

Two Judges Who Are Former Prosecutors Lose Effort To Dismiss Alan Beaman's Lawsuit

Alan Beaman's conviction was overturned by the Illinois Supreme Court and he was released in 2008 after more than 14 years of wrongful incarceration for a former girlfriend's murder. A U.S. District Court judge has refused to dismiss Beaman's federal civil rights lawsuit that includes claims against his two prosecutors who are now judges.

Beaman was living in Normal, Illinois in July 1993 when he split-up with his girlfriend Jennifer Lockmiller. He then moved 140 miles away to Rockford, Illinois and began living at his mother's house.

About a month later, Lockmiller was murdered in her apartment in Normal at about 12 p.m. (noon) on August 25.

Beaman became the focus of the police investigation, and in May 1994 he was arrested and charged with first-degree murder. He was 21.

During Beaman's 1995 trial the prosecution's case was circumstantial because he didn't confess to Lockmiller's murder, and there was no physical, forensic or eyewitness evidence directly tying him to the crime.

Beaman's alibi defense was that on the day of Lockmiller's murder he got off work from his job at 9 a.m.; went home; then went and made a deposit at his bank in Rockford (a bank security video showed him leaving at 10:11 a.m.); returned home with phone records showing calls made Beaman's home to his church at 10:37 a.m. and to the home of the church's director of music at 10:39 a.m. (Beaman played music at the church and a rehearsal was scheduled for that night); and that he and his car were home when his mother returned by 2:16 p.m. His mother testified that she left her house at about 7 a.m. on August 25 to take her mother to the doctor and shopping, and she had receipts from Wal-Mart and other stores up to 2:03 p.m., when she testified she bought perishable items at a grocery store and drove straight to her home that was 9 to 13 minutes travel time from the store.

Beaman's lawyer argued to the jury that given the times of his known whereabouts



Alan Beaman after his release in June 2008. (Rockford Register-Star)

in Rockford it was "practically impossible" that he could have murdered Lockmiller at noon in Normal 140 miles away. The prosecution argued to the jury -- without presenting any evidence -- that Beaman left for Normal directly from the bank at 10:11 a.m., arrived around noon, killed Lockmiller, and then drove back to Rockford and arrived home minutes before his mother returned at 2:16 p.m. The prosecution also argued, based on testimony by the lead police investigator Timothy Freesmeyer, that it took longer than 26 minutes to drive from Beaman's bank to his home, so he couldn't have made the phone calls at 10:37 and 10:39 a.m.

The jury convicted Beaman of first-degree murder, he was sentenced to 50 years in prison, and his conviction was affirmed on direct appeal.

It was discovered after Beaman's appeal that the prosecution failed to disclose two key pieces of evidence to his trial lawyer. First, there was another prime suspect: an ex-boyfriend of Lockmiller's identified as John Doe that she owed money to for drugs, who lived 1-1/2 miles from her, who had no alibi for the time of her murder, who failed to complete a polygraph examination, and whose behavior was erratic at the time of her murder because of steroids he was taking. Second, the police conducted a timed run from Beaman's bank to his house that proved he easily could have made it home to make the calls at 10:37 and 10:39 a.m. after leaving the bank at 10:11 a.m.

Beaman filed a post-conviction habeas corpus petition and the Illinois Supreme Court overturned his conviction in May 2008, based on the prosecution's *Brady* violations of failing to disclose the evidence about the suspect John Doe and the time it took to drive from his bank to his home. The Court ruled that had the jury known that evidence there is a reasonable probability their verdict would have been different. (See, *People v. Beaman*, 890 NE 2d 500, 229 Ill. 2d 56, 321 Ill. Dec. 778 (Ill Supreme Court, 2008)) Beaman was released on \$250,000 bail a month later, and the charges [were dismissed](#) in January 2009.

Beaman's prosecutors were James Souk and Charles G. Reynard. In 1997 Souk was appointed as an associate McLean County

(11th Judicial Circuit) Circuit Court judge, and he was elected as a Circuit Court judge in 2002. Reynard was also elected as a Circuit Court judge in 2002.

In 2010 Beaman filed a federal civil rights lawsuit that named as defendants: Souk, Reynard, Freesmeyer, four former Normal police officers, McLean County Illinois and Town of Normal, Illinois. Among its claims the lawsuit alleged the defendants violated Beaman's federal constitutional right to due process by: withholding exculpatory evidence with respect to John Doe and the time it took to travel from the bank to Beaman's house; engaging in a conspiracy to deprive Beaman of the exculpatory evidence; failing to intervene to prevent violations of his constitutional rights; that they maliciously prosecuted Beaman in violation of state law; that they engaged in a civil conspiracy in violation of state law; and that they intentionally inflicted emotional distress.



Jennifer Lockmiller, Illinois State University student murdered on August 25, 1993. (Lockmiller family photo)

The defendants filed a motion to dismiss, and on March 26, 2012 U.S. District Court Judge Joe Billy McDade granted the motion as to several of the claims related to Souk and Reynard's absolute immunity for actions they took during Beaman's prosecution. However, under U.S. Supreme Court precedent a prosecutor is not immune from being sued for actions they take during the investigation of a case. Consequently, Judge McDade did not dismiss Beaman's key claims that Souk and Reynard were civilly liable for their active involvement in the investigation that preceded Beaman's trial, [because](#) "Souk and Reynard began committing the investigative misconduct in issue here eight months before Plaintiff's arrest and a full 18 months before Plaintiff went to trial on the wrongful charges."

As a result of Judge McDade's ruling Beaman's most important claims against Freesmeyer, Souk, Reynard, McLean County and the Town of Normal remain, but resolution of the lawsuit could still be several years away.

You can read Judge McDade's ruling by [clicking here](#).

