

## Four Men Exonerated 38 Years After Convictions For Singing Anti-Soviet Song In Pub

Twenty-two years after the fall of communism in Czechoslovakia, the Czech Supreme Court on June 22, 2011 quashed the convictions of four men sentenced to prison in 1973 for singing an anti-Soviet song in a Prague pub.

Ivan Martin Jirous, Eugen Brikcius, Jaroslav Korán and Jirí Daníček were drinking beer at the U Plavců pub in central Prague on July 28, 1973. Jirous was a poet and leader of the Plastic People of the Universe, a nonconformist rock band banned by the communist regime, and the other three were literary rebels involved in the underground movement against the communist regime. The men began singing songs, and the lyrics of one of the songs described driving the Russians to hell where they belong. A captain in the Czech secret police (StB) was in the pub and he called the police. The four men were arrested and charged with defamation of the Soviet Union and hooliganism



Ivan Martin Jirous in 2011. (ISIFA)

of the Soviet Union. Jirous was sentenced to ten months in prison and it was ordered that he undergo psychiatric treatment. The other three defendants were sentenced to 8 to 12 months in prison.

After they completed their sentences, Jirous continued to stand up to Czechoslovakia's communist regime and he spent another seven and a half years in prison, during which time he wrote one of his most acclaimed books of poetry. Brikcius left Czechoslovakia

and settled in Vienna. Daníček worked as a manual labourer until the fall of communism, after which he founded a publishing house. Daníček is now the head of the Czech Jewish communities' federation. Korán translated Kurt Vonnegut, William S. Burroughs and other authors into Czech, and he became Prague's first post-communist mayor.

The Czech Republic's Jus-

(disturbing the peace).

The men were convicted of hooliganism and defamation

of the Russian nation. Jirous was sentenced to ten months in prison and it was ordered that he undergo psychiatric treatment. The other three defendants were sentenced to 8 to 12 months in prison. After they completed their sentences, Jirous continued to stand up to Czechoslovakia's communist regime and he spent another seven and a half years in prison, during which time he wrote one of his most acclaimed books of poetry. Brikcius left Czechoslovakia and settled in Vienna. Daníček worked as a manual labourer until the fall of communism, after which he founded a publishing house. Daníček is now the head of the Czech Jewish communities' federation. Korán translated Kurt Vonnegut, William S. Burroughs and other authors into Czech, and he became Prague's first post-communist mayor.



Eugen Brikcius

After the Court announced its ruling Eugen Brikcius told Radio Praha:

"I don't want to sound pretentious, but I think the ruling is self-evident. Even though it was a joke, what we did was a public declaration of disapproval with the restriction of freedom, a fundamental human right."

With their convictions quashed, the four men can seek compensation from the Justice Ministry for their wrongful imprisonment. The U Plavců pub is still a popular meeting place in central Prague.

Sources:

[Czech court quashes communist conviction](#) of Plastic People member, Czechposition.com, June 22, 2011  
[Top court cancels 1973 verdict](#) that sent four writers to jail for anti-Soviet song, Radio Praha, June 22, 2011



U Plavců pub in central Prague (Marek Novotný)

## Lynette Stewart Cleared Of A Sexual Assault That Didn't Happen

The November 2005 trial of Lynette Kaye Stewart and Kristina Rachael Oliver was national news in New Zealand. Stewart and Oliver were a lesbian couple, and it was reported they were the first women prosecuted in the history of the country on charges related to women sexually assaulting another woman.

Stewart and Oliver lived in Masterton about 60 miles northwest of New Zealand's capital of Wellington. The prosecution alleged that the night after Stewart and Oliver had a meal with a woman at their home in 2003, they lured her back on the pretext of having coffee with them. The prosecution alleged that Oliver then physically assaulted and sexually penetrated the woman against her will with Stewart encouraging her. The prosecution's key evidence was the testimony of the alleged victim. Stewart and Oli-

ver's defense was that the alleged victim fabricated her story of an assault and that no sexual encounter occurred.

The jury convicted Oliver of two counts of assault and one of sexual violation, and Stewart was convicted as a secondary party to the count of sexual violation. Oliver, 33, was sentenced to six years in prison, and Stewart, 38, was sentenced to two years in prison.

Stewart's appeal was denied by the Court of Appeals in 2006. Oliver's appeal incorporated new medical evidence discovered after Stewart's appeal: expert medical examination of the alleged victim's medical records was inconsistent with her claim that she had been sexually assaulted. Based on that new evidence Oliver's conviction was quashed by the Court of Appeal in 2007 and her retrial was ordered. She was released on bail pending her retrial.

During Oliver's retrial in February 2008 the prosecution didn't present any evidence and she was deemed to have been acquitted.

Stewart then filed a second appeal based on the ground that her conviction should be quashed since it was based on her being a secondary party to the assault Oliver was acquitted on retrial of committing. Since Oliver's acquittal was based on new evidence supporting that no assault took place, Stewart argued she had been convicted of a crime there was no evidence had even occurred. The prosecution conceded "that a substantial miscarriage of justice has occurred" in Stewart's case and did not oppose her appeal.

New Zealand's Supreme Court quashed Stewart's conviction on June 2, 2011 in *Lynette Kaye Stewart v The Queen*, [2011] NZSC 62. The Court stated in part:

[7] Ms Oliver and Ms Stewart were jointly charged and tried together in the District Court on the same evidence, and Ms Oliver was the only possible principal offender. The doubt cast by the medical evidence led during Ms Oliver's appeal must therefore have a direct bear-

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## Réjean Hinse Awarded \$13.57 Million For 5 Years Wrongful Imprisonment For Armed Robbery

Réjean Hinse was convicted in 1964 and sentenced to 15 years in prison for being one of a number of men who staged the 1961 armed robbery of a couple in their home in Mont-Laurier, Quebec. Hinse, 24 at the time of the robbery, insisted he had nothing to do with the crime.

