappropriately touched me.”

An investigation by the Texas Innocence Network in my case discovered that Bowers was reprimanded for his work as a CPS investigator, and in 1991, he was either fired or asked to resign.

Prior to the hearing in 2009 two longtime highly-respected Lubbock psychologists thoroughly interviewed Amber, ran or reviewed extensive psychological evaluations of her, and examined the evidence in this case. Dr. Richard Lee Wall found that “the evidence available strongly reflects a quite high probability that Amber Crecy’s identification of the perpetrator of her sexual abuse at the age of 7 as being her brother, Robert, is an accurate report” and that it is “highly probable she fabricated the story that Jay

Van Story cont. on p. 4

Van Story cont. from p. 3

Van Story was the perp.”

The main theory the prosecution used in their closing jury argument during the August 1989 trial to deceive the jury into falsely convicting me was that Amber had recanted in court only because she experienced “Stockholm Syndrome” as a result of being cross-examined by the alleged perpetrator in court. That theory has now been revealed to be a complete fraud, just like the rest of the State’s case.

Dr. Wall testified on July 17, 2009 that the prosecution’s theory of “Stockholm Syndrome” is “clearly not the case” and that it “can be ruled out now” because Amber “recanted at the age of nine, and she has more or less stayed with ... over 20 years.” Dr. Philip J. Davis also debunked the “Stockholm” theory.

During the July 2009 hearing the prosecutors attacked Amber for minor errors in detail, such as how old she was when she was allowed to go back home, and which one of Bowers’ co-workers was present at a particular interview twenty-two years before, when she was only seven. But as Dr. Wall testified on July 17, 2009, Amber has “done an amazing job... with the memory that she’s got, for the trauma that she went through” and “the general thrust of her story is consistent.”

The Lubbock D.A.’s Office has made much of the fact that it took almost twenty years for my lawyers to file a writ of *habeas corpus* in my case. I had no choice but to wait until Amber was old enough to come forward on her own and for the Texas Innocence Network to conduct a thorough investigation and prepare and file first a petition for a full pardon — which wasn’t granted — and then for lawyer’s working on my behalf to prepare a writ.

Bowers failed to tape his crucial first interviews with Amber on April 3-4, 1987. He failed to preserve his notes for even a short time. He failed to file his reports on time.

Dr. Philip J. Davis listed in his July 16, 2009 report the following generally accepted guidelines for obtaining reliable and valid information from children: “avoiding bias and exploring other possible explanations for the child’s report; video or audio taping all investigative interviews; asking open-ended questions to encourage narrative answers; avoiding pressure, coercion and suggestion; avoid using ‘play-fantasy’ techniques; and avoid reinforcing specific responses. Anatomical drawings and dolls

are generally not recommended as part of a forensically valid interview. They are controversial. ‘Good touch/bad touch’ questions are controversial and are not recommended.”

Extensive research over the last twenty-five years has proven that violating even one of these guidelines will often produce false allegations of child abuse. That Bowers violated every one of them when interviewing Amber on April 3-4, 1987 virtually ensured that the allegations that came out of those interviews would be false, just as Amber insisted they are in her sworn affidavit and her testimony.

Dr. Davis found in his July 16, 2009 report:

“The material I reviewed revealed the strong possibility of repeated, leading, suggestive or coercive interviewing and questioning of Amber. ... She has experienced guilt and shame for years regarding her false accusation of sexual abuse by Jay Van Story. She reported that she was encouraged to maintain her story regarding abuse by Mr. Van Story because she felt she was being threatened by authority figures that if she did not she would be permanently separated from her mother. I found her report to be credible. ... She has, in my opinion, nothing to gain from her present recantation, except to relieve her guilt for providing a false accusation and to begin to address her long-term depression.”

Amber also insists that after her medical exam proved the initial allegations were false, she was coached into going along with a drastically modified allegation that I had supposedly only lain nude and motionless on top of her.

Sometimes officials get it wrong. Look at the Tim Cole case out of Lubbock. Look at the 1999 Tulia drug cases, in which dozens were falsely convicted through false testimony. And in my case, it is even more obvious that officials got it wrong.

In 2000 Amber was recently married and had become a Christian when after I had been in prison for more than a decade she contacted me seeking my forgiveness for what she had done. In November 2001 she executed a sworn Affidavit describing how as a child she had been coerced to make the accusations and testify against me.

The Lubbock County D.A.’s Office is continuing to wrongly saddle Amber with a huge, undeserved burden. They are forcing her to continue to feel extremely guilty for having unwillingly helped DA Ware con-

vict a man she knows is innocent.

The injustice in my case is against both Amber and me. The mental anguish that Amber suffers each day is very real.

Amber’s courageous efforts to “unburden” her heart by trying to undo the false testimony she was pressured to give in court 22 years ago have not been successful. I remain imprisoned for a crime I didn’t commit as my legal case winds its way through the courts.

If you have any information about my case, particularly meetings between Amber and DA Ware in August 1989, or any person who coached her testimony, please contact my attorney David P. O’Neil, at (936) 435-1380, or e-mail him at, doneil@texasparole.com

Excerpts from Amber Crecy Pittman’s Affidavit of November 9, 2001

2. I provided testimony at the time that Jay Van Story was prosecuted for molesting me and I make this affidavit in the interest of justice.
3. When I was seven years old, my brother, Robert Bates, molested me by touching my chest and vagina.
4. Robert Bates told me to tell my mother that it was Jay Van Story who molested me. ...
5. I was scared of Robert Bates so I told my mother that Mr. Van Story touched me.
6. Mr. Van Story, on one occasion, was my babysitter, but he never inappropriately touched me.
7. My mother reported my false allegations to Child Protective Services (CPS). Roger Bowers and Connie Christian, investigators with CPS, came to my school, Stewart Elementary, in Lubbock, Texas. ... Mr. Bowers told me about the report and I told him immediately that my brother, Robert Bates, had molested me, and that Jay Van Story had never molested me. ...
10. My mother’s attorney, Johnny O’Shea, told my mother that she would never get me back if she did not cooperate with the CPS authorities and the prosecutors in convicting Mr. Van Story by corroborating the evidence against him.
12. I am coming forward with the truth at this time because my heart has been burdened by the fact that an innocent man is imprisoned because of my false testimony.

Ten transients were killed in similar fashion in Los Angeles from late 1978 to early 1979. The media dubbed the killer as the “Skid Row Stabber.” The Los Angeles Police Department was under a lot of pressure to solve the crimes, and the LA District Attorney’s Office was under a lot of pressure to get a conviction.

In April 1979 Bobby Joe Maxwell was in the Los Angeles County Jail on an unrelated misdemeanor when he was charged with the murders. After 4-1/2 years awaiting trial, Maxwell’s trial began in January 1984.



Bobby Joe Maxwell before his 1979 arrest.

The prosecution’s evidence against Maxwell was circumstantial with the exception that police informant Sidney Storch testified that Maxwell confessed to the murders while they shared a cell at the LA County Jail. The jury convicted Maxwell of two murders, acquitted him of three murders, and they couldn’t agree on a verdict for the other five murders.

Maxwell was sentenced to two concurrent terms of life in prison without the possibility of parole. In exchange for his testimony Storch was released from custody one year and eight months early.

Maxwell’s direct appeal was denied and he filed a state *habeas corpus* petition in 1991. His key issues were that Storch falsely testified at his trial and that the prosecution failed to disclose their deal to reduce Storch’s sentence in exchange for his testimony. An evidentiary hearing was held in the Los Angeles County Superior Court, and in February 2000 the Court issued its ruling that while Storch was “an established liar” he had not lied at Maxwell’s trial. After the California Supreme Court denied Maxwell’s petition in December 2001 he filed a federal *habeas corpus* petition in 2002.

The U.S. District Court judge denied Maxwell’s petition in May 2006. Although the judge ruled that the prosecution knowingly used Storch’s perjured testimony, he ruled that Maxwell wasn’t prejudiced by Storch’s testimony, and since it wasn’t material to his conviction the prosecution didn’t violate his due process rights by failing to disclose their deal with Storch.

Maxwell appealed to the Ninth Circuit Court of Appeals, which on November 30,

Bobby Joe Maxwell’s 1984 Murder Convictions Based On Jailhouse Snitch Perjury Tossed By Federal Appeals Court

By Hans Sherrer

2010, overturned his murder convictions and ordered his retrial. *Bobby Joe Maxwell v Roe*, No. 06-56093 (9th Cir. 11-30-2010) The Ninth Circuit’s 41-page opinion is important because it documents that the Los Angeles County District Attorney’s Office knowingly used Storch’s perjured testimony to prop up its case against Maxwell that otherwise consisted of speculation that he might possibly have committed the murders.

