

Barry Beach Granted New Trial In 1984 Murder Conviction

Barry Beach has been granted a new trial for his conviction of murdering 17-year-old Kimberly Nees in Poplar, Montana in 1979.

During the investigation of Nees' murder there were several suspects, but Beach, 17 at the time, wasn't one of them.

In January 1983 Beach was living with his father in Louisiana when he was arrested on a misdemeanor charge of contributing to the delinquency of a minor. Detectives in the area were trying to solve the abduction and murder of three young women. The detectives learned that Beach was from Poplar, Montana where Nees' murder was unsolved. After being interrogated for several days without a lawyer Beach confessed to the three Louisiana murders and Nees murder. After his interrogation Beach recanted his confessions as forced by the detectives threatening him with the electric chair if he didn't confess. Beach's interrogation wasn't audio-taped and the detectives denied they threatened him.

Before Beach could be charged with the three Louisiana murders evidence was discovered conclusively proving his confessions were false, and other men were charged with those crimes. However, Beach was charged with Nees' murder and extradited to Montana.

During Beach's 1984 trial the prosecution didn't introduce any physical, forensic or eyewitness evidence linking him to Nees murder, and there was crime scene evidence that excluded him, including a bloody palm print found on the pick-up Nees was driving that didn't match either her or Beach. His conviction was based on his alleged confession, which had a number of inconsistencies with the crime scene and details of Nees'

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Note: All dollar amounts are in Australian dollars, and on October 26, 2011 the exchange rate between the AU\$\$ and the US\$ was exactly even at AU\$\$1.00 equal to US\$1.00.

Sources:

[Was it 149km/h or 76km/h?](#) Biker's barrister father wins \$60,000 battle to beat speed charge, *Sydney Morning Herald*, October 26, 2011



Barry Beach during evidentiary hearing in Lewistown, Montana on August 1, 2011. (KTVQ-TV, Billings, MT)

murder. Beach was 21 when convicted in 1984 of deliberate homicide. He was sentenced to 100 years in prison.

Beach's convictions were affirmed on direct appeal, and his state and federal habeas petitions were denied.

In 1991 Beach saw a *60 Minutes*' story about Centurion Ministries successfully freeing an innocent man from Texas' death row. He wrote them a letter, and in 1998 they began reviewing his case. In 2000 they accepted his case and began an investigation to try and find new evidence. After 8 years of investigation, in 2008 lawyers working with Centurion filed a Petition for Postconviction Relief that requested a new trial based on new evidence of Beach's actual innocence. Key new evidence was by 11 witnesses who didn't testify at his trial. Several of those witnesses had evidence identifying that Nees' killers were four women. One of Beach's new witnesses told a police officer around the time of Nees' murder that he saw a number of girls in the truck Nees' was driving that night headed to the park where her body was found. Beach's trial lawyer was not told about that witnesses' statement.



Kimberly Nees

After more than 3 years of legal maneuvering by the State and Beach's lawyers, an evidentiary hearing ordered by Montana's Supreme Court began on August 1, 2011 in Lewistown, Montana. During that hearing all of Beach's witnesses with new evidence testified.

District Court Judge E. Wayne Phillips filed [his written ruling](#) on November 23, 2011. (Page numbers for quotes are in brackets below.) A key issue to be decided was whether Beach's post-conviction petition could even be considered, since it had been filed long after the 5-year statute of limitations had expired. For the issues in Beach's petition to be considered he had to first satisfy that his new evidence was discovered after trial and that he had exercised diligence in finding it. He then had to satisfy that his new evidence was credible and that it would prove his actual innocence by clear and convincing evidence to any reasonable juror. If so, then Beach would satisfy that it would be a miscarriage of justice if he wasn't granted a new trial.

Judge Phillips found that the evidence by Beach's witnesses was evidence the jury hadn't heard at trial, and that Centurion had exercised diligence in discovering it. He also found that all 11 of Beach's new witnesses were credible. He also found the new evidence by three of the witnesses was sufficient to establish by clear and convincing evidence that no reasonable juror would find Beach guilty beyond a reasonable doubt if they heard their testimony. One witness was told by one of the "gang of four" girls who allegedly murdered Nees, that the girl's was at the scene of Nees' murder. The other two women were co-workers of another member of the "gang of four" [who told them](#), "a bunch of girls were riding around and they went down by the river ... the girls drug her [Nees] out of the truck and they beat her." (25)

Judge Phillips said another witness sealed the sufficiency of Beach's new evidence. Steffanie Eagle Boy was 10 when on the night of Nees murder she was with her cousin on a bluff above where Nees' body was found. Judge Phillips writes about [Ms. Eagle Boy's testimony](#):

"Of all the testimony at the evidentiary hearing, Ms. Eagle Boy's is seared on the Court's conscience. (25)

She saw two vehicles enter the area and heard loud, girl voices yelling "get her"; "get the bitch"; "kick the bitch". She testified that she heard a different voice plead "don't, please". In Ms. Eagle Boy's own words: "it was something I'll never forget." "It was horrible." "I've had nightmares all my life about it." "It's something I won't forget". (25)

...
No reasonable juror, properly instructed, could have combined that testimony with the testimony of Ms. White Eagle-Johnson, Ms. Smith and Ms. Molar and not had reasonable doubt whether Mr. Beach committed the murder. (26)

In spite of Beach's disputed confession, Judge Phillips ruled that "the totality of the evidence is clear and convincing enough to rule that Mr. Beach has certainly opened the actual innocence gateway sufficiently enough to walk through the miscarriage of justice exception toward a new trial." (29) "It is hereby Ordered that Beach's Petition for Post Conviction Relief is not time barred, the Petition is Granted, and Mr. Beach is Granted a new trial on the charge of the murder of Kim Nees."