Hinse served five years of his sentence before he was paroled in 1969. He continued to pursue overturning his conviction, and he was able to get three of the five actual robbers to sign sworn statements that he wasn't involved in the robbery. His persistence also paid off by initiation of a review of the case by the Quebec Police Commission, which in 1989 determined the Mont-Laurier police botched their investigation of the robbery. Based on the new evidence Hinse filed an appeal with the Quebec Court of Appeal, which in 1991 overturned his guilty verdict. However, the appeals court issued a stay of the proceedings, which barred his retrial and the opportunity for his acquittal by a jury. Hinse appealed the stay to the Canadian Supreme Court, which in January 1997 ruled in *R. v. Réjean Hinse* [1997] 1 S.C.R.:

In the circumstances, being of the view that the evidence could not allow a reasonable jury properly instructed to find the appellant guilty beyond a reasonable doubt, we are all of the view that the ap-

### Stewart cont. from page 9

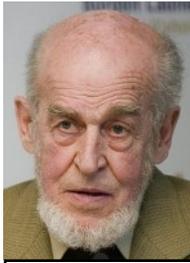
ing also on whether Ms Stewart could be found to have committed an offence. Where Ms Oliver has been discharged at retrial for a want of evidence that she had committed any offence, it would amount to an "unjust inconsistency" and a substantial miscarriage of justice to allow Ms Stewart's conviction to stand.

Although both Stewart and Oliver were vindicated, it was only after Stewart served her two-year sentence and Oliver served more than a year of her six-year sentence.

#### Sources:

[Lesbian couple jailed](#) for sexually violating woman, New Nation News Reporters Newsroom, December 8, 2005

[Lynette Kaye Stewart v The Queen](#), [2011] NZSC 62 (NZ Supreme Court, June 2, 2011)



Réjean Hinse on April 14, 2011. (Graham Hughe, Canadian Press)

appropriate remedy is an acquittal.

Accordingly, the appeal is allowed, the stay of proceedings order is set aside and the acquittal of the appellant is entered.

Acquitted of the robbery, Hinse sought compensation. When it was denied he filed a lawsuit against the Province of Quebec and Canada's federal government. The bench trial began in November 2010 and lasted for six weeks. While the judge was deliberating her decision, Hinse agreed to settle his claim against Quebec for \$4.5-million (Canadian). The federal government refused to settle, and Quebec Superior Court Judge Héléne Poulin ruled on April 14, 2011 they were liable for \$8.6 million. In her ruling Judge Poulin was critical of federal officials for stonewalling and "cruelly ignoring" Mr. Hinse's pleas of his innocence, and she said how do you "set a price for the pain of someone who was unjustly, all his adult life, identified by his colleagues, neighbours and others as a violent robber, and who

spent 50 years of his existence in the shadow of the criminal he wasn't?"

The total amount to be paid Hinse is \$13.1-million (Canadian) -- which equaled \$13,566,360 in U.S. dollars at the exchange rate on the day of the judge's ruling.

Hinse is now 73. He told reporters after the judge's award was announced that even though he has been out of prison since 1969, he feels like he spent his life in a "psychological prison" from being convicted of a crime he didn't commit.

If Hinse had been convicted in the U.S. and defied the odds by succeeding in having his conviction overturned, and he had then defied the odds and prevailed in a civil rights lawsuit, his monetary award for five years in prison for robbery could have been expected to be a fraction of what he was awarded in Canada.

#### Sources:

[R. v. Réjean Hinse](#) [1997] 1 S.C.R. 3.

[Man wrongly convicted](#) tells his side of the story, *Montreal Headlines Examiner*, November 4, 2010.

Quebec man wins largest award for wrongful conviction, *The Globe and Mail* (Toronto), April 14, 2011.

## Swedish Woman Sued For Libel For False Rape Claim

In 2008 a Swedish woman vacationing on the Greek island of Samos reported to the local police on the last day of her stay that the previous evening she had been beaten and raped. The woman, whose first name is Anna, returned to Sweden that day as scheduled without undergoing a medical exam.

In 2009 Anna learned that Greek authorities did not file rape charges because they didn't believe a crime had occurred. She also learned the Greek authorities doubted the truthfulness of her account because of Swedish women reporting a rape, and then making a claim for insurance upon their return home. In Sweden a woman can claim compensation for an alleged rape under a special clause in their home insurance.

The public prosecution office on Samos informed Anna in April 2011 that the man she accused was suing her for making a false rape accusation and libel. After she received a summons for a court appearance in May, she told a Swedish television station there was "not a chance" she would voluntarily return to Greece. Since Sweden and Greece are members of the European Union, Greece may have the option to pur-

sue Anna's extradition.

*Xaniotika Nea* is a paper in Crete that recently published the article "Rape as an industry to reap benefits," in which Greek medical examiner Stamatis Belivanis said about Swedish women, "They come here on vacation and then a day or so before leaving, after having sexual relations with someone, they report a rape. Back home they try to claim on the insurance."

That women in some countries financially benefit after reporting being raped while on vacation adds a dimension of believability to the claim by the man involved in those cases that they engaged in consensual sex with their accuser.

#### Source:

[Swedish women fake rape](#) to claim payouts, *The Local*, April 15, 2011.

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