Bobby Joe Maxwell was arrested in 1979, and jailed for 4-1/2 years before his 1984 trial, so he has been incarcerated more than 31-1/2 years for murders that there is no credible evidence he committed. Maxwell is 60 years old, so he has spent more than half his life publicly branded as the “Skid Row Stabber” while the actual murderer was never apprehended.

The Los Angeles County District Attorney’s Office knowingly used Storch’s perjured testimony to prop up its case against Maxwell that otherwise consisted of speculation that he might possibly have committed the murders.

The following are excerpts from the 9th Circuit’s opinion in Maxwell’s case:

Maxwell’s conviction was based in large measure on the testimony of the jailhouse informant Sidney Storch. ... Sidney Storch had a long and public history of dishonesty, starting with his discharge from the U.S. Army in 1964 for being “a habitual liar.”

...In 1983, Storch was arrested by the Los Angeles Police Department for, among other crimes, impersonating a Central Intelligence Agency (“CIA”) officer and Howard Johnson, the son of the well-known Howard Johnson hotel chain. At the time he was apprehended and placed in a cell with Maxwell, Storch was in possession of a false California driver’s license, forged checks, and stolen credit cards. The detective who arrested Storch ... testified that he “would not trust anything Sidney Storch said unless you could corroborate the information with some source.”

Following Storch’s 1983 arrest, ... Storch ... independently negotiated a sixteen-month prison term, almost two years less than the deal his public defender had been able to secure for him. In exchange for his reduced prison term, Storch agreed to testify for the prosecution at Maxwell’s trial.

... Storch testified at Maxwell’s trial in 1984. Thereafter, Storch testified for the Los Angeles County District Attorney’s Office in no less than six cases, several of them high-profile. By 1985 or 1986, Storch was classified as an informant or “K-9” and was housed in the K-9 module, otherwise known as “informant’s row.”

... By 1988, however, Storch’s informant days were over. Storch was caught fabricating lies as he testified for the prosecution in the unrelated case; as a result, he was marked by the Los Angeles County District Attorney’s office as unreliable and unusable and was later indicted for perjury.

B. Due Process Concerns

Maxwell argues that his due process rights under the Fourteenth Amendment were violated when he was convicted on the false material testimony of jailhouse informant Sidney Storch. In particular, Maxwell alleges that the Superior Court’s factual determination that Storch testified credibly at Maxwell’s trial was an unreasonable determination of the facts and that admission of Storch’s false testimony prejudiced his case.

... First, it is undisputed that Storch told numerous lies at Maxwell’s trial.

... Storch also misrepresented his sophistication and experience as a jailhouse informant at Maxwell’s trial. In particular, Storch testified at trial that he had never testified for the district attorney’s office before.

... Storch did indeed have a history of working as an informant and “booking” other criminals. It is undisputed that in at least one such instance, Storch went so far as to suggest that fake checks be planted on an individual in order to “book” him.

... Storch not only had an established history of working as an informant by the time of Maxwell’s trial, but he also had a signature *modus operandi* for “booking” fel-

Maxwell cont. on p. 6

Maxwell cont. from p. 5

low inmates. That method—for which Storch became famous—was precisely the one that Maxwell alleges Storch employed in this case. Storch’s method to “book” an inmate was to gain physical proximity to a high-profile defendant, get information about the case from the media, usually a newspaper, and then call the District Attorney or law enforcement and offer to testify.

...
In sum, Storch perjured himself multiple times at Maxwell’s trial and employed a signature method to “book” fellow inmates. Furthermore, Storch had a chronic pattern of dishonesty that both predated and followed Maxwell’s trial.

...
Here, Storch lied about Maxwell’s confession in order to reduce his own jail time. Storch went on to testify for the prosecution, and to lie, in numerous other cases. He became one of Los Angeles County’s most infamous jailhouse informants and he operated at the height of the County’s jailhouse informant scandal. ... We conclude, based on the record before the state court, that it was an objectively unreasonable determination of the facts to find that Sidney Storch was telling the truth at Maxwell’s trial in 1984.

...
Storch was the “make-or-break” witness for the State. Storch’s testimony was the centerpiece of the prosecution’s case. ... In deciding whether to file murder charges against Maxwell, the prosecu-

tion itself acknowledged in internal written notes that were discovered during the evidentiary hearing that its case was “weak from an evidential standpoint.”

...
Because there is a reasonable probability that Storch’s perjury affected the judgment of the jury, we must reverse the denial of Maxwell’s habeas petition as to this claim.

C. *Brady* violation

Next, Maxwell argues that the prosecution violated his due process rights under *Brady*, 373 U.S. at 87, when it failed to disclose material evidence about Sidney Storch.

...
Here, the prosecution itself admitted that the evidence against Maxwell was weak, that Maxwell had consistently maintained his innocence, ... Storch’s testimony was crucial to the prosecution’s case. The prosecution failed, however, to disclose multiple pieces of critical impeachment information that could have been used to undermine the credibility of Storch.

...
Because Storch’s testimony implicating Maxwell was critical to Maxwell’s conviction, the jury’s assessment of Storch’s credibility was crucial to the outcome of the trial. ... The prosecution’s failure to disclose this impeachment evidence undermines confidence in the outcome of Maxwell’s trial, and the California Supreme Court’s decision to the contrary was an unreason-

able application of *Brady*.

Conclusion

Storch was one of the most infamous jailhouse informants in Los Angeles history. ... Storch had a propensity to go after high profile cases. The “Skid Row Stabber” case would have been just such a case, and Storch’s testimony at Maxwell’s trial is a textbook example of the “booking” method that Storch helped make famous. ... Because the State convicted Maxwell on the basis of false and material evidence in violation of his due process rights, we direct the district court to grant Maxwell *habeas* relief on this claim. We further conclude that the prosecution withheld material evidence in violation of *Brady*.

We reverse the district court’s judgment and remand with directions to grant a writ of habeas corpus directing the state to provide Maxwell with a new trial in a reasonable amount of time or to release him.

As of late January 2011 the LA County DA hasn’t announced whether Maxwell will be retried or the charges against him dismissed.

Sources:

Bobby Joe Maxwell v Roe, No. 06-56093 (9th Cir. 11-30-2010)

“Appeals court overturns murder convictions of alleged L.A. serial killer,” *Los Angeles Times*, December 1, 2010.

Man Framed By Corrupt St Louis Cop Released After 12 Years Imprisonment

St. Louis police officer Vincent T. Carr pled guilty in February 2009 to five federal felony charges: obstruction of justice and two counts each of conspiracy to commit wire fraud and making false statements. The charges were related to the indictment of Carr and his partner Bobby Lee Garrett in December 2008 for planting evidence, stealing cash and falsifying court documents, lab forms and police reports against suspected drug users and dealers.

Carr was sentenced in to a year in federal prison in October 2009 and released in October 2010. Garrett pled guilty to six felony charges in August 2009 and was sentenced to 28



Vincent T. Carr in February 2009. (David Carson, St. Louis Post-Dispatch)

months in federal prison. A previous partner of Garrett’s, Leo Liston, also pled guilty to federal charges and was sentenced to three months in federal prison in September 2009.

During the federal investigation of Carr it was discovered that Stephen Jones had been convicted by a jury in 1998 of a federal drug charge based on the evidence of Carr’s testimony. There was no other evidence linking Jones to the crime. With Carr’s credibility destroyed because of his admission in court that he framed people, the U.S. Attorney’s Office moved to vacate Jones’ conviction.

On November 10, 2010, Stephen Jones’ conviction was vacated by U.S. District Court Judge Carol E. Jackson, and he was ordered immediately released from a federal prison in Mississippi after 12 years of wrongful imprisonment.

Source:
“Judge frees St. Louis man imprisoned on testimony of corrupt ex-cop,” *St Louis Post-Dispatch*, November 10, 2010.

Man Illegally Imprisoned Has Escape Conviction Tossed

In April 2009 Christopher O’Connor’s sentence had expired but the officials at his English prison didn’t release him. So he escaped. After his capture he was tried and given a five-month sentence for the crime of escaping from custody.

O’Connor appealed and on November 16, 2010, England’s Criminal Court of Appeals overturned his conviction. The Court ruled that a person cannot be held criminally liable for escaping from custody that is not legal. Since O’Connor’s sentence had expired he wasn’t in legal custody so he couldn’t commit the crime of escaping from prison.

Source:

“Man jailed for escaping custody has conviction quashed,” *The Sentinel* (Staffordshire, UK), November 18, 2010.

