

Nancy Smith and Joseph Allen Allowed To Remain Free While Ruling Overturning Their Acquittals Is Appealed

During a hearing on February 8, 2011 Lorain County Common Pleas Court Judge James Burge surprised onlookers when he ordered that Nancy Smith and Joseph Allen will be allowed to remain free pending the judge's appeal of the Ohio Supreme Court's ruling on January 27, 2011

that overturned his June 24, 2009 acquittal of the two of 1994 convictions related to the alleged rape of children in a Head Start program. When Judge Burge acquitted Smith and Allen he stated, "I have absolutely no confidence that these verdicts are correct."

Judge Burge stands by his acquittal of Smith and Allen. He filed a motion on February 7 for the Supreme Court to reconsider its ruling. A key issue in the appeal is the Ohio Supreme Court ruled in another case on December 28, 2010 that an acquittal under Ohio Criminal Rule 29(C) is final. (See, *State v. Ross*, Slip Opinion No. 2010-Ohio-6282 (12-28-2010)). Judge Burge relied on

Rule 29(C) to acquit Smith and Allen.

Smith's lawyer announced after the hearing that if the Ohio Supreme Court doesn't reinstate the acquittals of Smith and Allen, he will be filing a motion for a new trial based on new evidence they are innocent.

For additional information about the case read "The Shame Of Lorain, Ohio – Nancy Smith And Joseph Allen Convicted Of Non-Existent Crimes," by Lona Manning, in *Justice Denied* Issue 29, Summer 2005.

Source:

Nancy Smith may seek new trial in Head Start case, *The Morning Journal* (Lorain, OH), February 9, 2011.

Arthur Tyler Remains On Death Row While Ohio Law Enforcement Protects The Real Killer

Leroy Head, has confessed on at least eleven different occasions both orally and in writing that in 1983 he alone murdered Sanders Leach in Cleveland. Head's confessions include oral and written confessions to the Cleveland police that he committed the murder by himself.

Head met Arthur Tyler the day of the murder. In exchange for testifying that Tyler

murdered Leach, Head was given the deal of life in prison with parole if he pled guilty to first-degree murder as an accomplice.

Arthur Tyler was convicted of aggravated murder based on Head's testimony. Tyler was sentenced to death and he has been on Ohio's death row for more than two decades.

Head was released on parole in June 2008. However, he could be violated and sent back to prison if he assists Tyler by recanting his trial testimony and testifying under oath that he alone murdered Leach. Head is only 47, so he could wind up spending decades behind bars before dying.

Tyler's attorney Richard Kerger wrote an article about his case that was published in *Justice Denied's* Issue 40. Kerger wrote:

"No one has ever offered a reasonable basis for Head's recantation of his many confessions, other than that the prosecutor told him that if he did not recant and point the finger at Tyler, they would seek the death penalty for him.

...

Right now the State of Ohio is sealing the lips of the actual murderer – a man who can save Tyler. Tyler's writ of certiorari to the U.S. Supreme Court was denied in the spring of 2008, and he is running out of avenues for legal redress."

JD Received Over 1 Million Hits For The First Time In January 2011

Justice Denied's webpages received over one million hits in January 2011. This was the first time the total exceeded one million in a month. That is very small potatoes compared to major general information and search websites, but it is an important milestone for a specialty website like Justice Denied that has limited resources and exists to provide information related to wrongful convictions.

Justice Denied's website was visited in January 2011 by people from 148 countries. The top ten countries were:

1. United States
2. Canada
3. United Kingdom
4. Australia
5. Germany
6. France
7. Belgium
8. Netherlands
9. Ireland
10. Poland

Tyler has supporters in the United States and other countries. Tom-Allen Wolf has written a song and produced a video about Tyler's case that you can view on the The Justice For Arthur Tyler website at www.justiceforarthur.webs.com.

For additional information read, "Arthur Tyler Is Awaiting Execution When The Actual Murderer Is Being Protected By Ohio Law Enforcement," by Richard Kerger, Esq., *Justice Denied*, Issue 40, Spring 2008.

Patricia Wright Seeks Compassionate Medical Parole

Patricia Wright was convicted in 1998 of her ex-husband's 1981 murder in Los Angeles. There is no physical or forensic evidence or eyewitness tying her to the crime, crime scene fingerprints exclude her, and she adamantly denies any involvement.

Patricia has been diagnosed with terminal fourth stage breast cancer and would like to spend her limited days at home with her family. The Board of Parole Hearings and Dept. of Corrections has indicated they have no problem with releasing Patricia on compassionate medical parole. The obstacle is Patricia's sentence of life in prison without parole (LWOP).

Patricia's sentencing judge Curtis Rappe, has stated that he will consider reducing her LWOP sentence if he receives a recommendation from one or all of the following: The Board of Parole Hearings; Governor Jerry Brown; or Matthew Cate, the Secretary of Department of Corrections and Rehabilitation. Patricia's family has begun a campaign to obtain the support of those officials, that includes posting a petition on www.change.org.

Patricia's story was in *Justice Denied* Issue 38 — "Cold Case" Detectives Close File By Fingering The Wrong Person — The Patricia Wright Story." It can be read online at, www.justicedenied.org/issue/issue_38/patricia_wright_jd_issue_38.pdf.