

Jeffrey Moldowan Settles For \$2.95 Million To End Lawsuits For 12 Years Wrongful Imprisonment

Moldowan and his co-defendant Michael Cristini were convicted in May 1991 of kidnapping and raping Moldowan's former girlfriend, 22-year-old Maureen Fournier in August 1990.

The men's convictions hinged on the testimony of three witnesses: Fournier testified the men kidnapped her and bit her while she was being raped; and two dentists testified as experts that marks on her body matched the bite of both men's teeth. One of those witnesses, Allan Warnick, testified that the likelihood a bite mark on Fournier was made by [someone other than](#) Moldowan, "was at least 3 million to 1." The jury rejected the alibi defense of both men that they were elsewhere at the time of the crime.

Moldowan was sentenced to 60 to 90 years in prison, and Cristini to 50 to 75 years in prison. The convictions of both men were affirmed on direct appeal.

Moldowan filed a state post-conviction petition seeking a retrial based on new evidence that the bite-mark evidence the jury relied on was unreliable. After his petition was denied by the lower courts he appealed in 2001 to the Michigan Supreme Court. In January 2002 Macomb County Prosecutor Carl Marlinga acknowledged in the State's brief that he "may have suffered 'actual prejudice'" from the unreliable expert bite-mark testimony at his trial. [Marlinga also stated](#) "the result of the trial could be different" without Warnick's bite-mark testimony. Since the State had conceded Moldowan hadn't received a fair trial, in May 2002 the state supreme court granted him a new trial.

Moldowan was released on bail in the summer of 2002 after almost 12 years in custody, pending his retrial.

While preparing for his retrial Moldowan's attorneys discovered that the prosecution had failed to disclose that an eyewitness gave a statement to a police officer that he saw four African-American males standing over Fournier's naked body the night she was attacked, and that he later overheard two of the men bragging about assaulting her. Both Moldowan and Cristini are white.

During his retrial that began in January



Jeffrey Moldowan in 1991 (MI DOC)

2003 the prosecution's case centered on Fournier's testimony that Moldowan was one of the men who assaulted her. Moldowan presented the testimony of the eyewitness that she was assaulted by African-American men, and he also presented testimony that Fournier was a drug user who was frequently seen buying crack in the neighborhood where she was found nude. Moldowan's lawyer suggested that her physical injuries were consistent with someone who experienced a beating by dope dealers as payback for welshing on a drug debt.

The prosecution was also unable to disprove Moldowan's alibi that he was with friends at the time Fournier said she was kidnapped and assaulted.

After a six week trial the jury acquitted Moldowan after deliberating for less than two hours.

Eight months after Moldowan's acquittal, Cristini's petition for a new trial was granted in October 2003. The judge ruled that since he should be treated the same as Moldowan since they were originally tried together, and the jury convicted both men by relying on the same discredited bite mark testimony. Cristini was released on bail pending his retrial after almost 13 years in custody.

Cristini's retrial began in March 2004, and he had the rock sold alibi by his co-workers, his boss, and employment records that he was working at his pizza restaurant job when the attack on Fournier took place. To counter his alibi, the prosecution complemented Fournier's testimony with new bite mark experts to try and tie him to the attack. The defense countered with their own dental experts.

After a three week trial the jury deliberated for one hour before acquitting Cristini on April 8, 2004. Afterwards, jurors said the prosecution and defense experts canceled each other out. So they were left with weighing Fournier's testimony against the testimony and documentary proof Cristini was working at the time of the attack, and they decided he could not possibly have been involved.



Michael Cristini in May 2011 (The Oakland Press, Pontiac, MI)

Moldowan filed a federal civil rights lawsuit in 2005 against Macomb County, the Prosecutor's Office, the City of Warren, a police detective, and bite mark expert Warnick. On October 18, 2011 it was announced that the City of Warren [agreed to pay](#) Moldowan \$2.8 million to settle his lawsuit. On November 1, 2011 it was announced that Macomb County [agreed to pay](#) Moldowan \$150,000 to settle his lawsuit. So Moldowan was compensated a total of \$2.95 million by the city and the county. Moldowan had previously settled with Warnick for an undisclosed sum that is believed to be around \$200,000. Moldowan also sued Fournier, but the U.S. 6th Circuit Court of Appeals dismissed her as a defendant.

Cristini filed a federal civil rights lawsuit in 2007 against the same defendants as Moldowan, and that suit is still pending as of December 2012.

Another aspect of Moldowan and Cristini's case is that two weeks after Cristini was acquitted Macomb County Prosecutor Marlinga was indicted by a federal grand jury for alleged campaign contribution irregularities related to Marlinga's alleged acceptance of an \$8,000 bribe to use his official position to help Moldowan get a new trial. The indictment also alleged that in an unrelated case, a businessman contributed \$26,000 to Marlinga's congressional campaign in exchange for a 'sweet heart' plea agreement. Marlinga was [acquitted of all](#) charges in September 2006.

You can read about Moldowan and Cristini's case and Marlinga's prosecution in *Justice Denied's* [2005 article](#), "Prosecutor Indicted For Bribery After Two Men Exonerated Of Kidnapping And Rape." You can read about Marlinga's acquittal in *Justice Denied's* [2006 article](#), "Ex-Prosecutor Acquitted Of Taking Bribe To Support New Trial."

Sources:

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[Wrongly convicted man](#), Macomb County settle, *The Detroit News*, November 2, 2011

[Warren settles rape case](#) lawsuit for \$2.8M, *The Detroit News*, October 19, 2011

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