Kathy Gonzalez Awarded \$350,000 For 5-1/2 Years Imprisonment As 'Beatrice Six' Defendant



Kathy Gonzalez

Six people between 23 and 31 years-old were convicted in 1989 and 1990 of charges related to the February 1985 rape and murder of 68-year-old Helen Wilson in Beatrice, Nebraska. The media dubbed them the 'Beatrice Six'.

Five of the six confessed after intense interrogations, and they made plea deals in exchange for reduced charges and sentences. Kathy Gonzalez, James Dean, and Debra Shelden pled guilty to aiding and abetting second-degree murder in exchange for a 10 year sentence. Those three served 5-1/2 years before being released in 1994. Thomas Winslow confessed to raping Ms. Wilson and he was sentenced to 10 to 50 years in prison. Ada JoAnn Taylor confessed to smothering Ms. Wilson while Winslow and Joseph White raped her. She was sentenced to 10 to 40 years in prison.

Only Joseph White insisted on his innocence. During his trial in 1989 Dean, Taylor, and Shelden testified that the six were in Ms. Wilson's apartment during her rape and murder. Taylor testified that she smothered Ms. Wilson while White raped her. White was convicted of first-degree murder. He could have been sentenced to death, but the jury recommended his life sentence.

After losing his direct appeal, White pursued DNA testing of the crime scene biological evidence. For years the State of Nebraska opposed White's efforts to test the evidence, but in 2007 the Nebraska Supreme

Court ordered the DNA testing. The testing was finally conducted on some of the evidence in the summer of 2008. All of the 'Beatrice Six' were excluded. Additional testing on the remaining evidence confirmed that none of the six people convicted of the crime — five of whom confessed and pled guilty — had anything to do with Ms. Wilson's rape and murder.

White filed a motion for a new trial based on the new exculpatory DNA evidence. His motion was granted on October 15, 2008, and he was released on a personal recognition bond later that day. Winslow, 42, was immediately scheduled for resentencing and two days later, on October 17, 2008, he was resentenced to time served and released. Taylor, 45, was released a few weeks later on November 10. The three had each been imprisoned for more than 19-1/2 years.

The Beatrice Six are the largest number of defendants in one case exonerated by DNA testing in the United States. The DNA evidence proves that five of the defendants confessed to heinous crimes that they didn't commit, and that to comply with their plea bargains three of them falsely testified during White's trial. After their release the defendants said they falsely confessed and falsely testified to avoid the death penalty. The six defendants were wrongly imprisoned for a total of more than 76 years.

In November 2008 Nebraska Attorney General Jon Bruning held a press conference and disclosed that the DNA evidence conclusively linked Bruce Allen Smith to Ms. Wilson's rape and murder. However, Smith died in 1992 of AIDS.

Nebraska's State Board of Pardons unanimously voted on January 26, 2009, to pardon the five defendants who confessed based on their actual innocence of Helen Wilson's rape and murder. AG Bruning said, "They are 100 percent innocent."

Nebraska did not have a wrongful conviction compensation statute, but the publicity about the exoneration of the Beatrice Six resulted in the passage of a law in 2009 that provides for the payment of up to \$500,000 to a wrongly convicted person.

In October 2010 White became the first person to receive compensation under the new law when he settled his claim for the \$500,000 maximum.

On November 4, 2010, a judge approved settlement of Gonzalez's claim for \$350,000.

Claims under the state law are pending by other Beatrice Six defendants, as well as federal civil rights lawsuits that name Gage County and law enforcement officers involved in investigation of the case and extraction of the false confessions by five of the six defendants.

Credit must be given to Joseph White's attorney Doug Stratton, the Norfolk, Nebraska attorney who believed in White's innocence and continued representing him *pro bono* after his small retainer ran out in 2005. If he had not done so, the Beatrice Six would not have been exonerated.

Sources:

'Beatrice 6' woman settles, *Omaha World*, November 4, 2010.
Six People Cleared Of 1985 Nebraska Murder That Four Confessed To Committing, *Justice Denied*, Issue 41, Summer 2008, p. 16.

IRS Exempts Lump Sum State Compensation From Federal Income Tax

The IRS has issued a new interpretation of the Internal Revenue Code that exempts lump sum payments to a wrongly convicted person under a state's compensation statute from federal income tax. 32 states have compensation statutes.

The Office of Chief Counsel, Internal Revenue Service, issued a Memorandum on November 4, 2010, that states in part:

An individual may exclude from gross income the compensation that the indi-

vidual receives from the state for wrongful conviction and incarceration consistent with this analysis.

However, the new interpretation of Internal Revenue Code Section 104(a)(2) doesn't fully exempt annuity compensation payments from federal taxation. Texas, e.g., makes a lump sum payment of \$80,000 per year of wrongful imprisonment, plus an annuity that pays monthly payments for life. The amount of the annuity payment varies from case to case.

It is not known what effect the new interpretation will have on awards or settlements made to a wrongly convicted person as the result of a state or federal lawsuit.

Source:

Memorandum Number: 201045023, Office of Chief Counsel, Internal Revenue Service, November 4, 2010. Available at, www.irs.gov/pub/irs-wd/1045023.pdf

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www.justicedenied.org

Back issues of *Justice: Denied* can be read, there are links to wrongful conviction websites, and other information related to wrongful convictions is available. JD's online Bookshop includes more than 70 wrongful conviction books, and JD's Vid-eoshop includes many dozens of wrongful conviction movies and documentaries.

Texas Appeals Court Acquits Man Convicted Of Videotaping Fully Clothed Women In Public

William Allen Cooper was convicted in July 2010 in separate prosecutions of “improper photography or visual recording” for allegedly videotaping fully clothed women walking on the public sidewalk in front of his house and business in Red River County, Texas. He was sentenced to two separate 2-year prison terms.

On November 18, 2010, the Texas 6th Appellate District Court of Appeals overturned Cooper’s two convictions and acquitted him of the charges. The Court began its opinion with:

“In the 50s, before the advent of video cameras and cell phone videos, a popular song advised us that standing on the corner and watching females pass by was acceptable conduct and that “you can’t go to jail for what you’re thinking.” Watching may still be acceptable conduct, but recording that parade may violate the law in Texas today.” *Cooper v. Texas*, No. 06-10-00083-CR (6th Appellate Dist Ct of Appeals 11-16-2010)

Cooper was acquitted of the videotaping charges, not because they were ridiculous, but because there was no evidence he was the person who videotaped the women. After breaking up with him his ex-girlfriend notified the police that she had seen two videos of women walking on the sidewalk in front of Cooper’s house and business, but she had not seen who made the videotapes.

A number of people had been inside Cooper’s house and business and there was no testimony at his trial who had actually made the video. Consequently the Court ruled there was insufficient evidence and acquitted Cooper.

If there had been proof that Cooper made the videos the court would have upheld his two convictions of violating Texas state law.

Cooper had a separate appeal for his two convictions, and the Court issued an opinion in each case, applying the rationale of the first case to the second. See, *Cooper v. Texas*, No. 06-10-00083-CR (6th Appellate Dist Ct of Appeals 11-16-2010); and, *Cooper v. Texas*, No. 06-10-00084-CR (6th Appellate Dist Ct of Appeals 11-16-2010)

Khmer Rouge Official Appeals Conviction And 30-year Sentence For Thousands Of Murders

Kaing Guek Eav — also known as Duch — was one of the most well-known officials of the communist Khmer Rouge regime that controlled Cambodia from 1975-1979 and was responsible for the deaths of at least 1.7 million people from starvation, disease, overwork and execution. One of the primary ways people were executed was suffocation by placing a plastic “baggie” around their head.

Duch, 67, was the supervisor of the notorious S-21 prison in the capital of Phnom Penh. S-21 was also known as Tuol Sleng — and it was the prison for the Khmer Rouge’s most important political prisoners, many of whom were tortured into making false confessions before being summarily executed.

A United Nations backed war crimes tribunal in Cambodia is trying five Khmer Rouge officials on a variety of charges, including genocide.

Duch was the first defendant to be tried by the tribunal. During his 9-month trial that lasted from February to November 2009, the prosecution argued that Duch was a driving force behind the Khmer Rouge’s execution campaign and that he guided the crimes committed at S-21. Evidence was presented that only 14 people are known to have survived imprisonment at S-21. There was testimony that entire families were imprisoned for the



Kaing Guek Eav on November 24, 2010. (Extraordinary Chambers in the Courts of Cambodia)

alleged crimes of a single member, and on one day in 1977 Duch ordered the executions of 160 children.

A court-ordered psychological assessment of Duch determined he “is meticulous, conscientious, control-oriented, attentive to detail and seeks recognition from his superiors.”

