

Woman Sues For Forced False Confession She Wasn't Raped

A woman has filed a federal civil rights lawsuit against the City of Lynnwood, Washington, police officers, and a federally and state funded organization and its employees, for violations of her constitutional rights related to her being prosecuted in 2008 for falsely reporting a rape that had in fact occurred. To protect her privacy the lawsuit identifies her by her initials D.M. D.M.'s lawsuit alleges what can at best be described as callous and inhumane treatment of her by the defendants named in her lawsuit after she reported being raped.

In August 2008 18-year-old D.M. was living in a Lynnwood, Washington apartment as part of a teen homelessness prevention program operated by [Cocoon House](#). Cocoon House received funds originating from the U. S. Department of Housing and Urban Development, the State of Washington, and Snohomish County. Lynnwood is about 10 miles north of Seattle.

On the early morning of August 11, 2008 a man entered D.M.'s apartment through a window. He threatened her with a butcher knife, bound her wrists behind her back with a shoe string he had removed from her shoes, stuffed a pair of underwear in her mouth as a gag, blindfolded her, raped her, and took photographs of her.

After the man left D.M. was able to free herself. She immediately called her upstairs neighbor and her Cocoon House case manager.

The neighbor called emergency 911. At least three Lynnwood Police Department officers responded. One of the officers wrote in his report that D.M. had "red marks" on both of her wrists where the rapist had tied them with her shoestring, and he took photographs of her wrists. The evidence collected by the police included the shoe string the rapist used to tie D.M., her underwear he used as a gag, the butcher knife he threatened her with, the kitchen knife D.M. used to try and cut the shoe string binding her wrists, the scissors that she was able to use to free her hands, her tennis shoes from which her rapist took the shoe strings, her wallet handled by the rapist, and her driver's license he left on the bedroom window sill.

D.M. was taken to the Providence Hospital Emergency Room on the day of the rape and the doctor's report states: "She did report sexual assault by an armed invader to her

apartment with trauma noted bilaterally to her wrists and abrasions to inner aspect labia minora." D.M.'s Cocoon House case manager was present when the doctor made the observations and photographs were taken.

D.M.'s written statement submitted to the police two days after the rape was consistent with what she had told the police officers that responded to the 911 call she had been raped.

Three people who had no personal knowledge about D.M.'s rape told a Lynnwood police officer they doubted she had been raped.

Three days after D.M.'s rape, two officers who believed the three people picked D.M. up in their police car. They transported her to the Lynnwood Police Station to try and extract an admission from her that she had made up the rape. Before interrogating D.M. the officers did not inform her of her *Miranda* rights against self-incrimination and that she had the right to an attorney. The officers told D.M. they didn't believe she had raped and insisted she write a statement that she had made it up. D.M. wrote a statement but it didn't mention the rape hadn't occurred. The officers continued to pressure D.M. that she had made it up, but D.M. insisted she had been raped. The detective's [report states](#): "DM became more animated, pounded the table and said that she was 'pretty positive' that it had happened." The officers continued the interrogation and telling D.M. that she hadn't been raped, and she eventually signed a statement that she had made up the rape accusation.

"Before interrogating D.M. the officers did not inform her of her *Miranda* rights against self-incrimination and that she had the right to an attorney. The officers told D.M. they didn't believe she had raped and insisted she write a statement that she had made it up."

The next day, August 15, D.M. contacted her Cocoon House case manager and [told him](#) the police "don't believe her, so she wants to get a lawyer." Her case manager didn't do anything.

Three days later, on August 18, D.M. insisted to her case manager and the Cocoon House director that she had been raped and wanted to go to the Lynnwood police and recant her statement that she signed under duress that she hadn't been raped. She told her case manager and the director that the police should be looking for her rapist and

"she just signed the statement to get out of there" (the police station). The Cocoon House employees threatened D.M. with the lose of her housing if she filed a report recanting her statement.

D.M. then went to the Lynnwood police station with her case manager and the director. D.M. told the two officers assigned to her case that [she wanted to](#) "recant her confession that she had lied about being raped." DM stated that the rape actually occurred. She began crying and said she kept seeing the vision of "him" on top of her." The detective threatened D.M. that she would be jailed if she failed a polygraph test, and he would not recommend that she continue receiving assistance from Cocoon House. In the face of the police officers and the Cocoon House case manager and director not believing she was raped, and her repeated requests for a lawyer being ignored, D.M. backed down.

At no time had D.M. been advised of her rights to remain silent, to not incriminate herself, and to have a lawyer appointed to her if she requested one.

Four days later, D.M. was arrested on August 22 for the crime of filing a false police report (RCW 9A-84-040). The prosecutor's office filed that charge against her five days later based solely on her statement, which was contradicted by the physical evidence from D.M.'s apartment collected by the police officers, the officer's and doctor's reports, and the photographs of D.M. that supported she had been raped. When D.M. was arraigned on September 25, 2008 she pled not guilty and was appointed a public defender.

On March 12, 2009 D.M. entered into a Pretrial Diversion Agreement that had [the following terms](#):

- * Costs imposed of \$500.00.
- * Supervised probation for one year.
- * Directed to report to Probation Department on April 3, 2009.
- * No criminal violations for 1 year.
- * Notify court of address change for 1 year.
- * No driving without license and insurance for 1 year.
- * Mental health evaluation for 1 year.
- * If conditions were met, the charges would be dismissed.

D.M. completed the Pretrial Diversion Agreement and the charge of filing a false police report was dismissed on April 7, 2010, and her case was closed the next day.

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Almost a year later, in February 2011, 32-year-old Marc P. O'Leary was arrested in Lakewood, Colorado and charged with two rapes and an attempted rape in Colorado. When the police searched O'Leary's home they found a camera that contained more than 100 "trophy" photos of women victimized by his sexual assaults. [One of those photos](#) was of D.M. -- exactly as she had told the police in August 2008 her rapist had taken photos of her.

