

Beach cont. from p. 7

dence presented during the 1984 trial to determine whether its impression of the testimony could be sustained in light of the record as a whole. After a review of all the evidence, we conclude that Beach did not provide reliable evidence of his actual innocence that displaced the trial evidence and thus his conviction. (§179)

Applying the proper standard of review to the new evidence offered by Beach, we determine he has failed to sustain his burden of demonstrating either a free-standing claim or a gateway claim of “actual innocence.” The District Court’s order is reversed. Beach’s petition for postconviction relief is denied and dismissed.”

The three dissenters took strong exception to what it considered the majority’s erroneous assessment of the District Court’s ruling:

“The District Court found the testimony of each of Beach’s witnesses to be credible and believable. The District Court observed the demeanor of each witness presented by Beach. The District Court carefully detailed what it found credible about each witness. The District Court considered the fact that most witnesses had no connection to the town of Poplar, Beach, or Nees, and accordingly, had no motive to lie. The District Court, as the trier of fact, sits in a better position to observe the witnesses and determine credibility than this Court. The District Court has presided over at least 35 criminal trials and has experience gauging the credibility of witnesses. I cannot say from this vantage point that the District Court’s determination regarding the witnesses’ credibility and believability rises to the level of clearly erroneous. (§142)

The District Court next weighed the evidence that the State presented at Beach’s original trial against Beach’s new evidence to determine whether Beach had demonstrated that no reasonable juror would find Beach guilty beyond a reasonable doubt. ... The District Court stated, “[i]t is [Beach’s] confession that constitutes the entirety of the State’s argument. That confession was considered by this court in its Order.” (§143)

Beach’s confession constituted “the focal point of this whole inquiry.” The State conceded at Beach’s trial that no reliable physical evidence retrieved from the crime scene tied Beach to the murder. The District Court’s statement that it had compared the evidence at the hearing against



Kimberly Nees

Beach’s confession indicates that the District Court properly weighed the State’s evidence from Beach’s 1984 trial against the new evidence presented at the hearing. (§144)

The [district] court’s weighing of the evidence led it to conclude that no need existed for Beach to have a new post-conviction relief hearing based on the fact that Beach had demonstrated his free standing actual innocence claim by meeting the higher burden of persuasion. (§145)

This ruling marks what likely will be the final chapter in the saga of Barry Beach. We oversee a criminal justice system that seeks to resolve a defendant’s guilt through processes created and administered by humans. Humans, by nature, are fallible and the processes that humans create share this same fallibility. ... The District Court scrupulously attempted to comply with its mandate from this Court to consider Beach’s alleged new evidence. I cannot say that the District Court’s rulings rise to the level of abuse of discretion, and, accordingly would affirm the order of the District Court. (§146)

After the Montana Supreme Court issued its ruling McCloskey released a statement on behalf of Centurion Ministries in which he said: “This decision came as a complete and utter shock to all concerned. We are absolutely stunned and disgusted by this turn of events. No one saw this coming.”

[Click here to read](#) the Montana Supreme Court’s majority ruling in *Montana v. Barry Allan Beach*, 2013 MT 130 (MT Sup Ct, 5-14-2013).

Having exhausted his options to overturn his conviction in state court, on September 13, 2013 Barry Beach filed a 413-page application for commutation of his sentence with the Montana Board of Pardons and Parole. [Click here to read](#) the application.

Previous *Justice Denied* articles about Beach’s case are: “[Barry Beach Granted New Trial](#) In 1984 Murder Conviction,” and “[Barry Beach Released On Bail](#) After 29 Years Imprisonment.”

Barry Beach’s website with extensive information about his case is, <http://montanansforjustice.com>.

Barry Beach can be written at:
Barry Beach #21520
Montana State Prison
700 Conley Lake Drive
Deer Lodge, MT 59722

Sources:

[Barry Allan Beach v State of Montana](#), 220 P.3d 667, 2009 MT 398, 353 Mont. 411 (MT Sup Ct, 11-24-2009)

[Barry Allan Beach v. State of Montana](#), No. 1068-C, MT 15th Judicial Dist Roosevelt County, November 23, 2011 (granting Barry Beach a new trial)

[State of Montana v. Barry Allan Beach](#), 2013 MT 130 (MT Sup Ct, 5-14-2013)

[Barry Beach](#), Montana DOC inmate lookup webpage,



Innocents Database Now Lists 4,002 Cases

The [Innocents Database](#) linked to from Justice Denied’s website is the world largest database of wrongly convicted people. It now lists 4,002 cases. All the cases are supported by sources for research. Those sources include court decisions, newspaper and magazine articles, and books.

The [Innocents Database](#) includes:

- 577 innocent people sentenced to death.
- 780 innocent people sentenced to life in prison.
- 1,597 innocent people convicted of murder who were imprisoned an average of 9-2/3 years before their exoneration.
- 565 innocent people convicted of rape or sexual assault who were imprisoned an average of 10 years before their exoneration.
- 530 innocent people exonerated after a false confession by him or herself or a co-defendant.
- 258 innocent people convicted of a crime that never occurred.
- 165 innocent people posthumously exonerated by a court or a pardon.
- 62 innocent people convicted of a crime when they were in another city, state or country from where the crime occurred.
- 1,166 innocent people had 1 or more co-defendants.
- 12% of wrongly convicted persons are women.
- The average for all exonerated persons is 7-1/2 years imprisonment before their exoneration.
- 31 is the average age of a person when wrongly convicted.
- Innocent people convicted in 105 countries are in the database.

[Click here to go to the Innocents Database at, www.forejustice.org/search_idb.htm.](#)