Duch, is a former math teacher, and his defense was he had obediently carried out orders issued by his superiors in order to ensure his own survival. He did admit to overseeing the torture and deaths of as many as 16,000 people at S-21. Several former students testified as character witnesses that Duch was a gentle teacher.

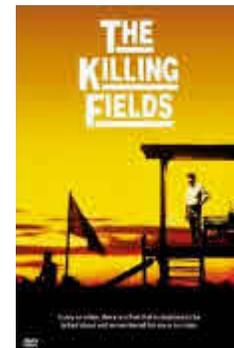
Duch was found guilty on July 26, 2001, of war crimes and crimes against humanity. It was the first time a Khmer Rouge official had been convicted by an internationally recognized court. Duch was sentenced to 30 years in prison and given credit for 11 years he has spent in custody — so he could be released while still in his 80s. If Duch serves the full 30 years he will spend about 16 hours in prison for each person whose murder he oversaw.

Survivors of the Khmer Rouge’s reign of terror was dismayed at the leniency of Duch’s sentence.

Duch’s lawyers appealed his conviction and

requested his acquittal on the ground that the tribunal did not have the jurisdiction to try him.

The prosecution appealed his sentence, seeking that he be resentenced to life in prison that would be commuted to 45 years with no possibility of early release.



The 1984 movie *The Killing Fields* was about Cambodia during years of the Khmer Rouge regime. The film was nominated for seven Academy Awards, including Best Picture, and won three: Best Supporting Actor (for Haing Ngor), Best Editing, and Best Cinematography.

Sources:
Lawyers for Khmer Rouge jailer appeal his conviction, *CTV News*, November 22, 2010.
Duch appeals verdict, *Phnom Penh Post*, November 21, 2010.
“The Killing Fields,” Internet Movie Database, <http://www.imdb.com/title/tt0087553>

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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

Zackary Lee Stewart Released After 4 Years Of Wrongful Incarceration For Murder

Zackary Lee Stewart was an 18-year-old high-school senior in Hurley, Missouri when he was charged with the first-degree murder of 50-year-old David Dulin during a burglary of his home in November 2006.

Dulin was able to call 9-1-1 and he told the dispatcher that two men in their 20's and 30's broken into his house and shot him in the head with his own .22 pistol. He said he didn't know either man. Dulin was dead when the emergency vehicles arrived.

The prosecution's primary evidence was two jail house snitches who shared a cell with Stewart when he was jailed on an unrelated misdemeanor in March 2007. The two informants testified during Stewart's 2008 trial that he confessed to Dulin's murder. There was no physical, forensic or eye-witness evidence tying Stewart to the crime.

During the trial there was testimony that a hat with blood on it was found near Dulin. Family members told the Stone County prosecutor that they had never seen Dulin wearing that hat. In the middle of the trial the hat was rushed to the Missouri State Crime Lab for immediate DNA testing. The results were stunning: the hat did not have any of Stewart's DNA on it. But it did have the DNA of Dulin from his blood, Stewart's brother-in-law Tim Seaman, and another unknown person.

Prosecution witnesses testified they saw a light tan or white vehicle in the area of Dulin's house the night of his murder.

Stewart's sister testified as his alibi witness that he was at home the entire evening the



Zackary Lee
Stewart

murder occurred.

During closing arguments, the prosecutor argued the DNA results from the hat identifying other people was not important because the informants testified Stewart confessed. The prosecution also argued that Stewart was driving the light tan or white vehicle.

The jury found Stewart guilty and he was sentenced to life in prison without the possibility of parole.

Stewart filed a motion for a new trial based on evidence discovered by a detective shortly after his trial. The detective received a tip that Tim Seaman told his brother before Stewart's trial that he had "taken someone's life."

During the motion's hearing, Seaman's brother testified that he didn't take his brother's comment seriously until after he heard about the bloody hat found by Dulin's body, because Seaman had had a hat identical to the one found at the murder scene. Seaman's brother also testified that at the time of Dulin's murder his brother drove a vehicle that matched the one seen near Dulin's house. A nephew of Seaman's also testified during the hearing that Seaman told him the morning after Dulin's murder that he and his friend, John Mills, were at Dulin's house when he was killed. The police couldn't locate Seaman to question him.

Stewart's motion argued that the new evidence from Seaman's brother and nephew was supported by the DNA tying him to the crime scene. The trial judge denied the motion, ruling that Seaman's statements were not exculpatory.

On May 25, 2010, the Missouri Supreme Court overturned the trial judge's ruling and ordered a new trial. The Court stated in part:

Pittsburgh that named Allegheny County and 7 individuals as defendants. Whitley's lawsuit was dismissed by the federal judge who denied all of his claims.

Whitley appealed to the federal 3rd Circuit Court of Appeals, which upheld the dismissal of his lawsuit. (*Drew Whitley v. Allegheny County et al*, No. 10-1723 (3rd Cir. 11-22-2010) Their ruling cited that Whitley couldn't sue for malicious prosecution because the trial court ruled in 1989 that there was probable cause for his arrest; in 1989 there was no clearly established constitu-

"Zackary's new evidence meets the criteria of being reasonably sufficient to raise a substantial doubt in the mind of a reasonable person as to the result if he is retried.

The newly discovered evidence offered by Zackary [Stewart] in support of his motion for a new trial warrants a new trial. The trial court's judgment is reversed, and the cause is remanded." *State v. Stewart*, 313 S.W.3d 661 (Mo. 05-25-2010)

Stone County Prosecutor Matt Selby insisted he was going to retry Stewart and he was held in the county jail awaiting his trial scheduled to begin in February 2011. Then without any notice to Stewart's lawyer, Selby announced on the afternoon of Friday, December 3, "based on information currently available, I do not believe it is appropriate to continue Zachary Stewart's prosecution. Accordingly, I have dismissed the pending charges."

A couple hours later Stewart was released after being incarcerated for 3 years and 9 months. He told reporters outside the jail, "It's still kind of hard to believe at this moment right now." His lawyer Stacie Bilyeu said, "When you've been wrongly convicted of murder, and now you're released and innocent and going home, it's an unusual and good day."

On December 20, 2010, Tim Seaman was arrested and charged with the first-degree murder of David Dulin.

Sources:

State v. Stewart, 313 S.W.3d 661 (Mo. 05-25-2010). Charges against Hurley man dismissed in homicide case, *News-Leader* (Springfield, MO), December 4, 2010.

New suspect charged in 2006 southwest Missouri killing, *Kansas City Star*, December 22, 2010.



Whitley cont. from p. 9

testing. DNA testing of hairs recovered from the mask worn by the perpetrator to conceal his face from eyewitnesses was completed on February 28, 2006. Whitley was excluded as the source of the hairs. Additional DNA testing also excluded Whitley.

The charges were dismissed on May 1, 2006, and Whitley was immediately released after 17-1/2 years incarceration.

Whitley filed a federal civil rights lawsuit in

tional right of a defendant to a careful police investigation; and none of the defendants violated any of Whitley's clearly established constitutional rights.

Pennsylvania does not have a wrongful conviction compensation statute, and to date Drew Whitley has not received any compensation for his almost 18 year ordeal.

Sources:

Drew Whitley v. Allegheny County et al, No. 10-1723 (3rd Cir. 11-22-2010).

Whitley free after 17-year fight, *Pittsburgh Tribune-Review*, May 2, 2006.



Fred Martens Sues Australian Government For \$45 Million For Malicious Rape Prosecution

Fred Martens is an Australian pilot who was convicted in 2006 of raping a 14-year-old girl in September 2001 that he allegedly flew from Australia to Papua New Guinea. He was the first person convicted of rape under Australia's 1994 sex-tourism law that targets Australians who commit sex crimes while in Pacific island nations.

Martens was sentenced to 5-1/2 years in prison. After his conviction was affirmed in 2007 he continued insisting he never had any sexual contact with the girl. An investigation by *The Courier-Mail* newspaper in Brisbane, Queensland, Australia, turned up the new evidence of an affidavit by a family member of the girl. The affidavit asserted the girl admitted in November 2003 that she made-up the rape allegation at the urging of Martens' ex-wife. At the time Martens and his ex-wife were engaged in a child custody dispute.

Martens was then able to obtain records from the Papua New Guinean Civil Aviation Au-



Fred Martens with his children Jodi, Emily and Leon

thority that on the day of the alleged assault he was in Papua New Guinea's isolated Western Provinces, more than 1,000 km (more than 600 miles) from Port Moresby where the girl lived. The records proved he could not have raped the girl as she claimed, and that she lied that he flew her from Australia to Papua New Guinea.

