

Newman Chiadzwa Sues For Return Of 19 Pounds Of Diamonds After Conviction For Illegal Possession Overturned

Newman Chiadzwa is suing for the return of diamonds worth many tens of millions of dollars that were confiscated when he was convicted of illegally possessing the diamonds. His conviction was overturned by Zimbabwe's High Court on June 29, 2011.

Chiadzwa was a 53-year-old businessman in Mutare, Zimbabwe when in July 2009 he and his family had to go into hiding to avoid arrest by state security agents for helping a Kimberley Process certification team [uncover evidence](#) of gross human rights abuses in Zimbabwe's diamond-rich area. There were reports that in 2008 government troops tortured to death and shot more than 200 miners believed to be illegally mining diamonds. The miners were reported to have been buried in mass graves in areas controlled by the military so human rights monitors wouldn't have access to them.

The government seized from Chiadzwa's business 43,208 carats of diamonds, and in August 2009 he was charged with illegally possessing the gems. The diamonds weighed 8.61 kilograms, or almost 19 pounds. They had a retail value estimated at between \$100 and \$300 million, although their value to a wholesaler like Chiadzwa is less.

Chiadzwa was convicted on February 26, 2010 of illegally possessing the diamonds in violation of the Precious Stones Trade Act. He was sentenced to five years in prison and fined US\$132,764. He was immedi-



Newman Chiadzwa

ately taken into custody and began serving his sentence. Chiadzwa's conviction and sentence were quashed by Zimbabwe's High Court on June 29, 2011 and he was immediately released after 16 months of imprisonment. The Attorney-General's Office did not oppose Chiadzwa's appeal that was based on his argument that he lawfully owned the diamonds so no crime was committed.

After his release Chiadzwa sought return of his confiscated diamonds from the court clerk. He discovered the clerk did not have the diamonds because they were not formally entered as exhibits, even though the prosecution presented them in court as evidence. Chiadzwa's lawyer was informed the diamonds were turned over to the Ministry of Mines after Chiadzwa's trial. An official with the Ministry [wrote in a letter](#) to Chiadzwa's attorney:

"Effectively the 8.61 kg of precious stones that you requested were never handed over to the clerk of court for exhibits but instead upon completion of the matter by the presiding officer were released into the custody of the mines officials 1 year and 4 months ago."

However, the letter didn't state the diamonds would be returned to Chiadzwa, but

suggested at some future time he might be able to make a claim to them. In response Chiadzwa filed a lawsuit in the High Court in late September 2011 seeking an order for the release of the diamonds, or if they had been disposed of for the government to pay him a proper and correct valuation of the gems. Chiadzwa [wrote in an](#) Affidavit accompanying his lawsuit:

"I am extremely concerned that despite my official communications the respondents have ignored me and I feel that my diamonds may have been unlawfully disposed of or will be unlawfully disposed of to my prejudice."

Chiadzwa's lawsuit is pending. In May 2012 Chiadzwa filed a lawsuit for return of equipment seized from his homestead in 2009. That lawsuit is also pending.

Sources:

[Chief Chiadzwa, family flee security agents](#), *The Standard*, August 2, 2009
[Zimbabwe government prosecutes Diamond Chief](#), *ZimEye.org*, August 13, 2009
[Newman Chiadzwa Jailed Five Years](#), *The Herald* (Zimbabwe), March 4, 2010
[Newman Chiadzwa set free](#), *The Herald* (Zimbabwe), July 8, 2011
[Chiadzwa Wants His 8.6KG Diamonds Back](#), *The Herald* (Zimbabwe), September 28, 2011
[Chiadzwa's 8kg of Diamonds Disappears Mysteriously](#), *Radio VOP* (Zimbabwe), September 27, 2011
[Zimbabwean man sues court over lost 300-million-dollar diamonds](#), *The Zimbabwe Telegraph*, October 10, 2011
[Zimbabwe: Newman Chiadzwa Demands Seized Equipment](#), *The Herald* (Zimbabwe), May 16, 2012

Relief Granted In 36% Of Appeals In New South Wales Are Granted

The New South Wales Judicial Commission has released a report analyzing all criminal appeals considered by New South Wales' Court of Criminal Appeal (CCA) for the seven years from 2001 through 2007. The CCA is the highest court in New South Wales, Australia's most populous state.

"Conviction appeals in New South Wales" is a 344-page [report that has a](#) wealth of information of interest to people in not only Australia, but the U.S. and other countries.

The single most stunning statistic is the CCA granted relief to the defendant in almost 36% of the cases it reviewed. That is almost beyond belief for people



in the U.S. where state and federal appeals courts have rates in the low single digits of granting relief to defendants.

The rate of successful appeals was high across the board for a variety of convicted crimes: 30% of homicide convictions were set aside, 43% of sexual assault convictions were set aside, 36% of robbery and extortion convictions were set aside, and 32% of drug convictions were set aside.

In 35% of the cases the CCA ordered an acquittal based on insufficient evidence of the defendant's guilt which barred a retrial, and in 62% of the cases a retrial was ordered.

The results of the cases ordered for retrial are analyzed in the report. The retrials were ordered based on legal errors at trial that made the conviction unsafe, not a lack of evidence. Consequently

Appeals cont. on page 14

Burrowes cont. from page 12

Burrowes, now 26, lives in Milwaukee and his daughter Christiana, who was three when she saw him being arrested in 2006, is now eight. After his conviction was overturned in 2009 [he told reporters](#), "It matters a lot for her to know that she's got a good daddy, and I'm going to be there for her and I'm not the type of guy that they tried to play me out to be."

Sources:

[Christopher Burrowes](#) - Ruling #6, State of Wisconsin Claims Board, October 11, 2011
[Judge Throws Out Sexual Assault Conviction](#), WISN-TV (Milwaukee, WI), December 17, 2009