

## William DePalma Was Framed For Bank Robbery By A Policeman Faking His Fingerprint

The conviction of innocent persons in state and federal courts isn't a recent phenomenon, but is an ongoing feature of the legal system in the United States. A police officer's framing of William DePalma for a bank robbery he didn't commit was such an egregious case that it was [national news](#) in the fall of 1975.

On November 16, 1967 a police officer stopped William DePalma while he was walking on a sidewalk in Whittier, California, where he lived. The officer thought DePalma resembled the description of the man who earlier that day robbed a local bank with a pistol and put the money in a brown bag. DePalma agreed to go to the police station for questioning and while he was there his photograph was taken. All the witnesses shown DePalma's photo said he wasn't the bank robber. There was no evidence he committed the robbery, but a report about his interview and his photograph were included in the case file.

Twelve days after the Whittier robbery, the Mercury Savings and Loan in Buena Park was robbed of \$2,400. Buena Park and Whit-

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ers. The State's response to Johnson's petition is due to be filed in January 2014.

On October 15, 2013 the federal Third Circuit Court of Appeals denied Johnson's request to file a second or successive federal habeas corpus petition. Although Johnson's petition was based on his new evidence supporting his actual innocence, the court ruled it did not make "a prima facie showing that his claims satisfy the applicable standard" for filing a second or successive petition.

Detailed information about Lorenzo Johnson's case is at, [www.freelorenzojohnson.org](http://www.freelorenzojohnson.org).

Previous *Justice Denied* articles about Lorenzo Johnson's case are:

[U.S. Supreme Court Reinstates Lorenzo Johnson's Convictions Even Though He May Be Innocent](#)

and, [Lorenzo Johnson Back In Custody After U.S. Supreme Court Reinstates His Murder Conviction](#)

tier are in Orange County, which adjoins Los Angeles County. The method operandus was similar to the earlier robbery in Whittier, so the file for that still unsolved crime was reviewed by the Buena Park police. The file included the report about DePalma and his photograph. Shortly after that the head of Buena Park's crime lab — Sergeant James D. Bakken — reported that DePalma's left index fingerprint matched a fingerprint found on a counter at the savings and loan. DePalma's fingerprint and the crime scene fingerprint were sent to the FBI lab in Washington, D.C. — which confirmed the match.

DePalma was arrested in December 1967 and charged with committing the Buena Park robbery.

During his federal court trial in 1968 the prosecution's case was based on the testimony of two bank employees who identified DePalma as the robber, and an FBI fingerprint examiner and Bakken both testified DePalma's fingerprint matched the fingerprint found on a counter at the crime scene. DePalma alibi defense that at the time of the crime he was working 15 miles away in the City of Commerce selling food from his catering truck, was supported by the testimony of 13 witnesses.

The jury convicted DePalma and the 31-year-old father of three was sentenced to 15 years in prison. He was allowed to remain free pending the outcome of his appeal.

DePalma was broke from paying his legal expenses of \$13,000, so after the federal 9th Circuit Court of Appeals [affirmed his conviction](#) he began calling Los Angeles area lawyers and private investigators in a desperate attempt to find someone willing to investigate his case *pro bono* for evidence proving his innocence. Only one person agreed to meet with him: P.I. John Bond. Skeptical of DePalma's claim he had never been in the Mercury Savings & Loan, Bond had him take a lie detector test. DePalma passed so Bond agreed to look into his case at no charge. Bond began trying to solve the mystery of how DePalma's fingerprint could have been at the crime scene when he wasn't there, by seeking to discover the identity of the robber.

After the U.S. Supreme Court declined to review DePalma's case he began serving his sentence in August 1971 at McNeil Island Federal Penitentiary near Tacoma, Washington. Imprisoned a thousand miles north of Los Angeles, DePalma's impoverished



William DePalma in August 1975. (AP)

wife and three children weren't able to visit him.

Bond was able to obtain documents proving the prosecution had failed to disclose to DePalma's trial lawyer that the teller who had been robbed did not identify DePalma when shown his photo 10 days after the robbery. The teller then positively identified him as the robber during his trial. The prosecution also failed to disclose that both tellers told police at the scene that the robber was "Mexican" — while DePalma was Italian-Russian. The prosecution also failed to disclose there was a third witness — a woman saw the robber walk into the bank and she didn't identify DePalma.

Lawyer Joe Ball agreed to represent DePalma *pro bono* and filed a motion for a new trial based on the prosecution's *Brady* violations for failing to disclose the exculpatory evidence, new expert evidence that there were irregularities in the appearance of DePalma's fingerprint that had alleged been found at the crime scene, and that his employer had been with him 15 miles from the robbery at the time it occurred, but he had not been able to testify at DePalma's trial because he was out of the country. DePalma's motion was denied by Judge Charles Carr -- who had presided over DePalma's trial -- based on the reliability of the fingerprint testimony during the trial. [Judge Carr said](#): "I read the chances of fingerprints being duplicated are one out of millions." In May 1972 the federal 9th Circuit Ct of Appeals [affirmed the denial](#) of a new trial.

Bond had begun working for the Federal Public Defenders Office in Los Angeles on the condition he could continue working on DePalma's case, and in September 1972 the FPDs were assigned to represent DePalma.

