

## Two Men Wrongly Imprisoned For 29 Years Acquitted Of Murder

Takao Sugiyama and Shoji Sakurai were acquitted on May 24, 2011 of a 1967 robbery and murder in Tone, Japan. Convicted in 1970 and sentenced to life in prison, the two men were released on parole in 1996 after 29 years of incarceration.

Sugiyama and Sakurai, both 20, were arrested in October 1967 on suspicion of robbing and murdering a 62-year-old carpenter in Tone, about 40 miles northwest of Tokyo. They were charged with the crimes after they both confessed, although they retracted their confessions claiming they had been coerced by the police. An eyewitness also identified them as the perpetrator.

During their October 1970 trial they protested their innocence, but they were convicted based on their confessions and the eyewitness identification. They were sentenced to life in prison.

Their convictions were affirmed on appeal and they were released on parole in November 1996 — 29 years and 1 month after their arrest.

In 2001 Sugiyama and Sakurai filed a petition for a retrial. The petition was granted in 2005 by a High Court judge who found that the police pressured the men into signing confessions that didn't fit the facts of the crime. The judge also found it likely the police interview tapes had been edited, and



Shoji Sakurai (left) and Takao Sugiyama during their retrial.

that the men's convictions had been based on their dubious confessions. The prosecution appealed that ruling, but it was upheld by the Tokyo High Court in July 2008 and then by Japan's Supreme Court in December 2009.

Their retrial in the Mito District Court in Tsuchiura began in July 2010. The prosecution's case was again based on their confessions and the eyewitness identifications. Sugiyama and Sakurai's defense was the hairs and fingerprints found at the crime scene didn't match either man; the circumstances of the eyewitness identifications made them unreliable; they introduced the exculpatory testimony of a new eyewitness, a 78-year-old woman; and their confessions were false and coerced by the police. Their lawyers introduced evidence that an acoustics expert analyzed the audio tape of Sakurai's "confession" and discovered it had been edited in 13 places.

After the trial concluded in November 2010, the court was scheduled to announce its decision on March 16, 2011. However, it was rescheduled because the devastating earthquake and tsunami that struck Japan on March 11 crippled railways and other transit.

On May 24, 2011 presiding Judge Daisuke Kanda announced the acquittal of Sugiyama and Sakurai, based on the lack of objective evidence linking them to the crime, that the physical evidence excluded them from the crime scene, and that the eyewitness accounts lacked credibility. By acquitting the men the Court placed no weight on their confessions.

Sugiyama and Sakurai, both 64, can now pursue compensation for their 44-year ordeal.

National publicity about Sugiyama and Sakurai's case intensified the public debate in Japan that the country's legal system needs major reforms, particularly related to the law that allows a suspect to be jailed for up to 23 days and interrogated from morning to night. During those 23 days a suspect's lawyer is allowed only limited access to meet with their client. That law is one reason why Japan has a 99% conviction rate, and those convictions are typically based on a confession.

Sources:

[Japan's justice system on trial](#), *The Australian*, July 10, 2010.  
[Court acquits pair](#) after serving decades in jail, *The Japan Times*, May 25, 2011,  
[Japan court acquits two](#) after decades in jail, *AFP*, May 24, 2011.



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In 1993 Caldwell's trial lawyer, Craig Kenneth Martin, [was suspended](#) from practicing law for six months, but that punishment was stayed and he was placed on probation for a year. In 1996 Martin was [again suspended](#) from practicing law. His two year suspension was stayed and he was placed on three years of probation with an actual 90-day suspension. That was the fourth time Martin had been disciplined by the California Bar Association. On July 22, 2010 [Martin was](#) [disbarred](#) by the California Supreme Court from practicing law in California.

On December 16, 2010 Caldwell's petition for a new trial was granted based on Martin's ineffective assistance of counsel.

In January 2011 the San Francisco District Attorney's Office refiled the murder charge against Caldwell and announced their inten-

tion to retry him based on Cobbs' trial testimony that would be read into the record.

Caldwell's new lawyer filed a pre-trial motion challenging his retrial on the basis his due process right to a fair trial would be violated because he would not be able to cross-examine Cobbs, and the trial exhibits, such as the photos Cobbs referred to in her testimony, had been destroyed by the court. The judge agreed and ruled that Cobbs' testimony from Caldwell's first trial was inadmissible.

After the judge's ruling the DA offered Caldwell a deal: If he would plead guilty to voluntary manslaughter, attempted murder, and shooting into an occupied vehicle he would be sentenced to time served and released immediately. Caldwell refused the plea deal, stating he was innocent.

On March 25 the DA's Office moved to

dismiss the charge against Caldwell on the basis they couldn't proceed without Cobbs' testimony, and the judge ordered Caldwell's release from prison.

Caldwell, now 43, was released on March 28 after almost 21 years of wrongful incarceration.

The DA's Office refuses to admit that Caldwell is innocent, stating that they just don't have any evidence to prove he is guilty.

Sources:

[Conviction of S.F. man](#) in prison 21 years set aside, By Rachel Gordon, *Chronicle Staff Writer*, *San Francisco Chronicle*, December 17, 2010.  
[Retrial Set After '91](#) San Francisco Murder Conviction Tossed, *CBS San Francisco*, January 20, 2011.  
[Man convicted of murder](#) released from jail, *ABC Channel 7 (San Francisco)*, March 28, 2011.  
[Supreme Court Minutes](#), Thursday, July 22, 2010, *San Francisco, California*.