There were strong similarities between O'Leary's accused crimes in Colorado, the rape of D.M. and the rape of a 63-year-old woman in the Seattle suburb of Kirkland that occurred in 2008 after D.M.'s rape. Kirkland is about 15 miles southeast of Lynnwood.

Investigators discovered that O'Leary lived in Mountlake Terrace, Washington from 2006 to 2009. Mountlake Terrace is a Seattle suburb only a few miles from Lynnwood and Kirkland.

On March 16, 2011 D.M.'s case was reopened and the \$500 she had paid as part of her Pretrial Diversion Agreement was ordered returned to her. Although D.M. had not been convicted of filing a false police report because she successfully completed the Pretrial Diversion Agreement, the fact she had been charged had been reported to state and federal police agencies. On April 14, 2011 an order was entered to delete the record of D.M.'s case from all criminal justice agency files.

O'Leary was charged with the rape of D.M. and the woman in Kirkland. O'Leary pled guilty on June 6, 2012 to those rapes. As part of his plea deal he was sentenced to serve 19 years and 8 months in prison concurrently with his sentence to serve 49 years and 2 months in prison for his convicted crimes in Colorado.

At the time of O'Leary's plea and sentencing Snohomish County Deputy Prosecutor Adam Cornell [said about O'Leary's](#) rape of D.M., "The defendant came into her home and crushed her dignity sense of security and belief in the goodness of people. She suffers still."

On June 7, 2013 D.M. filed a federal civil rights lawsuit in Seattle that named as defendants Marc O'Leary, the City of Lynnwood, Lynnwood police chief Steven J. Jensen,

Lynnwood police officers Jeff A. Mason and Jerry Ritgarn, Cocoon House, and its director and D.M.'s case manager in August 2008, Jana Hamilton and Wayne Nash respectively. The case is *D.M. v. O'Leary et al*, No. 2:2013cv00971 (USDC WWA).

Among D.M.'s claims is the City of Lynnwood and its police officers Mason and Ritgarn violated her federal constitutional rights by: Arresting her without probable cause that she filed a false police report; failing to advise her of her *Miranda* rights that she had the right against self-incrimination, she had the right to remain silent, and that she was entitled to assistance of counsel; forcing her to make an involuntary statement that she hadn't been raped; threatening her with jail if she failed a polygraph test; threatening to have her housing benefits revoked; and maliciously prosecuting her in violation of her clearly established constitutional rights.

D.M.'s lawsuit seeks "an appropriate remedy and awarding Plaintiff general and special damages, including damages for pain, suffering, anxiety, humiliation, experienced in the past, the present, and to be experienced in the future pursuant to 42 U.S.C. Section 1983 and Section 1988 in an amount to be proven at trial, including punitive damages."

D.M.'s lawsuit can be read [by clicking here](#).

D.M. currently lives in Wyoming. She only has the police in Colorado to thank for her name being cleared and her criminal record expunged, because they put forth the effort to identify her photo was amongst the photos O'Leary took of his victims.

Source:

[DM v. O'Leary et al](#), No. 2-2013cv00971 (USDC WWA) (complaint filed 6-7-2013)

[Convicted rapist pleads guilty to rapes in Lynnwood, Kirkland](#), KOMOnews.com (Seattle, WA), June 6, 2012

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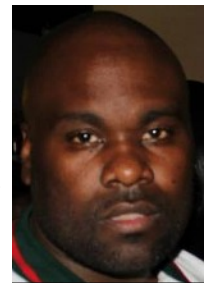
Marc P. O'Leary at the time of his arrest in February 2011. (Jefferson County Sheriff's Office)

Lorenzo Johnson Rally Held In Harrisburg, Pennsylvania on December 18, 2013

On December 18, 2013 [A Call to Action to Free Lorenzo Johnson](#) was held at 11:30 a.m. outside the Office of the Pennsylvania Attorney General in Strawberry Square, at 3rd St. and Walnut St. in Harrisburg, Pennsylvania. The event included a press conference and rally in support of Johnson, and to submit petitions to AG Kathleen Kane encouraging her to support Johnson's post-conviction petition and dismissal of his charges.

Participating were Johnson's lawyer Rachel Wolkenstein; exoneree and wrongful conviction activist Jeffrey Deskovic; Derrick Hamilton, an advocate for family and victims of wrongfully conviction; Bret Grote, Director of the Abolitionist Law Center, the Pennsylvania Human Rights Coalition-Fed-Up, and Johnson's wife Tazza and other family and friends.

Lorenzo Johnson was released from prison on January 18, 2012 after 16 years of incarceration, when the federal Third Circuit Court of Appeals reversed his convictions on the basis there was insufficient evidence Johnson was guilty of being an accomplice and coconspirator in the December 1995 murder of Taraja Williams in Harrisburg. Johnson's alibi defense



Lorenzo Johnson at the party celebrating his release on January 18, 2012. He was taken back into custody on June 14, 2012. (Lorenzo Johnson, Facebook.com)

was he was in New York City 170 miles from Harrisburg at the time of the murder. However, the jury relied on the key prosecution testimony of a drug addict who testified that on the night of the shooting she was drinking alcohol and had consumed a large quantity of crack cocaine. She also admitted that when first questioned by the police she told them she didn't know anything about the shooting.

Johnson was taken back into custody on June 14, 2012 to resume serving his life sentence after the U.S. Supreme Court reinstated his convictions.

In August 2013 Johnson filed a state post-conviction petition that includes the new evidence the prosecution's key witness has recanted her trial testimony as false, and new evidence pointing to the actual murder-

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