Bond had not been successful in discovering the robber's identity, so he began looking into Bakken's background. Bakken testified during DePalma's trial that he worked for four years in the "records bureau" of a rural Minnesota sheriff's office — but when Bond called the sheriff [he was told](#), "I've got a three-man department. I don't have a record bureau, and I've never heard of a man named Bakken." Bakken also testified that he had taken criminology courses from the University of Minnesota, but when contacted by Bond the university said Bakken had never taken any classes.

After the Buena Park PD was informed in the fall of 1973 that Bakken — who still worked there -- had testified falsely about

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his background, the Orange County Sheriff Department's crime lab began a thorough examination of the fingerprint evidence in DePalma's case and discovered it had been forged: Bakken made the incriminating fingerprint allegedly found on the counter by photocopying DePalma's fingerprint taken in 1957 after his arrest for a minor misdemeanor, when he was 17. Bakken's forgery was good enough that it fooled the FBI crime lab and the FBI fingerprint examiner who testified at DePalma's trial that it matched his fingerprint taken in 1957.

Bakken couldn't be charged with forging the fingerprint in DePalma's case because the statute of limitations had expired. However, he was indicted in November 1973 by an Orange County grand jury for falsifying evidence in a marijuana possession case by planting a fingerprint on a clear plastic bag of marijuana. Bakken was also suspected of falsifying evidence in at least six other cases. Although there was no evidence anyone helped Bakken in manufacturing evidence, his superiors looked the other way when they were informed by the investigating officer in a 1970 armed robbery case that Bakken wanted him to commit perjury that Bakken found the fingerprints of two suspects on a rifle that the officer knew from his personal examination had no fingerprints on it. The officer reported the incident to his superiors, and when no action was taken he quit the Buena Park PD and went to work for another city's police department.

DePalma insisted to prison officials that he was innocent, and even asked to be given Sodium Pentothal — "truth serum" — to prove he had not committed the robbery. In October 1973 DePalma had a parole hearing during which the prison psychologist testified that in his opinion DePalma was truthful in claiming his innocence of the bank robbery. The psychologist's testimony struck a cord because the parole board granted DePalma parole effective December 18, 1973. The parole board's action was extraordinary because at the time of his release he had only served 2 years and 4 months of his 15-year prison sentence.

After DePalma's release his public defender filed a motion for a new trial based on the new evidence that his right to due process had been violated by Bakken's knowingly false testimony during his trial.

During the hearing on February 11, 1974, the U.S. Attorney's Office moved to dismiss DePalma's indictment. Judge Carr granted the motion and DePalma was a free man.

Before adjourning the hearing Judge Carr [said about the case](#), "Nobody ever said the system was perfect. That's for the stargazers."

DePalma filed a \$5.3 million federal civil rights lawsuit (42 USC 1983) against Bakken and a separate lawsuit against the city of Buena Park. On August 12, 1975, the day a joint trial was scheduled to begin for the two lawsuits, DePalma agreed to a settlement of \$750,000. At the time it was believed to be the largest settlement of a civil rights lawsuit related to a wrongful conviction in U.S. history. After the settlement was announced DePalma told reporters, "During my trial and conviction, the taxpayers spent a lot of money that should never have been spent on trials and appeals. Literally thousands of dollars went down the drain — to convict an innocent man."

A key fact overlooked by DePalma's lawyer during his trial that would have raised a waving red flag about the reliability of the fingerprint evidence and possibly prevented his conviction — was that the tellers testified the robber held the gun in his left hand during the robbery and only his right hand was free: so it was impossible that the left index fingerprint Bakken testified was recovered from the crime scene could have been that of the robber.

One of the ironies of DePalma's case is the robber of the Whittier bank was caught after DePalma's trial. Robert Eads confessed to that and 24 other bank robberies — but the Buena Park robbery wasn't one he committed. Eads was imprisoned at McNeil Island where he and DePalma became friends while working together in the furniture shop. To this day it is unknown who robbed the Mercury Savings and Loan — just that it wasn't Eads or DePalma.

There is nothing to prevent what happened to DePalma from happening today to an innocent person, and there is no way to know how many innocent men and women are in prison because of fake fingerprint evidence as convincing to the judge and the jury as Bakken's fabrication was in DePalma's case.

### Sources:

[USA v. William DePalma](#), 414 F.2d 394 (9th Cir. 08-06-1969) (Conviction affirmed)

[USA v. William DePalma](#), 461 F.2d 240 (9th Cir. 05-04-1972) (New trial denied)

*DePalma v. United States*, 396 U.S. 1046, 90 S.Ct. 697, 24 L.Ed.2d 690 (1970). (U.S. Sup. Ct. Cert denied)

[The Fingerprint That Stole a Man's Freedom](#), *People* magazine, October 14, 1974

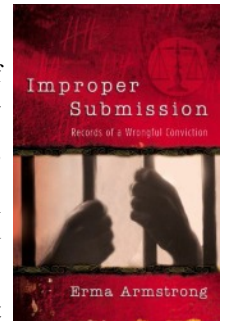
He Fought 8 Years to clear name, *Evening Independent* (St Petersburg, FL), August 13, 1975

["The Fingerprint That Lied"](#): Justice vs. William DePalma," by Paul Morantz, *Coast Magazine*, 1975, p. 63-68

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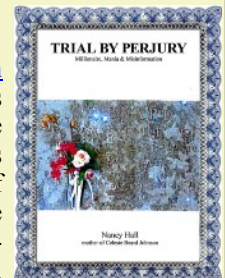
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