

## 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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