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Antonio Williams conviction Overturned When The Victim Recants

Antonio Williams was released on August 23, 2011 after more than 4-1/2 years imprisonment for the rape of a child he didn't commit in Birmingham, Alabama. *The Birmingham News* published [a feature article](#) about Williams' case in its Sunday paper for October 23.

In 2003 a 7-year-old girl that Williams was acquainted with through his daughter was discovered to have a sexually transmitted disease. Two years later, in 2005, Williams was arrested when the girl said he was the man who raped her several times during the years 1999 to 2002, when the girl was between 3 and 6.

Williams was indicted and during his trial in April 2007 the only evidence against him was the girl's testimony. The jury convicted the 39-year-old Williams of two counts of child rape. The next month he was sentenced to life in prison and ordered to enter the prison's sex offender program.

The girl was 15 when on April 14, 2011 she was interviewed by the police about an unrelated issue. She told them Williams had never abused or raped her. She named another man as the person who actually com-



Antonio Williams in October 2011 (Tamika Moore, *Birmingham News*)

mitted the crimes, and that he had also abused her older half-sister. When the police interviewed her half-sister she corroborated that the man had abused her.

The Jefferson County DA reopened Williams case. Williams was appointed a lawyer who filed a motion for a new trial based on the new evidence of the girl's recantation corroborated by her half-sister. During a hearing held in May 2011 the girl repeatedly stated under oath that Williams never touched her and that she only named him as her rapist because the man who actually raped threatened to harm her if she ever told anyone what he did to her. She named the actual rapist. Her testimony was corroborated by the testimony of her half-sister, who named the same man as her abuser. It was also disclosed during the hearing that the girl told her stepmother that Williams did not abuse or rape her, but the stepmother did not tell that to the police or prosecutors. After the hearing the judge set aside Williams' convictions and ordered a new trial. The judge described some of the testimony allowed against Williams' during his trial as "appalling."

Jefferson County D.A. Brandon Falls decided not to retry Williams and when the charges were dismissed on August 23, 2011, Williams was released after 4 years 6 months and 26 days of wrongful incarceration.

DA Falls told *The Birmingham News* after Williams' release that the man who the girl testified was her rapist, and who her step-sister testified sexually abused her, will not be charged with those crimes unless additional evidence is discovered. [He said](#), "We would have to make sure we had extensive corroborating, independent evidence" in addition to the girl's testimony.

[Click here to read](#) *The Birmingham News'* article, "Birmingham man, wrongly convicted of rape, is now free and starting his life over." In response to the article's description of the difficulties Williams is having in starting his life over, several dozen people contacted the newspaper with [offers to help Williams](#) with clothing, furniture and some job possibilities.

Sources:

[Birmingham man, wrongly convicted of rape](#), is now free and starting his life over, *Birmingham News*, October 23, 2011

[Birmingham News readers come to aid](#) of man who lost everything after wrongly convicted of rape, staff writers, *Birmingham News*, October 24, 2011

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The State appealed Judge Phillips ruling to the Montana Supreme Court. To prevail in their appeal the State will have to overcome the judge's detailed explanation of why he found the witnesses credible and why their new evidence supports a new trial for Beach.

In December 2011 [Beach was released](#) on his own recognizance after 29 years of imprisonment. In July 2012 Judge Phillips [lifted Beach's restrictions](#) and allowed him to live on his own unsupervised.

Barry Beach's website with extensive information about his case is, <http://montanansforjustice.com>.

Sources:

[Barry Allan Beach v. State of Montana](#), No. 1068-C, MT 15th Judicial Dist Roosevelt County, November 23, 2011 (Granting Barry Beach a new trial.)

[Judge: Witnesses credible in Barry Beach hearing](#), *Great Falls Tribune*, November 24, 2011

[Barry Beach freed on own recognizance](#) after 29 years behind bars, *Great Falls Gazette*, December 8, 2011

[Judge lifts housing restrictions on Barry Beach](#), *Billings Gazette*, July 12, 2012

Five Men Freed Because Prosecution Failed To Disclose Star Murder Witness Was Unreliable

Five men — Levi Walker, Adam Joof, Antonio Christie, Michael Osbourne and Owen Crooks — were freed when the UK's Court of Appeals [quashed their convictions](#) as unsafe on March 8, 2012, based on the prosecutions failure to disclose evidence their star witness was unreliable.

The five men were convicted in 2008 of the



Owen Crook, Levi Walker and Michael Osbourne (top row). Antonio Christie and Adam Joof (bottom row).

2002 murder of Kevin Nunes in Staffordshire -- 160 miles northeast of London. The prosecution claimed the 20-year-old Nunes was taken to a country lane where he was shot to death during a drug feud. Their convictions were based on the testimony of an alleged eyewitness. The men were sentenced to life in prison with minimum sentences of between 25 and 28 years before being eligible for early release.

After their convictions were affirmed on appeal the men applied to The Criminal Case Review Commission to review their case. The CCRC referred the case of the five men to the Court of Appeals after their investigation uncovered misconduct by police officers involved in the murder investigation for concealing material evidence, and the failure of the prosecution to disclose evidence that the eyewitness was not reliable.

The prosecution's case was so flawed after the disclosures that the Crown Prosecution Service [told the appeals court](#) that it did "not seek to uphold the convictions" and would not retry the men.

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