

# Kevin McCormick Acquitted Of Man- slaughter By Minnesota Court Of Appeals

Kevin Thomas McCormick [has been acquitted](#) by the Minnesota Court of Appeals of his second-degree manslaughter conviction in the 2010 death of 64-year-old deer hunter Jerry Donald Benedict in Clearwater County, Minnesota.

McCormick saw Benedict on a deer stand on November 6, 2010 that he thought was encroaching on his property. McCormick, 52, confronted Benedict explaining that he was trespassing. The stand toppled over while McCormick was standing on the side of the deer stand reaching up to hand Benedict a business card.

Although Benedict got up on his own and drove his ATV to the camp where his fellow hunters were, McCormick called 911 to report the incident. He told the operator Benedict "got up under his own power" and "rode away on an ATV".

When Benedict arrived back at his camp about 10 a.m. he gave no indication he was in any pain, and when he test fired his rifle to see if his scope was working properly he hit a paper plate set-up on a tree branch 40 yards away.



Kevin Thomas McCormick (Clearwater County Sheriff mug shot 2010)

After lunch Benedict and another hunter walked to another deer stand. Benedict climbed up the ladder onto the deer stand that was 10' to 12' off the ground. Later that afternoon Benedict walked back to the camp to get a chair for the second deer stand.

After sunset a fellow hunter found Benedict lying down in his cabin between 6 and 7 p.m. Benedict was moaning, struggling to breathe, and he appeared to be in pain. 911 was called and Benedict was transported to a hospital in an ambulance. A blood test established that when he arrived at the hospital after 7 p.m. he was legally intoxicated with a blood alcohol level of .08.

Benedict's chair and hat were found below the deer stand where he had spent the afternoon, while a heater and soft drink were found on top of that stand. At the hospital doctors discovered Benedict's injuries, included dislocated vertebrae, broken ribs, abdominal bleeding, and a dislocated shoulder.

The police assumed Benedict's injuries were caused by his fall on the morning of November 6, and charged McCormick with assault.

After surgery on November 16 to stabilize Benedict's spine and repair other injuries, his lung collapsed, he had renal failure, atrial fibrillation, and other complications. Benedict died on the 24th. McCormick's charge was then increased to manslaughter.

During McCormick's trial in 2011 the prosecution's case was circumstantial since there was no confession of guilt, no eyewitnesses, and no physical or forensic evidence directly tying him to Benedict's death.

The prosecution contended McCormick's reckless disregard for Benedict's safety resulted in the toppling of the deer stand and the injuries that ultimately caused his death. McCormick's defense was he didn't act with reckless disregard and there was evidence Benedict's injuries occurred after their encounter on the morning of November 6.

Two prosecution expert medical witnesses testified Benedict's death resulted from trauma sustained on November 6. Although they couldn't identify at what time it occurred or what event caused the trauma, they said it was consistent with falling from a deer stand.

McCormick's attorney called Dr. Mary Carr as an expert witness. Dr. Carr, an emergency room doctor, testified the description of Benedict's behavior after he arrived at his

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## Christiansen cont. from page 10

During her trial in November 2011 Christiansen's lawyer argued she couldn't have violated GC §90 because from commencement of the contract on June 1, 2006 between the BHUSD and Christiansen, and then Strategic Concepts, she was both in title and substance not a "member ...officer or employee" of the BHUSD. The prosecution argued that who was covered by the statute was flexible and so it applied to Christiansen.

The jury convicted Christiansen of all four counts on November 21. Her bail was revoked and she was immediately taken into custody. Christiansen [was sentenced](#) on January 5, 2012 to 4 years and 4 months in prison and ordered to pay restitution of \$3,539,991. She was released on \$400,000 bail pending the outcome of her appeal. It [was reported](#) the BHUSD spent more than \$2 million related to Christiansen's prosecution.

Christiansen appealed on several grounds, including that she couldn't have committed her accused crimes because she wasn't a member, officer or employee of the BHUSD

as required by the statute. The State argued, as the prosecution had at trial, that the wording of GC §90 shouldn't be interpreted literally, and so it applied to Christiansen.

