

Massachusetts Conviction Overturned Because Right To Confront Document Preparer Violated

Peter L. Parenteau's conviction in 2009 for driving with a revoked driver's license was [set-aside](#) by Massachusetts' Supreme Judicial Court on June 10, 2011. The SJC ruled Parenteau had been denied his Sixth Amendment right to confront and cross-examine the person who prepared the document the prosecution relied on to prove he had been informed his license was revoked.

Parenteau pled guilty in April 2007 to driving under the influence of intoxicating liquor in Massachusetts. In sentencing Parenteau the judge told him his driver's license would be revoked for two years.

More than two years later, in May 2009 Parenteau was parked at a Gulf service station in Boxborough when a police officer ran his license plate. The officer learned that Parenteau was the registered owner of the vehicle and that he had a revoked driver's license. The officer confronted Parenteau, and even though he produced a valid driver's license the officer arrested him for driving with a revoked license.

Prior to Parenteau's trial the prosecution provided his lawyer with a certification from the Registry of Motor Vehicles dated July 24, 2009, that showed he had been mailed a notice on May 2, 2007 that his driver's license had been revoked for ten years. Parenteau's lawyer filed a *motion in limine* to exclude the certification on the ground that it violated his right to confront the witness against him — namely whoever allegedly prepared and mailed the notice in May 2007. The judge denied the motion and Parenteau was subsequently convicted.

Parenteau appealed and on June 10, 2011 Massachusetts' Supreme Judicial Court overturned Parenteau's conviction, ruling that a certificate issued by the Registry of Motor Vehicles cannot be used as evidence that a person has been notified their driver's license



Gulf gas station in Boxborough, MA where Peter L. Parenteau was arrested (Google streetview)

has been revoked. Based on the U.S. Supreme Court's 2009 ruling in [Melendez-Diaz v. Massachusetts](#), 129 S.Ct. 2527 (2009), in which the Court ruled that the expert conducting a drug-test is required to testify — and must be available for cross-examination — about their findings in court, the SJC ruled that introduction of the certificate violated Parenteau's Sixth Amendment right to confront the witness testifying against him, which would be the person who allegedly mailed the certificate. The SJC stated in [Commonwealth vs. Peter L. Parenteau](#), SJC-10763 (6-10-2011):

We conclude that the registry certificate, like a certificate of drug analysis, is testimonial in nature. It is a solemn declaration made by the registrar for the purpose of establishing the fact that a notice of license revocation was mailed to the defendant on May 2, 2007, and, by inference, was received by him. The registry certificate was dated July 24, 2009, nearly two months after the criminal complaint for operating a motor vehicle after license revocation had issued against the defendant. As such, it plainly was made for use at the defendant's trial as prima facie evidence that he was notified of his license revocation, an essential element of the charged crime that the Commonwealth was required to prove. The certificate did not simply attest to the existence and authenticity of records kept by the registry but made a factual representation based on those records that a particular action had been performed—notice had been mailed on a specified date. The mere existence of a copy of the notice of license revocation in the registrar's files did not, in and of itself, constitute proof that it was mailed to the defendant. Because the certificate is a testimonial statement, its admission at trial in the absence of testimony from a registry witness violated the defendant's Sixth Amendment right to confrontation.

Since there is no evidence Parenteau was notified his license was revoked for ten years instead of the two years the judge told him during his sentencing hearing, his conviction for driving with a revoked driver's license was set-aside by the SJC.

The principles set forth in [Melendez-Diaz v. Massachusetts](#), and in the USSC's earlier decision in [Crawford v. Washington](#), 541 U.S. 36, 59 (2004) about a defendant's Sixth Amendment right to confront and cross-examine witnesses are applicable to many wrongful conviction cases.

Sources: [SJC overturns '09 conviction](#), *Boston Globe*, June 11, 2011

Vladek Filler Acquitted After Retrial Of Sexually Assaulting His Estranged Wife

Vladek Filler was acquitted by a jury in Hancock County, Maine on May 27, 2011 of sexually assaulting his estranged wife Ligia. Filler was retried after the Maine Supreme Court overturned his January 2009 sexual assault conviction and ordered a retrial.

Filler and his wife lived in Gouldsboro, Maine when they separated in 2007 with the intention to divorce. Filler told his estranged wife that he was planning to move from Maine to Georgia where his relatives lived, and that he wanted the couples two young children to move with him. She then filed a criminal complaint that on one occasion Filler anally raped her and on two other occasions physically abused her. After doing that she filed for a protection order and an order granting her full custody of their children. She also included the allegations in a subsequent divorce petition.



Vladek Filler during May 2011 trial (John Clarke Russ, BDN)

Filler was charged with rape, gross sexual assault, and two misdemeanor counts of assault. There was no evidence of that Ligia had been raped because she refused to have a medical examination even though the police encouraged her to do so.

During Filler's trial his defense was that after learning he wanted to move to Georgia his wife fabricated the rape allegation and grossly exaggerated arguments they had by claiming they were assaults in order to obtain custody of the couple's children. The prosecution objected when Filler's lawyer attempted during his cross-examination of Filler's wife to impeach her credibility by questioning her about the custody dispute and the timing of her making criminal accusations against her husband. The judge sustained the prosecution's objection based on his opinion that her testimony would amount to litigation of the still unresolved "custody issues and that's not what this case is about."

Then during its rebuttal argument the prosecution argued that Filler had not presented any evidence supporting his claim that it wasn't until after his wife realized they

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Anthony Graves Awarded \$1.45 Million Compensation For 18 Years Wrongful Imprisonment

Anthony Graves has received \$1.45 million compensation from the State of Texas for 18 years incarceration for six 1992 murders he didn't commit.