Martens filed a new appeal based on the new evidence that he was convicted of a non-existent rape. He garnered national publicity after going on a hunger strike, and in April 2009 the Queensland Attorney General recommended that Martens be granted a new trial. In May 2009 he was released on bail after 940 days of imprisonment.

On November 13, 2009, the Queensland Court of Appeal in Brisbane issued its ruling that "Because it has been demonstrated that (Martens') conviction was unreasonable, and cannot be supported by the evidence, the court should order that the conviction be quashed and the order of imprisonment be set aside." *R v Martens*

[2009] QCA 351 (09-0085).

Martens, 61, has filed a \$45 million dollar lawsuit against the Australian government and six Australian Federal Police (AFP) officers. His lawsuit alleges he was maliciously prosecuted because the AFP knew he was innocent and "conspired to concoct a false case" against him. His lawsuit also claims the AFP "deliberately ignored" inconsistencies in the victim's statements, they ignored or covered-up crucial evidence, did not speak to key witnesses, and falsely claimed the flight records did not exist.

Martens' \$45 million damage claim is supported by the collapse or loss of a number of business ventures owned by Martens as a result of his prosecution and incarceration. Marten also claims he suffered severe emotional, physical and psychological damage as a result of his prosecution and conviction of a non-existent child sex crime. His daughter Stephanie died of malaria in Papua New Guinea while Martens was awaiting trial in Australia. He claims he would have been able to save her life if had he not been stranded in Australia with his funds frozen and his passport confiscated.

Sources:

R v Martens [2009] QCA 351 (09-0085). Aussie pilot sues federal govt for \$45m, *The Sydney Morning Herald*, November 29, 2010.

Man Fighting Conviction Claims Public Smoking Bans Are Based On Nazi Law

Public smoking bans have been enacted in countries around the world. Northern Ireland is one of them.

Chris Carter was convicted of smoking a cigarette in the North Down Borough Council headquarters in 2007. He was ordered to pay a fine and costs of £1,250 (about \$2,000) or serve 47 days in jail.

Carter's appealed his conviction on the basis the smoking ban was illegal, so he couldn't have committed a crime. He cited his extensive research about tobacco from its introduction into Britain by Sir Walter Raleigh in the 16th Century, and research of laws banning smoking — including that the first public smoking ban was instituted in Germany in 1938 by Adolf Hitler.

His also argued the public smoking ban infringing on a smoker's right to freedom



Graphic from the Support Chris Carter Facebook page

from torture.

Carter's conviction was affirmed by Northern Ireland's High Court in June 2010, but he was allowed leave to apply to the Court of Appeals for a judicial review of the smoking ban legislation.

Carter represented himself during the oral arguments in the Court of Appeals on December 2, 2010. Among other things, Carter told the three judge panel:

"He [Hitler] was the first one who introduced a smoking ban in the world. When I got his legislation and put it alongside the European legislation I found that they were one and the same, albeit the words were changed to make it more plausible. I cannot countenance a law being passed by Her Majesty's domain that replicates that of the Third Reich, which is clearly shown in all the documentation I have provided to this court today."

Carter also argued that the smoking ban legis-

lation violated a smoker's right against torture.

If the Court of Appeals denies Carter's effort to challenge the smoking ban legislation, he will be able to appeal their ruling to the U.K.'s Supreme Court.

Source: "Northern Ireland smoking ban 'like Third Reich'," *Belfast Telegraph*, December 3, 2010.

Freeing The Innocent A Handbook for the Wrongfully Convicted

By Michael and Becky Pardue

Self-help manual jam packed with hands-on - 'You Too Can Do It' - advice explaining how Michael Pardue was freed in 2001 after 28 years of wrongful imprisonment. Soft-cover. Send \$15 (check, m/o or stamps) to: Justice Denied; PO Box 68911; Seattle, WA 98168. (See Order Form on p. 19). Or order with a credit card from JD's website, www.justicedenied.org

"I congratulate you on your marvelous book *Freeing the Innocent*."

P. Wilson, Professor of Criminology, Bond University

First Ever Women And Innocence Conference Was Huge Success

By Karen Daniel

In April 2010, five women who were wrongfully convicted and later exonerated met at a national innocence conference, where they were vastly outnumbered by the male exonerees in attendance. These women formed a network of female exonerees, who decided that the special issues facing innocent women caught up in the criminal justice system merited a conference of their own.

That vision became a reality on the weekend of November 5-7, 2010, at the inaugural Women and Innocence Conference, held in Troy, MI. The conference was a huge success with close to 100 attendees, including exonerees, academics, authors, attorneys, investigators, students, supporters of not-yet-exonerated women prisoners, and other interested observers. The organizations rep-

resented included Michigan State University, Northwestern University School of Law's Center on Wrongful Convictions, Proving Innocence, the Cardozo School of Law's Innocence Project, the University of Illinois Downstate Innocence Project, the Thomas M. Cooley School of Law's Innocence Project, the University of Texas at Arlington Exoneree Project, and others. Sponsors included Richard Bernstein, Ann Mervene, the Art Loft, and Kate Spade. The Somerset Inn of Troy did a fabulous job hosting the event and the Somerset Mall made all of the guests feel welcome.

Women fighting wrongful convictions face special challenges. Wrongfully convicted women were often accused of causing harm to people close to them, meaning they had to deal with deep personal loss along with the criminal charges. Women are viewed as



Stephanie Horten, Judith Royal, Julie Harper, Karen Daniel (left to right). Julie Harper was exonerated of murder in 2006, the others are with Northwestern University.

society's caregivers, so women charged with heinous crimes are particularly reviled. There is typically no DNA evidence in cases with female defendants, making their convictions harder to fight. Sometimes there was not even a crime at all; for instance, a natural or accidental death might be mistaken for shaken baby syndrome or arson.

These types of shared concerns and experiences will form the basis for the Women and Innocence Conference.

The conference attendees agreed to work together going forward; possible future projects include a book about wrongfully convicted women, a permanent Women and Innocence organization, and further conferences.

For information about the 2011 conference contact Julie Harper: juliereaharper@sbcglobal.net

Lindy and Michael Chamberlain Still Seeking Justice 30 Years After A Dingo Killed Their Daughter

Lindy Chamberlain's murder trial in 1982 for the 1980 disappearance of her daughter was a media sensation and one of the most heavily covered trials in Australian history. While camping near world famous Ayers Rock in August 1980, 9-week-old Azaria Chamberlain was alone sleeping in the family's tent when she disappeared. A dingo had been seen in the area and Azaria was heard briefly crying before she vanished. An intensive search didn't find her body.

In 1982 Lindy was tried for murdering Azaria and her husband Michael was tried as an accessory after the fact. She was convicted and sentenced to life in prison. Michael was convicted and given an 18 month suspended sentence.

In 1986 a piece of clothing was found near the campsight that Lindy had insisted Azaria was wearing when she disappeared, and which the prosecution had argued at trial she wasn't wearing. Five days after discovery of the new



Lindy and Azaria Chamberlain on Ayers Rock hours before she disappeared. (Chamberlain family photo)

evidence Lindy was conditionally released after four years imprisonment.

In 1988 a Royal Commission concluded after investigating the case that the convictions of Lindy and Michael Chamberlain were "unsafe." Based on that investigation the Northern Territories Court of Appeal quashed the Chamberlain's convictions in 1988. Lindy was subsequently awarded compensation of AU\$1.3 million for her four years of wrongful imprisonment.

The Chamberlains were divorced in 1991 after 22 years of marriage.

Although Lindy and Michael had been cleared of any involvement in their daughter's death, in 1995 the third inquest into the case resulted in an "open verdict" about the cause of Azaria's death. So her death certificate lists her cause of death as "unknown." Azaria's body has never been found.

Now 30 years after Azaria's death, Lindy and Michael are seeking a fourth inquest based on significant new evidence that a dingo has not only made many attacks on people, but they have killed at least two people much larger than 9-week-old Azaria. They want Azaria's death certificate amended to the cause of her death was a dingo.

Meryl Streep starred in the 1988 movie — *A Cry In the Dark* — about the Chamberlain's case. Ms. Streep was nominated for the Best Actress Academy Award. The movie swept all the top awards in Australia, including Best Actress, Best Actor for Sam Neill as Michael Chamberlain, Best Movie, Best Director, and Best Screenplay.

Lindy Chamberlain-Creighton's website has extensive information about her case, www.lindychamberlain.com

Source: "Fourth Azaria inquest 'will set record straight'," *Australian Broadcasting Corp.*, November 8, 2010.

