

Conspiracy Convictions Of 20 Environmental Activists Overturned Because Prosecution Concealed Exculpatory Recordings And Reports

The convictions of 20 people in December 2010 for conspiracy to commit aggravated trespass have been quashed by England's Court of Appeals after it was discovered after their trial that the prosecution failed to disclose recordings and notes made by an undercover policeman that

Strauss-Kahn cont. from p. 19

Strauss-Kahn's passport was returned on August 25, and he left the U.S. for France on September 1.

Since Diallo has admitted that she committed perjury about her non-existent gang rape on her application for asylum in the U.S., it is possible she will be deported back to Guinea.

An [excellent summary](#) of Strauss-Kahn's case is on the False Rape Society website.

If it wasn't for Strauss-Kahn's financial resources and social position it is questionable if the prosecutors would have delved into Diallo's past and vetted her story as thoroughly as they did — after initially rushing to the judgment that he was guilty and having him arrested and indicted on what turned out to be perjurious testimony by Diallo. If Strauss-Kahn had been a regular Joe who had to depend for his defense on an overworked public defender, he very well could have wound up convicted and sentenced to spend decades in prison — where he very possibly could have died given his age.

In May 2012 Strauss-Kahn filed a \$1 million lawsuit against Diallo claiming her baseless accusations cost him his job as managing director of the International Monetary Fund and "other professional opportunities."

Sources:

[Strauss-Kahn](#) Indicted, Granted Bail, *Fox 5 News*, New York, New York

[Hotel Housekeeper](#) Sues Strauss-Kahn, *The New York Times*, August 8, 2011

[Manhattan](#) DA's Motion To Dismiss, Filed on August 26, 2011

[Women's advocates](#) do disservice to rape victims by telling them that justice was not served in the DSK case, [FalseRapeSociety.blogspot.com](#), August 26, 2011

[Strauss-Kahn](#) Sues Housekeeper, Saying She Hurt His Career, *The New York Times*, May 15, 2012

proved their defense.

The UK's third-largest coal-fired power plant is in Nottinghamshire about 130 miles north of London.

In April 2009 hundreds of climate change activists were planning to peacefully occupy the power station so they could shut it down for a week to stop 150,000 tons of CO2 from entering the atmosphere. Days before the planned occupation the protester's headquarters were raided by the police and 114 protestors were arrested.

Twenty of the activists charged with conspiracy to commit aggravated trespass went on trial in December 2010. The facts underlying the case were not in dispute: the 20 defendants admitted planning to occupy the power plant to try and shut it down. What was in dispute was their intent. The prosecution contended the planned occupation was illegal because it was intended as a publicity stunt to draw attention to climate change, while the activist's defense was that under the "law of necessity" their planned action was legal because they believed it was necessary to protect the public's health from the power plant's dangerous emissions.

The jury convicted all 20 defendants, and three weeks later the judge issued sentences of up to 18 months in prison that were suspended pending good behavior.

One of the most vocal activists was Mark Stone whose nickname was "Flash" because he always had money. He drove the car on the initial reconnaissance of the power plant and he rented a 7½-ton truck to be used on the day of the occupation. He was arrested with the other protesters but when the charges against him were dropped some of his colleagues became suspicious. In October 2010 they discovered a passport bearing his real name Mark Kennedy. They eventually unearthed documentary proof he had been a policeman since around 1994, which Kennedy admitted when he was confronted with the evidence.

Days after the trial in December 2010 London's *Sunday Times* [reported that Kennedy](#) began working in 2004 as an undercover police officer infiltrating social activist groups. He was paid about \$80,000



Ratcliffe-on-Soar Power Station in Nottinghamshire, England (Lady Wulfrun)

(£50,000) a year and he traveled with a false passport to 22 countries in his role as an activist to gather intelligence information on environmental groups. The revelations about Kennedy triggered a public firestorm in England about the police monitoring of environmen-

talists.

Six other activists were scheduled to go on trial January 10, 2011, and Kennedy announced he would testify as a defense witness. Three days before the trial was to begin the prosecution provided the defendant's lawyers with transcripts of recordings that Kennedy had made of meetings during which planning of the power plant occupation was discussed. They were also provided Kennedy's written reports that confirmed the information in the recordings. The prosecution also informed the lawyers that they weren't going to offer any evidence against the six defendants. The trial was delayed and the charges were subsequently dismissed.

The key evidence in the recordings and Kennedy's reports was that the protesters were motivated to act because they believed the power plant's emissions posed a serious and immediate threat to the public's health. The protests leaders also stressed the importance of not causing harm to any person or damaging property. That new evidence not only supported the "necessity" defense of the 20 defendants convicted in December, but it was contrary to the prosecution's claim during their trial that they were only seeking publicity.

In their appeal the 20 defendants relied on the new exculpatory evidence the prosecution had failed to disclose prior to their trial, even though it was obligated to do so.

