

Jabbar Collins Sues New York City, 7 Assistant DAs And 4 Detectives For \$150 Million

Jabbar Collins was released on June 9, 2010 after 16 years and 3 months of incarceration for a 1994 New York City murder he didn't commit. The day before his release the Brooklyn District Attorney's Office agreed to the vacating of Collins' conviction and dismissal of his murder charge with prejudice.

On February 16, 2011 Collins filed a \$150 million federal civil rights lawsuit that named as defendants the City of New York, 7 lawyers in the District Attorney's Office, 2 detective/investigators in the District Attorney's Office, and 2 NYPD detectives.

During Collins' 1995 trial the prosecution relied on three key witnesses. Two witnesses testified they saw Collins running from the building where Rabbi Abraham Pollack was shot during a robbery as he was collecting rent in an apartment building. A third testified he was with Collins when he planned the crime. Collins was sentenced to 33-1/3 years to life.

While in prison Collins acquired his GED and became a jailhouse lawyer. He filed a number of Freedom of Information (FOIL) requests for documents from the Brooklyn DA's office and he obtained information from other sources. Collins was able to document that lead prosecutor Michael F. Vecchione wasn't truthful during the trial when he said the three witnesses had not been coerced or offered anything of value in exchange for their testimony. The three witnesses were Edwin Oliva, Adrian Diaz, and Angel Santos.

Collins discovered that Oliva testified he overheard Collins' plotting to kill Pollack, in exchange for not having his "work release" from prison terminated. Yet Vecchione told the jury during his closing argument the defenses' suggestions Olivia had received something in exchange for his testimony was "absurd" and "laughable."

Collins discovered that prosecutor Vecchione accompanied Diaz from Puerto Rico, and that in exchange for his testimony that he saw Collins' running from the crime scene, a probation violation by Diaz was eradicated.

Collins discovered that Angel Santos only agreed to testify after prosecutor Vecchione held him in jail for two weeks, threatened to



Jabbar Collins on the day of his release (Frank Franklin II - AP)

hit him on the head with a coffee table, and threatened him that he was "going to be in jail in a long time" if he didn't testify that he saw Collins' running from the crime scene.

Collins' filed a state *habeas corpus* petition based on his new evidence. After it was denied in 2007 without a hearing he filed a federal *habeas corpus* petition. U.S. District Court Judge Dora Irizarry ordered an evidentiary hearing during which the prosecutors – including Vecchione – police officers, and civilian witnesses would testify. Judge Irizarry ordered the hearing over the State's strenuous objection, stating: "What is the fear of going forward? It makes all the sense to me to have the hearing and let the parties air it out and let the chips fall where they may."

After Santos testified as the first witness, and detailed Vecchione's conduct that resulted in him testifying perjurally during Collins' trial, the Brooklyn DA's Office told Judge Irizarry they would consent to an order vacating Collins' conviction and dismissal of his indictment "with prejudice," which would prohibit a retrial. In Judge Irizarry's Final Judgment Order that she signed on June 8, 2010, she wrote that she found Santos' "trial testimony had been obtained under the duress of threats of "jail" and "physical abuse," apparent drug withdrawal, actual imprisonment as a "material witness" without any proper legal proceeding or assignment of counsel, and the threat of possible prosecution for perjury. She found that Santos had been "scared stiff." She also wrote that Collins had "well documented evidence that prosecutors withheld evidence and misled the jury."

In addition Judge Irizarry wrote, "It is really sad that the D.A.'s Office persists in standing firm and saying that they did nothing wrong here. It is, indeed, sad." She also wrote that the DA's conduct in Collins' case had been "shameful," and that what the DA's Office did to Collins and his family was "a tragedy." Judge Irizarry concluded that "based on the evidence before her, that "no reasonable juror would have been able to find" Plaintiff guilty beyond a reasonable doubt."

In response to media publicity about the prosecutor's wrongdoing in Collins' case, Brooklyn District Attorney Charles J. Hynes announced he believes Collins is guilty, that Vecchione did nothing wrong, and there would be no investigation of his conduct and that of other people in the

Brooklyn DA's Office.

Joel Rudin is the New York lawyer who worked on Collins case from 2005 until his charges were dismissed in 2010, and he is Collins lawyer for the lawsuit filed on February 16, 2011. Among the lawsuit's claims is the allegation there is "compelling evidence that prosecutors in the Office of Brooklyn District Attorney Charles J. Hynes had wrongfully withheld a key witness's recantation, had knowingly coerced and relied on false testimony and argument at trial, had knowingly suppressed exculpatory and impeachment evidence, and had acted affirmatively to cover up such misconduct for 15 years."

The lawsuit includes an exhibit detailing that since Hynes became DA in 1990 there have been at least 56 cases in which judges have found Brooklyn prosecutors failed to turn over exculpatory evidence to a defendant or otherwise engaged in misleading tactics. Not a single prosecutor in the Hynes office has been disciplined for their misconduct.

Collins' lawsuit is *Collins v City of New York, et al*, No. CV1-00766 (2-26-2011).

Sources:

Collins v City of New York, et al, No. CV11-00766 (2-26-2011), and attached exhibits.

"The Foul Politics of Prosecution," by Jeffrey Deskovic, *The Westchester Guardian*, July 1, 2010.

Conviction is now available for purchase and rental on DVD and Blu-Ray

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 has a number of bonafide stars, including two-time Academy Award winner Hilary Swank, Sam Rockwell, Minnie Driver, Juliette Lewis, and Peter Gallagher.

Conviction was released to theaters on October 15, 2010, amid much fanfare and a national advertising campaign. It is now available for purchase and rental on DVD and Blue-Ray.

You can read information about *Conviction* and reviews by critics at, www.rottentomatoes.com/m/conviction_2010