[Souk retired](#) in December 2012 after 15 years as a Circuit Court judge.

Beaman cont. on p. 13

Kenneth Budik's Conviction For Not Providing Information To Police Overturned

Kenneth Budik's conviction of rendering criminal assistance for not providing information about a shooting to the police has been [overturned](#) by the Washington State Supreme Court.

At 2 a.m. on September 14, 2007 the 20-year-old Budik was sitting in the passenger side of a pick-up truck parked outside a house in Spokane, Washington where a party was going on. Three gunshots were fired into the truck. Two bullets hit Budik, one shattered a bone in his shoulder and the other went into his left leg. The third bullet killed the driver, Adama Walton.

Budik told several police officers at the scene he didn't know who fired the shots. At the hospital while doctors and nurses were working on his bullet wounds he declined to answer any questions by the police. When questioned at the hospital the day after the shooting Budik told police it was dark and he didn't see anything, and he then asked the officers to leave.

Several days after the shooting he told the mother of the victim that "Rascal [Juwuan Nave] did it."

Two other men were charged in the murder. "Rascal" was identified as a suspect, but he wasn't charged because no one with first-hand knowledge identified him to the police as involved in the shooting. Police suspect-

Beamon cont. from p. 12

Beaman has a [pending petition](#) for a pardon by Illinois' governor based on his innocence. The pardon would qualify Beaman for state compensation of about \$170,000. Beaman also has a pending petition for a certificate of innocence.

Sources:

[People v. Beaman](#), 890 NE 2d 500, 229 Ill. 2d 56, 321 Ill. Dec. 778 (Ill Supreme Court, 2008)

[Prosecutors dismiss murder charges](#) against Alan Beaman, *Pantagraph*, January 30, 2009

[Beaman v Souk et al](#), No. 10-cv-1019 (USDC CD IL) (Lawsuit filed January 26, 2010)

[Beaman v Souk et al](#), No. 10-cv-1019 (USDC CD IL, 3-26-2012) (Order denying defendant's motion to dismiss)

[Beaman petitions for pardon](#), certificate of innocence, *Rockford Register Star*, February 6, 2010

[McLean County circuit judge announces retirement](#), November 14, 2011

ed no one would identify "Rascal" because they were afraid of possible retaliation if they did so.

Based on Budik's refusal to talk to the police after he had denied knowing who the shooter was, he was charged with "first degree rendering criminal assistance" (RCW 9A.76.050(4)). During his jury trial the victim's mother provided the only testimony that he knew who shot him. The lead [detective testified](#) he did not think Budik's comment to the mother was credible and he thought Budik was simply repeating a rumor that was circulating that made "Rascal" the "fall guy" for the shooting.

Budik was convicted and sentenced to 13 months in prison.

Budik appealed and one of his grounds was that the prosecution introduced insufficient evidence to prove that his initial denials of knowledge and subsequent refusal to talk to the police constituted "rendering criminal assistance" to whoever shot him and killed his friend.

In 2010 the Washington Court of Appeal affirmed his conviction.

Budik appealed to the Washington Supreme Court, which en banc overturned his conviction on February 17, 2012 by a 7 to 1 vote, on the basis there was insufficient evidence to support his conviction. In [State v. Kenneth Richard Budik](#), No 84714-2 (WA Sup Ct, 2-17-2012) the Court stated in part:

This statutory scheme evidences legislative intent to require an affirmative act or statement in order to constitute "deception" within the context of RCW 9A.76.050(4). First, the legislature expressly criminalized making false or misleading material statements to the police in RCW 9A.76.175. (p. 10)

...
The deception contemplated by RCW 9A.76.050(4) requires an affirmative act or statement; it does not encompass mere false disavowals of knowledge. (p. 12)

...
A mere false disavowal of knowledge is insufficient. (p. 13)

...
[T]he State had to prove that Budik's deception -- assuming his false disavowal of knowledge was indeed a "deception" -- actually prevented or



Adama R. Walton, shot and killed September 14, 2007 (The Spokesman-Review)

obstructed the performance of some act that might have aided in discovery or apprehension of one of the shooters. The State produced no such evidence. (p. 14)

...
There is simply no evidence in the record that but for Budik's false disavowal of knowledge of the identity of the shooters (i.e., had he said nothing) anyone would have "perform[ed] an act that might aid in the discovery or apprehension" of one of the shooters. RCW 9A.76.050(4). As such, there is no evidence that Budik's deception -- assuming his false disavowal of knowledge amounted to deception -- caused the prevention or obstruction of any act. (p. 16)

Even if Budik's false disavowal of knowledge of the shooter's identity amounted to deception under RCW 9A.76.050(4), there would be insufficient evidence to sustain his conviction. (p. 16)

We hold that in order to prove that a defendant has rendered criminal assistance "by use of . . . deception," RCW 9A.76.050(4), the State must show that the defendant has made some affirmative act or statement; mere false disavowal of knowledge is insufficient to sustain a conviction for rendering criminal assistance. There is no evidence that Budik did more than falsely deny knowledge of the identities of the assailants who had shot him and shot and killed his companion. Accordingly, insufficient evidence supported Budik's conviction. We reverse the Court of Appeals and vacate Budik's conviction. (p. 17)

[Click here](#) to read the Court's ruling in *State v. Kenneth Richard Budik*, No 84714-2 (WA Sup Ct, 2-17-2012)

Sources:

[State v. Kenneth Richard Budik](#), No 84714-2 (WA Sup Ct, 2-17-2012) (en banc)

[Fatal shooting case conviction overturned](#), *The Spokesman-Review* (Spokane), February 17, 2012

[State v. Budik](#), 156 Wn. App. 123, 230 P. 3d 1094 (WA Ct of Appeals, 3rd Div. 2010)

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