

## Amanda Knox Owes Her Release To Italy's Legal System

Amanda Knox and her co-defendant and former boyfriend Raffaele Sollecito were freed from prison 90 minutes after an appellate court acquitted them on October 3, 2011 of murdering and sexually assaulting Meredith Kercher in Perugia, Italy in November 2007. After the two were convicted by a jury in December 2009 Knox was sentenced to 26 years in prison and Sollecito to 25 years. They were also ordered to pay 5 million euros (\$7.4 million) to Kercher's family.

For a detailed account of the Knox case [click here to read Justice Denied's](#) October 4, 2011 article, "Amanda Knox And Raffaele Sollecito Acquitted Of Murder And Sexual Assault By Appeals Court."

During Knox's trial a key piece of prosecution "evidence" was her statement in which she admitted to being present when the murder occurred. Key evidence was also expert testimony that her DNA was found on a kitchen knife that also had a speck of Kercher's DNA on it. Kercher was murdered in the apartment she shared with Knox, while the knife -- that had no blood on it -- was found in Sollecito's apartment. Key evidence against Sollecito was his DNA was found on Kercher's bra clasp that was found 47 days after her murder lying near where her body was found. Many defendants in the U.S. are prosecuted based on less evidence so Italy's legal system can't be faulted for Knox's prosecution.

Knox testified during her trial that her statement was false. She said it was coerced after she was interrogated without a lawyer for 50 hours over four days, and that she was threatened and abused by the police. The police denied abusing the 20-year-old Knox. It is not uncommon for defendants in the U.S. to be interrogated for long periods of time without a lawyer and to be threatened and abused by various psychological and physical tactics designed to elicit an incriminating admission, so Knox's treatment in Italy wasn't out of line with what could have happened to her in the U.S.

Knox's conviction was not a surprise considering the prosecution had her incriminating statement and expert testimony that her DNA was on the knife along with Kercher's DNA. Innumerable defendants in the United States are convicted on much less evidence, so Italy's legal system can't be faulted for

her conviction.

Knox was sentenced to 26 years in prison. Again the Italian legal system can't be faulted. If she had been convicted of murder and sexual assault in the U.S. she could have expected a sentence of up to life in prison, and if charged with aggravated murder (murder committed during the commission of a rape) in a death penalty state such as Texas or Florida she could have been sentenced to death.

Knox and Sollecito appealed, which in Italy involves a retrial by a jury of two judges and six lay people that can consider new evidence not presented at trial. In contrast, the direct appeal of a conviction in the U.S. involves an appeals court considering errors related to evidence that was presented for admission into evidence. So regarding evidence on appeal Italy's legal system is much more defendant "friendly."

Knox and Sollecito's appeal began in Perugia on November 24, 2010. Their lawyers requested that the DNA evidence be reviewed by independent examiners appointed by the appeals court. Their request was granted. The appeal had a number of adjournments, and on June 29, 2011 the independent forensic report was submitted to the court and entered through testimony. The report found the crime scene was compromised and much of the DNA evidence was exposed to contamination. Among other things the report detailed that Kercher's DNA wasn't on the knife blade: the speck that the "expert" at trial testified had Kercher's DNA was likely a crumb of rye bread. The report also detailed the bra clasp with Sollecito's DNA on it was too contaminated to have any reliable evidentiary value. The bra clasp was repeatedly moved around the room where Kercher was murdered before it was collected as "evidence" 47 days after Kercher's murder.

There was also testimony discrediting the reliability of Knox's statement she was present at the time of the murder.

After 11 hours of deliberations the appeals court in Perugia announced at about 9:30 p.m. on October 3, 2011 it had arrived at its verdict. The chief judge announced that Knox and Sollecito were acquitted of murder and sexual assault and they were ordered immediately released. In announcing its verdict the appeals court ruled there was no credible evidence Knox and Sollecito were involved in the murder. The appeals court believed the new evidence discredi-



Amanda Knox during her trial in 2009

ing the reliability of the trial testimony about the DNA evidence and Knox's statement.

Amanda Knox and Sollecito both owe their freedom after their successful appeal to having been prosecuted and convicted in Italy.

If convicted in the U.S. their direct appeal would have been decided on the same evidence

that convicted them, and by a panel of career judges who routinely rule in favor of the prosecution and not by a jury weighted with lay people as in Italy. That is why the percentage of successful direct appeals in the U.S. is in the low single digits.

If Knox and Sollecito had been convicted in the U.S. they could have sought to obtain post-conviction DNA testing of the knife and bra clasp, etc. after they had lost their direct appeal. However, that would have been an iffy proposition. If Knox had been successful in obtaining an order for DNA testing the knife and Sollecito the bra clasp, and the results had been exculpatory, the value of those tests in undermining their convictions would have been determined by a single judge evaluating their post-conviction petition or motion for a new trial. In all likelihood that would have been the same judge who presided over their trial and conviction. Thus the odds for their success wouldn't have been good. They could have appealed, but far more often than not an appeals court in the U.S. affirms the rulings of a lower court.

Consequently, it is reasonable to believe Knox and Sollecito's convictions would not have been overturned in the U.S., just as the overwhelming majority of defendants in the U.S. don't succeed in overturning their conviction even when they have new evidence they didn't commit their convicted crimes.

So every night before she goes to bed Amanda Knox should give thanks that she was prosecuted and convicted in Italy and not the United States -- otherwise the bed she crawls into would be in a prison cell and not in her home in Seattle.

Sources:

[Injustice In Perugia](#) website  
[Friends Of Amanda](#) website  
[Amanda Knox is a "she-devil,"](#) Italian court told, *Reuters*, September 26, 2011  
[Amanda Knox Final Plea:](#) Full Text Transcript, *International Business Times*, October 3, 2011  
[Amanda Knox Exclusive:](#) Convicted Prosecutor Giuliano Mignini May Return for "Appealing" Courtroom Drama, Citing Loophole, CBS News, April 22, 2010