Graves was convicted in 1994 of murdering 45-year-old Bobbie Joyce Davis, her 16-

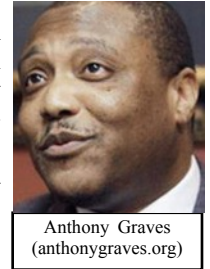
year-old daughter Nicole, and four grandchildren, ages 4-9 in 1992. He was jailed from 1992 until the time of his trial.

There was no physical or forensic evidence linking Graves to the murders. His conviction and death sentence were based on the testimony of Robert Earl Carter, who was also convicted of the murders. Carter recanted his testimony before his 1998 execution and swore that Graves had nothing to do with the murders.

In 2006 the 5th U.S. Circuit Court of Appeals overturned Graves' conviction and

death sentence based on the prosecutor's misconduct of withholding exculpatory evidence and eliciting false testimony.

After a reinvestigation of the case by Special Prosecutor Kelly Siegler, Graves was released on October 27, 2010 after Siegler and Burleson-Washington County District Attorney Bill Parham both agreed he is innocent of any involvement in the murders, and the charges were dismissed.



Anthony Graves (anthonygraves.org)

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were going to have a major custody dispute that she made criminal accusations against him. Filler's lawyer objected to that argument and moved for a mistrial because it was the prosecution that objected to the testimony by Filler's wife that would have supported the truthfulness of Filler's claim that the criminal charges were related to the couple's custody dispute. The judge overruled the objection by Filler's lawyer and denied the motion for a mistrial.

The jury convicted Filler of one count of gross sexual assault and two counts of misdemeanor assault.

Filler's lawyer filed a post-verdict motion for a new trial based in part on the argument that he was denied a fair trial by the prosecutor successfully objecting to testimony by Filler's wife about their bitter custody dispute, and then arguing to the jury that the absence of any testimony about the custody dispute disproved Filler's claim that they had a custody dispute. The judge agreed that the prosecutor's argument prejudiced Filler's right to a fair trial and vacated his conviction.

The prosecution appealed, and on September 9, 2010 Maine's Supreme Court affirmed the grant of a new trial in [State of Maine v. Vladek Filler](#), 2010 ME 90 (ME Sup Ct, 9-9-2010). The Court's ruling states:

The likelihood that the jury might have been persuaded to accept the central premise of Filler's defense—that his wife had a strong motive to fabricate her claims—was greatly diminished by the State's emphasis on

the absence of evidence that the marriage was ending and the parties were engaged in a child custody dispute. The court did not err in concluding that the interest of justice requires a new trial. (Op. Cit. 14)

The prosecution elected to retry Filler.

Prior to the retrial T.J. Ward, the former lead investigator in Aruba's high-profile Natalee Holloway murder case, [publicly described](#) the sexual assault charge against Filler as a fabrication by his wife and that he was the victim of malicious prosecution, because there was no medical or forensic evidence supporting her allegation, there was no rape kit because she refused to be medically examined, and she had a had a history of emotional instability.

After a three-day trial [the jury acquitted](#) Filler on May 27, 2011 of the gross sexual assault and one of the misdemeanor assault counts. He was convicted of one count of misdemeanor assault based on a photograph introduced during the trial that showed a small bruise on his wife's arm.

The misdemeanor assault conviction carries a maximum of one year in prison and a minimum of probation. Filler was released on bond pending sentencing. His lawyer said he will appeal that conviction.

Filler, 41, lives in Atlanta, Georgia with his two children, now 5 and 14. He was awarded [custody of his children](#) based on the recommendation of the Maine Department of Health and Human Services. It is reported he and his wife Ligia are finalizing their divorce.

Sources: [State of Maine v. Vladek Filler](#), 2010 ME 90 (ME Sup Ct, 9-9-2010)

[Man found](#) not guilty of raping wife, but guilty on one of two misdemeanor assault charges, *Bangor Daily News*, May 27, 2011

[Internationally Respected](#) Investigator Says Vladek Filler Rape Accusation is "Fabrication", *National Coalition For Men*, Press Release, April 8, 2011

Graves filed a claim with the comptroller's office under Texas wrongful conviction compensation statute. His attorney was notified on February 11, 2011 that the claim was denied because the judge's order does not state Graves' release was due to his "actual innocence." The comptroller's office explained that the law is very specific that a court's order releasing a claimant must state "on its face" that the release is based "on the claimant's actual innocence." When asked for comment about the controversy caused by the comptroller office's decision, spokesman [R.J. Silva said](#) "the law did not allow for special consideration of the facts in Graves' case."

Siegler commented regarding the denial of compensation to Graves, "Who would have envisioned this kind of situation happening? I'm willing to testify to the fact that we believe he's innocent. I've signed an affidavit. I'm not sure what we are supposed to do to make it happen."

Texas Governor [Rick Perry called](#) Graves' case a "great miscarriage of justice," and said he would assist him through legislation or "directly with the comptroller's office."

On June 22, 2011 Perry signed special legislation authorizing the payment of \$1.45 million to Graves. Eight days later Graves received a check for \$1.45 million from Texas Comptroller Susan Combs. Graves will also receive monthly annuity checks beginning next year.

The [Innocence Project of Texas](#) represented Graves. After IPT chief counsel Jeff Blackburn [said about Graves' case](#), "The worst thing we can do is believe that Anthony's case shows that the Texas criminal justice system works. This case shows that it doesn't work."

Source: [Comptroller Pays](#) Anthony Graves \$1.4 Million, *The Texas Tribune*, June 30, 2011

[State rejects](#) compensation for wrongly convicted man, *Houston Chronicle*, February 14, 2011.

[Perry pledges](#) to help Graves, *Brenham Banner-Press*, February 17, 2011



Woman protesting Vladek Filler's prosecution (NCFM.org)