On May 31, 2013 the California Court of Appeals, Second District, Division One issued its opinion in *The People. v. Karen A. Christiansen*, No. B238361 (CA CA2 Div.1) that [stated in part](#):

"Because it is undisputed that at all relevant times Christiansen was an independent contractor, she was not an employee within the meaning of section 1090 ...At least for purposes of criminal liability under section 1090, an independent contractor is not an employee." (Op. cit. 8-9)

"Because Christiansen was not a member, officer, or employee of the relevant public body, section 1090 does not apply to her. We therefore reverse her convictions, vacate her sentence and the restitution award, and direct the superior court to dismiss all charges against her." (Op. cit. 2)

Christiansen, now 55, had been released on parole before her convictions were vacated.

[Click here to read](#) *The People. v. Karen A. Christiansen*, No. B238361 (CA Ct of Appeals 2nd Dist, Div 1), 5-31-13.

Source:

[The People. v. Karen A. Christiansen](#), No. B238361 (CA Ct of Appeals 2nd Dist, Div 1), 5-31-13

[Former Beverly Hills school official's conviction overturned](#), *Los Angeles Times*, May 31, 2013

[Ex-School Official Tied to Newport Superintendent Gets 4 Years In Prison](#), *Newport Beach-Corona del Mar Patch*, January 5, 2012

[Woman in school case arrested](#), *The Orange County Register*, December 27, 2010

## Justice Denied's Website Has Had Visitors From 212 Countries

Justice Denied's website has had visitors from 212 countries through January 2014. Those visitors were from more than 18,000 cities and towns. Five of the 20 cities where the most visitors were from are outside the U.S.

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camp the morning of November 6 was medically inconsistent with the injuries that ultimately were the cause of his death. She testified Benedict's injuries occurred between the time he walked to the second deer stand that afternoon and when he was found at his cabin. She testified that if he had sustained his extensive injuries in the morning he would have given indications of pain to his hunting companions at lunch, and with broken ribs and a dislocated shoulder he reasonably wouldn't have been able to drive an ATV or fire his rifle — yet he did so without giving any indication of pain or even discomfort.

To protect McCormick's state and federal constitutional right to confront the witnesses against him the trial judge ordered the exclusion of any testimony concerning any alleged comments Benedict made to anyone about the events of November 6 — since McCormick couldn't cross-examine Benedict about any comments attributed to him.



A deer stand similar to the one Jerry Donald Benedict fell from. (Minneapolis City Pages)

During Dr. Carr's cross-examination the prosecution violated the judge's order when it specifically questioned her about comments attributed to Benedict. McCormick's lawyer objected to the prosecution's line of questioning.

After the jury convicted McCormick of second-degree manslaughter, his lawyer made separate motions for a judgment of acquittal based on insufficient evidence, and for a new trial based on the prosecutorial misconduct of violating the judge's order during Dr. Carr's cross-examination. Before McCormick was sentenced his trial judge granted his motion for a new trial, but denied his motion for a judgment of acquittal. McCormick then made a motion to dismiss the complaint arguing that his retrial would violate his right against double jeopardy under the U.S. and Minnesota Constitutions. McCormick appealed after the judge denied his motion to dismiss.

McCormick's issues on appeal where the trial judge erred denying his motion for a judgment of acquittal; and the trial judge erred denying his motion to dismiss the complaint.

The Minnesota Court of Appeals issued its

majority opinion in *State v. McCormick*, No. A12-1253 (MN COA, 8-12-13) on August 12, 2013. Their decision states in part:

At trial, each element of a criminal charge must be proven beyond a reasonable doubt. ... Where any material element is to be proven by circumstantial evidence, proof beyond a reasonable doubt requires that "the facts proven by circumstantial evidence must be consistent with each other . . . and must exclude every other reasonable conclusion except that of the guilt of the defendant." [Op. Cit. 10-11]

Our review of the sufficiency of circumstantial evidence proceeds in two stages. ... First, we determine the proven circumstances. [Op. Cit. 11]

The second stage of review requires us to independently evaluate the reasonableness of all inferences to be drawn from the circumstances proved, including those inconsistent with guilt. ... If any of these inferences are inconsistent with guilt, then there is reasonable doubt as to guilt. [Op. Cit. 11]

Appellant argues that the circumstantial evidence presented is insufficient to establish that he had the requisite state of mind to be guilty of second-degree manslaughter. [Op. Cit. 11]