On July 20, 2011 England's Court of Appeals quashed all 20 convictions. [The Court described](#) Kennedy's role "as an enthusiastic supporter" in the planned power plant protest as "arguably, an agent provocateur," because he had "a significant role in assisting, advising and supporting...the very activity for which these appellants were prosecuted." (¶13) The ruling in [Barkshire and Others vs The Queen](#) (Court of Appeal (Criminal Division), July 20, 2011) states in part:

One of the contentions advanced by the Crown at trial was that the protesters main objective was "publicity" for their



Mark Kennedy, aka Mike Stone, undercover cop who infiltrated environmental groups for 7 years

Environmental cont. on p. 21

Environmental cont. from p. 20

cause, rather than a genuine, if mistaken, attempt to address any imminent problem arising from carbon emissions. However the transcripts of the recordings made by Kennedy show that during the course of briefings on 12th April one of the appellants, Spencer Cook, and indeed another person who was never prosecuted, show they placed great emphasis on the objective of the intended actions. This was to bring about an enormous reduction in carbon emissions by keeping the power station closed for seven days. In other words, this material tended to show that this was not a mere publicity stunt. It is also clear that during the course of the briefings those who were present were advised that they did not need to get involved if they did not wish to do so. The importance of safety and non violence and the avoidance of criminal damage to property were underlined. (¶15)

...
In summary these convictions were quashed because of the failure of the Crown to make proper disclosure of material relating to the role and activities of the undercover police officer, Mark Kennedy as well as of materials which had the potential to provide support for the defence case or to undermine the case for the prosecution. These materials were pertinent to a potential submission of abuse of process by way of entrapment and in any event they had the capacity to support the defence of necessity and justification. The trial was rendered unfair and the convictions are unsafe. Accordingly they were quashed. (¶32)

Five official investigations were launched in the wake of the public revelations about Kennedy's infiltration of environmental groups for seven years and his active role in planning and preparing for the power plant protest.

Kennedy has reportedly resigned from the Metropolitan Police.

Sources:

[David Robert Barkshire and Others vs The Queen](#) (Court of Appeal (Criminal Division), 7-20-2011)

[Ratcliffe power](#) station protesters cleared on appeal, BBC News, July 19, 2011

[Cleared power](#) station activists tell of fury over 'rigged trial', *London Evening Standard*, July 25, 2011

[Undercover officer](#) spied on green activists, *Guardian* (London), January 9, 2011

[7-year snitch](#): 'Flash' the activist is a secret cop, *The Sunday Times*, December 19, 2010

In Memoriam: Robert B. Waterhouse — 1946-2012

By Robert Waterhouse

Ten years ago [I wrote in *Justice Denied*](#) about my namesake, Robert B. Waterhouse, who had been on the Florida Department of Corrections' Death Row since September 1980. On February 15 2012 he was executed, maintaining to the last that he did not murder Deborah Kammerer, despite being denied the right to have DNA evidence tested which might have proved his innocence (law enforcement authorities claimed the evidence had inadvertently destroyed).

But I'm not writing about innocence or guilt here. I spelt out the "facts" of the case in my previous article (you can read it at, www.justicedenied.org/robertwaterhouse.htm). It's a sad but all-too-common litany of injustice on the part of the courts and the system, simply added to by the flurry of appeals as his execution date approached. In fact, his execution was delayed two hours while waiting for the final appeal to be inevitably denied. What was he thinking at that point?

This obituary of my friend will be short.

I met and corresponded with a man who, via his wife Frances (she married him when he was on Death Row), via the small monochrome TV in his cell, and via writing to people like me, somehow kept in touch with the outside world. He had strong likes and dislikes about politics, society, people and sport. We argued the toss on many occasions.

Over the time I knew him he became more and more cynical. I was told he mistrusted his attorney and that he bickered with Frances, who offered him nothing less than unquestioning love. She worked all hours to support him, visiting every weekend.

I found it increasingly hard to write to him – to say anything that made sense. I have no idea what he thought of the letters or cards I sent each day during his final three weeks: he never replied.

Whatever this man may or may not have done, he was destroyed by the system long before that lethal injection. He was tortured in the name of justice, like every other Death Row inmate. Perhaps the worst torture, over 31 years of hell, is the hope that there might somehow be a reprieve.

I feel I let my friend down. In the final count,



Robert B. Waterhouse,
December 16, 1946 -
February 15, 2012.
(Florida DOC)

I was unable to help him. He went to his end, a sick man physically, jeered at by the pro-Death lobby which had suddenly rediscovered his case. He needed a doctor, not an executioner. I miss him.

(JD Note: "The Robert Waterhouse Story," by Robert Waterhouse, was in *Justice Denied*, Issue

21. [Click here](#) to read the article.)

"Kirstin Blaise Lobato's Unreasonable Conviction" Updated Second Edition

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 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 and she had never been to where he was killed..
- 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.
- There is no evidence she was anywhere in Clark County (Las Vegas) at anytime on the day of the murder.

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