Compensation Bill Filed in Washington State

A compensation bill was filed in the Washington State legislature in January 2011 that provides compensation of \$50,000 per year for a person wrongly convicted of a non-capital crime and \$100,000 per year for a person convicted of a capital crime. The bill provides for \$25,000 for each year spent on parole, community custody, or as a registered sex offender. The bill also includes education-tuition waivers, and health and dental assistance. Because of budget cuts the bill would not take effect until 2014.

Source: House Bill 1435, 62nd Washington Legislature, 2011 Regular Session

False Confessions Are Demystified By *The Confessions*

Review by Hans Sherer

The Confessions is an 84-minute documentary about the 1997 rape and murder of 18-year-old Michelle Moore-Bosko in Norfolk, Virginia, and how four young Navy enlisted men confessed to involvement in the crime. *The Confessions* was produced for the PBS Frontline program and it was broadcast for the first time on November 9, 2010. The documentary can be watched in its entirety on PBS' website.

There was no physical, forensic or eyewitness evidence tying any of the four men to the crime. They were convicted on the basis of their confessions, which they all recanted. One of the men, Danial Williams, was sentenced to 8-1/2 years in prison based on his cooperation, and the other three — Derek Tice, Eric C. Wilson, and Joseph J. Dick Jr. — were sentenced to life in prison.

The four men became known as the Norfolk Four. After their case gained notoriety and was independently investigated, their claims of being coerced into giving false confessions was substantiated. False confession expert Professor Richard Leo co-wrote *The Wrong Men* (2008) about the Norfolk Four case.

The Confessions is the best documentary I've seen on the subject of false confessions.



Michelle Moore-Bosko

Frontline documentaries are not glitzy MTV type productions. They are old fashioned "just the facts, ma'am" programs. *The Confessions* would be just as effective if it was filmed in black and white. Through interviews with the four men, their lawyers at the time of their prosecutions, Professor Leo, and Omar Ballard — the man who all the evidence points to as committing the crime alone — stroke by bone-chilling stroke *The Confessions* paints the picture that not only were the men coerced by intense interrogation sessions that last for many hours into falsely confessing just to make their interrogation stop, but that the police tactics relied on to extract their confessions are standard operating procedure in this country. *The Confessions* brings into sharp focus the shadowy gorilla in the room exposed by the case of the Norfolk Four — false confessions are a very real man made epidemic of unknown proportions that are fueled by law enforcement's reliance on standard interrogation techniques.

Another disturbing aspect of the Norfolk Four's case is that once the police had confessions by the men, even though none of them knew any details of the crime scene, the investigation of Mrs. Moore-Bosko rape and murder ended. Credible evidence and leads that directly led to Ballard as the lone perpetrator were simply ignored.

The Confessions has a couple of particularly remarkable exclusive interviews. One is

with Joseph Dick's lawyer who admitted that he allowed Mr. Dick to be interrogated by the police without him being present, and his reasoning is that if he was present Mr. Dick would have been inhibited from freely talking with his police interrogators. Another is Frontline's telephone interview with Omar Ballard from where he is imprisoned. During the interview Ballard not only repeatedly states that he alone murdered Mrs. Moore-Bosko and that the Norfolk Four had nothing to do with the crime — which all the crime scene physical and forensic evidence supports — but he also explains from his first-hand knowledge of police interrogation techniques how the police were able to wear down and frighten the four innocent men into falsely confessing.

The Confessions demystifies for everyone but the deaf, dumb and blind how and why an innocent person falsely confesses to a crime they didn't commit — even the rape and murder of an 18-year-old woman that three of the Norfolk Four had never met. Every lawyer, law enforcement officer, or concerned person with an interest in police interrogation techniques and the confessions they produce, ought to set aside 84 minutes and watch *The Confessions* — particularly since it can be viewed at no charge from PBS' website, www.pbs.org/wgbh/pages/frontline/the-confessions

For additional information about the Norfolk Four see the article in *Justice Denied* Issue 30, "The 'Norfolk Four' Convicted of Brutal Rape And Murder Committed By Lone Assailant," p. 6.

Man Becomes Rights Activist After Exoneration Of Murdering Man Who Wasn't Dead

Zhao Zuohai was acquitted after a retrial on May 10, 2010, of murdering a man in 1997. Zuohai was arrested in May 1999 for the man's murder, and after his conviction in December 2002 he was sentenced to death. He was later resented to 29 years in prison at forced labor.

Zuohai's conviction was based on his confession to the murder, which he recanted, claiming he had falsely confessed to stop his torture by police interrogators. Zuohai's wife also implicated Zuohai in the crime, but she too recanted, claiming that the police locked her in a factory and beat her until she told them what they wanted her to say.



Zhao Zuohai after his release from prison

On April 30, 2010, the man Zuohai was convicted of murdering was discovered to be alive. The local court acted with lightening speed and only ten days later retried and acquitted Zuohai based on the new evidence that he had been convicted of a murder that never happened. Zuohai was immediately released from custody. He was subsequently awarded compensation of about \$96,000 (650,000 yuan) for his wrongful imprisonment. Zuohai's exoneration was widely reported throughout China.

In China individuals who are not legal professionals can represent a person in court and carry out legal duties.

Since his release Zuohai has been using his

notoriety to try and help people who have experienced injustice at the hands of the legal system. In one case he helped persuade an appeals court to reexamine the case of a man convicted of murdering a woman whom the relatives of the woman believe is innocent of the crime.

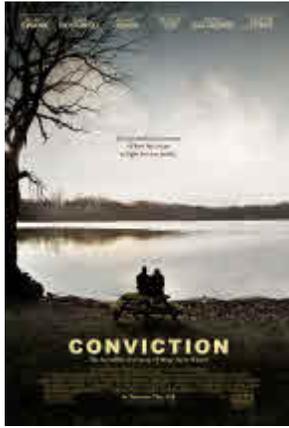
In an interview Zuohai told the *Global Times* that he "just wants to help those people who are in a similar situation" to him. "I am still a farmer, and the compensation is enough for me. I do not need to make money out of this."

An unanswered question in Zuohai's case is the identify of the body the police thought was that of the man who turned up alive.

Source: "Wrongly convicted 'murderer' becomes rights advocate," *Global Times*, November 12, 2010.

“Conviction” Was A Box Office Flop

Conviction is the big-budget Hollywood movie about the case of Kenneth Waters and his sister Betty Anne Waters years long efforts to prove his innocence of the 1980 murder of Katharina Brow in Ayer, Massachusetts. The movie had a number of bonafide stars, including two-time Academy Award winner Hilary Swank, Sam Rockwell, Minnie Driver, Juliette Lewis, and Peter Gallagher.



accounting for inflation is the equivalent of \$64.7 million today. Mr. Washington won the Golden Globe Award as Best Actor for 2000 and he was nominated for the Academy Award's Best Actor award.

In the Name of the Father (1993) starred Daniel Day-Lewis as Gerry Conlin who was one of the Guildford Four wrongly

convicted of an Irish Republican Army bombing in 1974 of a pub about 20 miles from London. The movie was a box office hit in England, and it grossed \$25.1 million in the U.S., which accounting for inflation is the equivalent of \$36.8 million today. Mr. Day-Lewis was nominated for the Academy Award's Best Actor award and the movie for Best Picture.

A Cry in the Dark (1988) starred Meryl Streep as Lindy Chamberlain who was wrongly convicted of murdering her infant daughter in Australia in 1980. It grossed \$6.9 million in the U.S., which accounting for inflation is the equivalent of \$12.4 million today. The movie was a huge box office hit in Australia where it swept all the major movie awards. Ms. Streep was nominated for the Academy Award's Best Actress award.

Conviction's poor box-office return was predictable. The week after *Conviction* opened in theaters *Justice Denied* wrote on its Facebook page:

In *Conviction's* first week of limited release it had a box office of about \$100,000. The lukewarm reviews of "Conviction" could mean that it won't spend long in theaters, and will soon be available for purchase on DVD.

Consideration of future movie projects about a wrongful conviction will definitely take into account that with so much going for *Conviction*, moviegoers simply didn't want to see it. It only grossed about half of what *A Cry in the Dark* did about an Australian wrongful conviction, and only about 10% of what *The Hurricane* grossed.

Sources:
Box Office Mojo, 2010 Domestic Grosses and Alltime Grosses, www.boxofficemojo.com
Internet Movie Data Base, www.imdb.com

Robert Lee Stinson Awarded \$25,000 By Wisconsin For 24 Years Of Wrongful Imprisonment

Robert Lee Stinson was 21 when convicted in 1985 of first-degree murder in the 1984 death of a 63-year-old woman in Milwaukee, Wisconsin. The prosecution's key evidence was the testimony by two experts that Stinson's teeth matched bites on the victim. The experts said the woman, who was Stinson's neighbor, had been bitten by a man missing a tooth, and Stinson was missing a tooth.