The circumstantial evidence admits of rational inferences other than that appellant intentionally or in conscious disregard of the risk toppled the deer stand. For example, appellant claims he was handing J.B. a business card when the stand toppled by reason of its instability. One of appellant's business cards was found at J.B.'s cabin after the incident. ... Handing a business card to a person in a deer stand which then accidentally topples does not reflect conscious disregard of a risk created by the actor. Even taking the evidence in the light most favorable to the state, ... we are compelled to conclude that there are also reasonable inferences to be drawn from the circumstances proved that are inconsistent with a reckless state of mind. [Op. Cit. 13]

A person is guilty of second-degree manslaughter when the person "cause[s] the death of another." This requires not only that the act be the cause of the death, but also that it be the proximate cause of the injury. [Op. Cit. 13]

The circumstantial evidence supports several rational hypotheses. ... There is also circumstantial evidence from this time period directly contradicting the inference that the morning fall from the deer stand caused the injuries that ultimately

led to J.B.'s death. ... a witness for the state, observed J.B. shoot a paper plate from 40 yards away after the morning incident. Evidence that J.B. rode an ATV away from the morning encounter with appellant, did not appear to be in significant pain during lunch, and then went to the second deer stand (where some of his items were found atop that stand) is also inconsistent with the inference that J.B. sustained extensive injuries during his encounter with appellant. [Op. Cit. 14]

... the burden is on the state to prove beyond a reasonable doubt that appellant's tipping of the deer stand was the proximate cause of the injuries leading to J.B.'s death. Even viewing the facts in the light most favorable to the state, the record evidence supports inferences that are inconsistent with all of J.B.'s injuries having occurred in the morning when appellant toppled the deer stand. J.B. may have fallen from a second deer stand. ... Accordingly, we hold that the state has not met its burden of demonstrating that there are no reasonable inferences from the record evidence that are inconsistent with appellant's guilt. [Op. Cit. 15]

[T]he district court erred in its application of the existing law regarding the evaluation of circumstantial evidence and should have granted appellant's motion for judgment of acquittal. [Op. Cit. 15]

Here, the district court found that the prosecutor did not commit misconduct with the intention of provoking a mistrial. This finding of fact is not clearly erroneous because the district court reasonably inferred that the prosecutor intended to circumvent the *in limine* ruling in order to negate evidence presented by appellant at trial. Thus, the district court did not err by determining that appellant's retrial does not violate the Double Jeopardy Clause of the United States Constitution. [Op. Cit. 17]

In sum, the district court correctly ruled that, under present Minnesota law, appellant's double jeopardy rights would not be violated by subjecting him to another trial because the prosecutorial misconduct that prompted the mistrial was not intended to goad appellant into moving for a mistrial. But because the circumstantial evidence presented at trial on the issues of recklessness and proximate cause supports reasonable inferences inconsistent with appellant's guilt, we conclude that the district court erred in denying appellant's motion for a judgment of acquittal. [Op. Cit. 19]

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## International Court Of Justice Petitioned To Nullify Conviction Of Jesus Christ

A petition to nullify Jesus Christ's conviction and death sentence is pending in The International Court of Justice in The Hague, Netherlands.

In August 2007 Naroibi attorney Dola Indidis filed a petition in Kenya's High Court on behalf of the Friends of Jesus that challenged the constitutionality of the mode of questioning, the evidence, the trial, and the sentencing and punishment of Jesus Christ. The petition's requested relief was a declaration that the proceedings were a "nullity" because "they did not conform to the rule at the material time." The ten defendants included The Republic of Italy and the State of Israel. The 25-page petition contended the proceedings Jesus was subjected to were infected with the bias and prejudice of "Judicial Misconduct, Prosecutorial Misconduct, Malicious Prosecution, Abuse Of Office, Fabrication Of Evidence and Human Rights Abuses." (§1, p. 11)

*Justice Denied* reported on the Friends of Jesus' petition in its [Summer 2007 issue](#). The petition was taken very seriously in Kenya, with legal experts debating the merits of its legal basis, its claims, and its re-

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The *appeals court's ruling* the prosecution failed to introduce sufficient evidence of McCormick's guilt bars his retrial under the Minnesota and U.S. Constitution's double jeopardy clauses, irrespective of the court's ruling McCormick's retrial wasn't barred by the *trial court's* granting of a new trial based on the prosecution's misconduct.

On September 6, 2013 Minnesota's Attorney General's [filed a petition](#) with the Minnesota Supreme Court requesting review of the appeals court's ruling. That petition [was denied](#) on October 15, 2013.