Stinson was sentenced to life in prison.

After more than two decades in prison Stinson was able to obtain new expert dental evidence that he was missing a tooth where the bite marks indicated a tooth should have been, and he had an intact tooth where the perpetrator didn't. In addition, DNA tests of crime scene evidence excluded Stinson as the woman's assailant.

Based on the new evidence Stinson's conviction was overturned in January 2009. Within days he was released on bail after 24-1/2 years of wrongful incarceration. His murder charge was dismissed on July 27, 2009.

In May 2010 the same DNA tests that exonerated Stinson were matched to a man convicted of rape and murder in another case. When confronted with the test results he confessed to the murder Stinson had been convicted of committing.

Wisconsin's wrongful conviction compensation statute allows a maximum award of \$25,000. Stinson filed a claim and on December 28, 2010, it was announced that the Wisconsin Claims Board had unanimously voted to award Stinson \$25,000. The board also stated it was recommending that the Wisconsin legislature approve an additional payment of \$90,000 to Stinson.

Stinson is now 46. He was 20 when he was arrested the morning after the murder by police canvassing the area. The police arrested him because they said he couldn't adequately explain his whereabouts the night before when his neighbor was murdered.

Sources:
Robert Lee Stinson, the Milwaukee man exonerated of a murder conviction, will get at least \$25K from Wisconsin Claims Board, *Appleton Post Crescent*, December 29, 2010.

Conviction was released to theaters on October 15, 2010, amid much fanfare, a national advertising campaign, and media hype that Ms. Swank could be nominated for another Best Actress Academy Award.

Conviction didn't live up to expectations and was a major box office disappointment. It only grossed \$6.8 million in the U.S. Before disappearing from theaters in December 2010.

With a production budget of \$12.5 million and several million more spent on advertising, *Conviction* grossed less than 50% of its cost. *Conviction* may be able to at least break even with DVD and Blu-Ray sales, and overseas and cable TV revenue. *Conviction* was the 139th highest grossing movie of 2010. *Toy Story 3* was number 1 with ticket sales of \$415 million.

The 2010 Golden Globe Awards Nominations were announced on December 14, 2010. *Conviction* was completely shut out of any nominations. That didn't portend well for nominations for the Academy Awards. When the nominees were announced in January 2011 *Conviction* didn't receive any Oscar nominations.

There can only be speculation why *Conviction* was such a box-office flop. To put it's gross of \$6.8 million in perspective, *Harry Potter and the Deathly Hallows — Part 1* grossed \$24 million from its midnight showing alone at theaters on November 18, and it grossed \$61.2 million during its first day in theaters.

Other movies about wrongful convictions have fared much better than *Conviction*. *The Hurricane* (1999) starred Denzel Washington as Rubin "Hurricane" Carter who was twice wrongly convicted of a 1966 triple murder in Paterson, New Jersey. It grossed \$50.7 million in the U.S., which



Jim Morrison Posthumously Pardoned For 1970 Convictions

Jim Morrison was unanimously pardoned of his 1970 indecent exposure and profanity convictions by the Florida Board of Executive Clemency on December 9, 2010. The pardon application was presented by Florida Governor Charlie Crist.

Morrison was convicted even though during his trial the State introduced dozens of photos taken at the March 1969 concert in Miami during which he announced he would expose himself, but none of the photos showed him exposed and no witness testified he did so.



Jim Morrison

Morrison was sentenced to six months imprisonment. Morrison died in Paris in 1971 before his appeal was decided.

There have been people advocating the pardoning of Morrison since the mid-1990s, and Crist backed pardoning Morrison because there was no evidence supporting his conviction.

Morrison's widow, Patricia Kennealy Morrison, opposed the pardon application because she said he hadn't done anything to be pardoned for. In a letter to Crist prior to the hearing she wrote that Jim Morrison "would hate, loathe, detest and despise the whole idea. He would think it is yet another pathetic

attempt by the State of Florida to use him for its own cheap and cynical publicity-hungry purposes, and I have no doubt but that he would rip the 'pardon' into tiny pieces."

She said after the pardon was approved:

"They should have expunged the verdict. It should have been overturned as fraud. My husband never exposed himself. There is not a single photograph showing any such thing. Of the thousands of people at that concert, who has come forward to join the one person who claims she saw him expose himself on stage? No one. Because he never did it."

Sources:

Widow of Jim Morrison - Pardon 'Meaningless'; Verdict Should Have Been Expunged, *Sunshine News*, December 9, 2010.

The Red Thumb Mark

By R. Austin Freeman

Originally published in 1907. Reprinted in 2010. 256 pages. Softcover. Fiction.

Review by Hans Sherrer

In *A Printer Looks At Fingerprints* (*Justice Denied*, Vol. 2, No. 9), Fred Woodworth mentioned a book written in 1907 that cast doubt on the reliability of using fingerprints to identify the perpetrator of a crime. However, he didn't know the title. My curiosity piqued, I did some sleuthing and was able to find the book he referred to. Imagine my surprise at finding that book, *The Red Thumb Mark*, is still in print 103 years after it was first published.

Reuben is guilty as sin! That was the police's conclusion after Scotland Yard declared Reuben Hornby's thumb-print was imprinted in blood on a paper found inside a safe burglarized of diamonds worth £30,000 (over \$250,000 in 2011 dollars). The case against Reuben seemed airtight: The safe's lock showed no signs of tampering, and only three people, including Reuben, had access to the safe.

Reuben's lawyer was so convinced of the case against him that he recommended he "plead guilty and throw himself on the clemency of the court as a first offender."

Yet if the damning evidence against him was true – why did Reuben loudly proclaim his innocence? That is the mystery that intrigued Dr. John Thorndyke enough for him to agree to investigate the case for Reuben's defense. Dr. Thorndyke was a medical doctor and a lawyer who like his

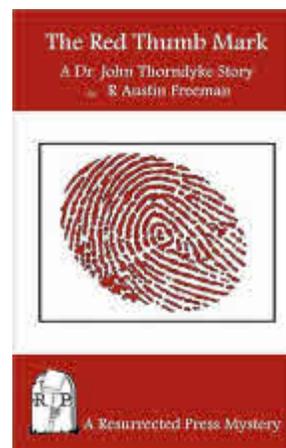
contemporary, Sherlock Holmes, used logic and deduction to solve seemingly insoluble problems.

Dr. Thorndyke began his investigation by approaching the situation from the perspective opposite of that taken by the police: Could the alleged incriminating fingerprint evidence actually prove Reuben's innocence?

During conversations with Dr. Jervis, his young assistant, Dr. Thorndyke makes many perceptive observations about the law enforcement process and his approach to a criminal case that are as relevant today as when *The Red Thumb Mark* was written more than a century ago. Three of those observations are particularly notable:

- "... the presumption of innocence is a pure fiction, the treatment of an accused man, from the moment of his arrest, is that of a criminal."
- "But there is no such thing as a single fact that 'affords evidence requiring no corroboration.' As well might one expect to make, a syllogism with a single premise."¹
- "Now the one fact which stands out and dominates the whole case is this: The prisoner's connection with this case rests solely upon the police theory of the infallibility of fingerprints."

The fruits of Dr. Thorndyke's investigation into the evidence against Reuben became public knowledge at his trial. On the most obvious level the trial testimony provides an excellent primer on why fingerprint evidence is fallible, and how easily it can be forged. While on a deeper level it demonstrates how easy it is for police and prosecutors to use



testimony related to a single supposed fact – such as a fingerprint or DNA analysis, or an eyewitnesses recollection – as the 'magic bullet' to make an accused person appear guilty. Thus a primary lesson to be learned from *The Red Thumb Mark* is that in the absence of corroborating evidence from disparate sources, a person's possible guilt must automatically be doubted.

A sub-plot that provides a bit of levity is Dr. Jervis' pining for Miss Juliet Gibson, a young woman he thinks is betrothed to Reuben, and who will marry him if he is acquitted. Dr. Jervis' desire to not do anything that even appears to compromise the honor of Miss Gibson and himself is refreshingly quaint compared to what is considered acceptable behavior in this day and age.

Is Reuben acquitted, or were Dr. Thorndyke's efforts for naught? Does Dr. Jervis get the fair maiden Miss Juliet? You'll just have to read the book to find out. *The Red Thumb Mark* is a smashing good mystery, and although it has a lot of solid information, it is a quick read since it was written for the general public and not technical readers.

The Red Thumb Mark is available for \$11 from Justice Denied's Bookshop at, www.justicedenied.org/books.htm

Endnote:

¹ Merriam-Webster's 11th Collegiate Dictionary defines a syllogism as: 1: a deductive scheme of a formal argument consisting of a major and a minor premise and a conclusion (as in "every virtue is laudable; kindness is a virtue; therefore kindness is laudable.").

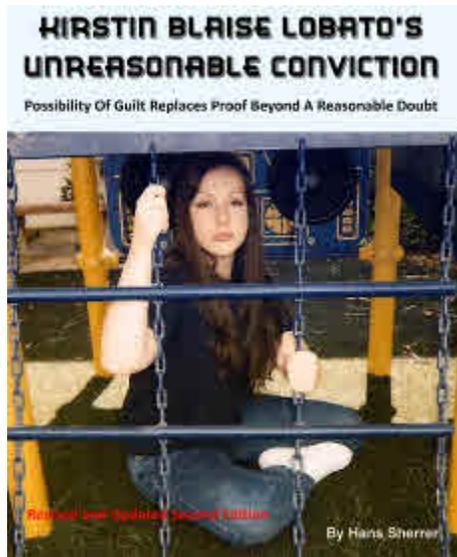
"Kirstin Blaise Lobato's Unreasonable Conviction" Updated Second Edition Now Available!

The revised and updated second edition of *Kirstin Blaise Lobato's Unreasonable Conviction* by Justice Denied's editor and publisher Hans Sherrer is now available.

The first edition was published in February 2008. The second edition includes more than 70 pages of new information, including the filing of Ms. Lobato's Nevada state *habeas corpus* petition, which is pending.

Kirstin Blaise Lobato was 18-years-old when charged with the first-degree murder of Duran Bailey in Las Vegas in July 2001. She was convicted in October 2006 of voluntary manslaughter and other charges. Her case is an example of the perfect wrongful conviction:

- She had never met Mr. Bailey.
- She didn't know anyone who knew Mr. Bailey.
- She had never been to where the murder occurred.



- At the time of the murder in Las Vegas she was 170 miles north in the small rural town of Panaca, Nevada where she lived with her parents.
- No physical, forensic, eyewitness, or confession evidence ties her to the crime.
- All the crime scene DNA, fingerprint, shoeprint and tire track evidence excludes her and her car from being at the crime scene.
- There is no evidence she was anywhere in Clark County (Las Vegas) at anytime on the day of the murder.

Ms. Lobato's prosecution for Mr. Bailey's murder is as inexplicable as if she had been randomly chosen for prosecution by her name being pulled out of a hat containing the name of everyone who lived within 200 miles of Las Vegas.

The simple fact of the matter is that there was more evidence that the men and women executed for witchcraft in Salem, Massachusetts in 1692 were guilty, than there is that Kirstin Blaise Lobato murdered Duran Bailey. Why? Because those accused witches were present at the scene of their alleged sorcery — not 170 miles away. Yet we know that the people found guilty in Salem were all innocent.

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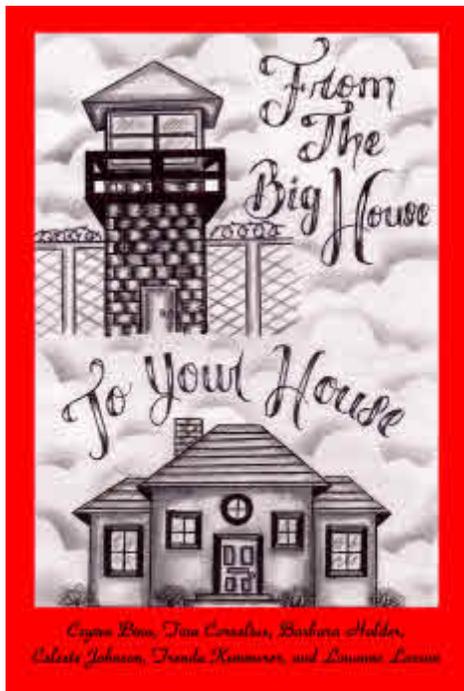
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The Criminal Law Handbook (11th ed.) (Sept. 2009) by Attorneys Paul Bergman & Sara J. Bergman-Barrett - \$39.99 - 680 pgs. Explains what goes on in a criminal case. Covers: arrests; booking; preliminary hearings; charges; bail; courts; arraignment; search and seizure; defenses; evidence; trials; plea bargains; sentencing; juveniles. Covers Supreme Court cases and changes in criminal law (through August, 2009). #10

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Eyewitness Testimony by Elizabeth Loftus - \$27.50 - 272 pgs. Professor Loftus is one of the world's leading authorities on the unreliability of eyewitness testimony. She explains the basics of eyewitness fallibility, such as poor viewing conditions, brief exposure and stress. She also covers more subtle factors, such as expectations, biases, and personal stereotypes that can result in a suspect's erroneous identification. Loftus also explains that experiments have repeatedly proven that eyewitness memory is chronically inaccurate. #21

Surviving Justice: America's Wrongfully Convicted and Exonerated edited by Dave Eggers & Lola Vollen - \$16 - 512 pgs. Thirteen exonerates describe their experiences, the events that led to their convictions, their years in prison, and their new lives outside. The exonerates tell of the devastating effect of incarceration on them and their loved ones, and how they have been forever changed by their experience. #49

No Crueler Tyrannies: Accusation, False Witness, and Other Terrors of Our Times by Dorothy Rubinsowitz - \$13 - 256 pgs. Examines some of the sex-abuse cases of the 1980s and 90s that saw dozens of innocent adults convicted of absurd charges. Included are the "sex-ring" cases in Wenatchee, Washington where 19 people were wrongly convicted of sex abuse charges. Also included is the Amtraut case in Malden, Massachusetts, where bizarre false allegations were taken seriously. #52

The Innocent Man by John Grisham - \$7.99 - 448 pgs. Best selling author John Grisham spent two years researching and writing this account of Ron Williamson's life, and how he was convicted of rape and murder and sentenced to death in Oklahoma in spite of being innocent. #95

In Spite of Innocence: Erroneous Convictions in Capital Cases by Michael Radelet, Hugo Adam Bedau and Constance Putnam - \$24.95 - 416 pgs. Details how over 400 Americans were wrongly convicted in cases carrying the maximum penalty of a death sentence. Expands on well-known 1987 Stanford Law Review article by Radelet and Bedau that has been cited several times in U.S. Supreme Court opinions, most recently in June 2006. #15

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Wrongly Convicted: Perspectives on Failed Justice Ed by Sandra Westervelt and John Humphrey - \$25.95 - 301 pgs. Articles by leading authorities explain how and why wrongful convictions occur. The book is divided into four sections: the causes of wrongful convictions; the social characteristics of the wrongly convicted; case studies and personal histories; and suggestions for changes in the legal system to prevent wrongful convictions. #18

Suspect Identifications: A History of Fingerprinting and Criminal Identification by Simon Cole - \$23.50 - 400 pgs. Most comprehensive book available about the history of fingerprinting and why it may not be the "gold standard" of evidence that most people believe it to be. Professor Cole is one of the world's leading critics of Court's allowing fingerprint examiners to testify as experts. A must have book by anyone with an interest in fingerprinting. #20

Dehumanization Is Not An Option by Hans Sherrer - \$10 - 106 pgs. Explains that the mistreatment of prisoners is not due to the rogue actions of a few "bad apples." It is a predictable response of placing people in a position of authority over others that they see as undeserving of humane treatment. This attitude of treating people barbarically is unleashed in those working in an authoritarian prison environment. #106

The I Chong: Meditations from the Joint by Tommy Chong - \$14.95 - 224 pgs. First person account of how a criminal drug case was contrived against Tommy Chong (of the comedy duo of Cheech & Chong) that resulted in him spending nine months in federal prison in 2003-2004. A straightforward account of how the federal government misuses the criminal laws to prosecute critics of political policies. Written with the heart and wit that one would expect from a professional entertainer. #86

Mistaken Identification: The Eyewitness, Psychology and the Law by Brian L. Cutler and Steven D. Penrod - \$51 - 304 pgs. Reviews research concerning the adequacy of safeguards protecting a person from being convicted due to a mistaken eyewitness identification. The presence of counsel at line-ups, cross-examination, and judges' instructions have proven ineffective at preventing a mistaken identification. Expert psychological testimony educating the jury about how memory processes work and how eyewitness testimony should be evaluated, shows much greater promise as a safeguard against mistaken identifications. #74

How to Argue & Win Every Time: At Home, At Work, In Court, Everywhere, Everyday by Gerry Spence - \$16.99 - 307 pgs. Most successful defense lawyer in American history shares his secrets to successfully convince others to see your point of view. He teaches some of these techniques to the lawyers who attend his Trial Lawyer's College in Wyoming to learn how to win. #17

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See page 9.

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