Source:

[State of Minnesota v. Kevin Thomas McCormick](#), No. A12-1253 (MN Ct. of Appeals, 8-12-13)

[State of Minnesota v. Kevin Thomas McCormick](#), No. A12-1253, Supreme Court Docket page

[Kevin McCormick convicted of manslaughter following controversial deer stand death](#), *Minneapolis City Pages*, March 13, 2011

[Minnesota hunter convicted of manslaughter in deer stand dispute](#), *Detroit Lakes Online* (Detroit Lakes, MN), March 12, 2011



Naroibi attorney  
Dola Indidis

After the High Court's ruling, in 2011 Indidis filed a petition in The International Court of Justice (ICJ) in The Hague, Netherlands on behalf of the Friends of Jesus that raised the same legal issues as the 2007 Kenyan petition. The petition asserted the ICJ had jurisdiction over the material issues because upon the attainment of independence the states of Italy and Israel incorporated the laws of the Roman Empire which were in force at the time of Jesus' trial and execution.

Indidis told the *Nairobi* newspaper [during an interview](#), "I filed the case because it's my duty to uphold the dignity of Jesus and I have gone to the ICJ to seek justice for the man from Nazareth. His selective and malicious prosecution violated his human rights through judicial misconduct, abuse of office bias and prejudice."

A spokesperson for the Friends of Jesus [told reporters](#) the petition in the ICJ was being pursued because, "The trial of Jesus, his crucifixion and his conviction violated the laws of the time, and must be corrected by modern law."

Indidis, a former spokesman of the Kenyan Judiciary, recently announced the ICJ has constituted a panel to hear the case. That couldn't be verified from the ICJ's website at [www.icj-cij.org](http://www.icj-cij.org).

[Click here to read the petition](#) filed in Kenya's High Court, *Friends of Jesus v Tiberius, Emperor of Rome; Pontius Pilate; et al*, Republic of Kenya Constitutional Petition No. 965 of 2007.

*Justice Denied's* previous article about the case is: "[Petition Seeks To Nullify Jesus Christ's Conviction](#)" *Justice Denied*, Issue 37, Summer 2007, p. 20.

Sources:

[Kenyan lawyer takes State of Israel, Jews to Hague over Jesus' death](#), *Jerusalem Post*, July 30, 2013

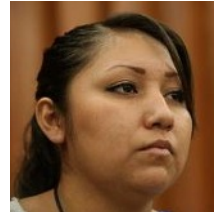
[Kenyan Lawyer seeks justice for Jesus Christ in ICJ](#), *churchill.co.ke*

[Friends of Jesus v Tiberius, Emperor of Rome; Pontius Pilate; et al](#), Republic of Kenya Constitutional Petition No. 965 of 2007

## Hilda Lopez de la Cruz Acquitted Of Abortion Conviction By Mexican Appeals Court

Hilda Lopez de la Cruz's abortion conviction and one year prison sentence have been vacated by the Supreme Tribunal of Mexico's State of San Luis Potosi.

In July 2009 Lopez was 18 and living in Tamuin, San Luis Potosi when she went to the hospital suffering from stomach pains. A doctor determined she was six weeks pregnant and she was experiencing a miscarriage. While she was in pain and hemorrhaging the doctor asked her questions, including if she had attempted an abortion. He interpreted that she gave an affirmative response.



Hilda Lopez de la Cruz during a press conference in Mexico City on August 27, 2013 (*Latin America Herald Tribune*)

Abortions are illegal in the State of San Luis Potosi. The doctor took Lopez while she was half-naked to the municipal police station. She was jailed overnight without medical care in the police station. She was released the next day.

Three years later, in 2012, Lopez was arrested after being charged with violating the law prohibiting abortions.

During Lopez's trial in April 2013 the prosecution's case was based on the doctor's testimony she had indicated the miscarriage was caused by her attempt to have an abortion. Lopez was convicted and sentenced to one year in prison.

Lopez appealed and in August 2013 the Supreme Tribunal, San Luis Potosi's highest court [issued its ruling](#). The Court ruled her alleged confession was inadmissible because it was obtained under duress while she was hemorrhaging. Without her alleged confession there was insufficient evidence to support her conviction, and so the Court vacated her conviction and sentence.

The rights group GIRE hired the attorney's who appealed Lopez's conviction. After Lopez's acquittal GIRE's director, Regina Tames, [told reporters](#) during a press conference in Mexico City on August 27 that between 2009 and 2011 at least 679 Mexican women were accused of abortion by

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