

Aaron Frank Cadger Acquitted By Oregon Court Of Appeals Of Non-existent Jail Escape

Aaron Frank Cadger [was acquitted](#) by the Oregon Court of Appeals of escaping from a correctional facility the appeals court ruled didn't happen.

In September 2010 Cadger, 20, was serving a 60-day sentence at the Douglas County Jail in Roseburg, Oregon for a probation violation. Cadger was assigned to an "outside inmate worker program," and one day he and several other inmates were picked up at the jail by a civilian supervisor who transported them to the Douglas County fairgrounds. Cadger was given the job of shoveling manure from a parking lot in an area that was outside the fence surrounding the fairgrounds. That morning Cadger's girlfriend arrived at the fairgrounds and they talked for a while where he was working.

During Cadger's lunch break he went to the restroom and rendezvoused with his girlfriend and they left in her car.

A warrant was issued for Cadger's arrest and he was apprehended in California. After his extradition to Douglas County he was charged with escaping "from a correctional facility" (ORS 162.155) which is a second degree felony.

The prosecution presented evidence during



Aaron Frank Cadger
(Douglas County Jail
(Roseburg, OR))

Cadger's trial that he left the fairgrounds without permission while on the work detail. After the prosecution rested Cadger's lawyer made a motion for a judgment of acquittal on the basis the fairgrounds isn't a "correctional facility" as required by the escape statute.

The prosecution countered with the argument that Cadger was "constructively confined" in the Douglas County jail at the time he physically left the fairgrounds. After the judge denied Cadger's motion, Cadger rested his defense without presenting any witnesses. The jury convicted Cadger and he appealed.

On October 16, 2013 the Oregon Court of Appeals issued [their unanimous ruling](#) in *State of Oregon v. Aaron Frank Cadger*, No. A147651 (OR Ct of Appeals, 10-16-2013) reversing Cadger's conviction on the basis the judge erred denying his motion for a judgment of acquittal. Judge Lynn R. Nakamoto wrote in the Court's opinion:

We agree with defendant and resolve this case in conformance with *Gruver*. In that case, we held that the defendant -- a county jail inmate who was transported and left to work at the local animal shelter under the supervision of a civilian manager -- could not be con-

victed of escape because he was not "under the direct supervision of a law enforcement official" when he absconded from his work site. *Gruver*, 258 Or App at 555. *Gruver* was based on facts substantially similar to those in the present case ... [Op. Cit., 3]

... Like the defendant in *Gruver*, defendant in the present case was authorized to leave the jail, for work at the fairgrounds, and he did not "abscond while under the direct supervision of a law enforcement official." [Op. Cit., 4]

... Thus, as in *Gruver*, defendant was not constructively confined in the county jail, but was instead on a "form of temporary release" at the time of his departure. Accordingly, the trial court erred when it denied defendant's motion for judgment of acquittal, ... [Op. Cit., 5]

Cadger's case is an example that the devil is in the details and his lawyer had a better understanding of what constitutes a correctional facility than the prosecution did when it charged him with a crime he didn't commit.

The Oregon Court of Appeals ruling in *State of Oregon v. Aaron Frank Cadger*, No. A147651 (OR Ct of Appeals, 10-16-2013) [can be read by clicking here](#).

Source:
[State of Oregon v. Aaron Frank Cadger](#), No. A147651 (OR Ct of Appeals, 10-16-2013)
[Court overturns Roseburg inmate's escape conviction](#), *KPIC* (Roseburg, OR), October 17, 2013



Hamilton cont. from p. 11

The Court also reversed the lower court's denial of Hamilton's ineffective assistance of counsel claim, ruling:

"The failure of the defendant's trial counsel to name all the alibi witnesses in the notice of alibi could constitute ineffective assistance of counsel. Accordingly, at the hearing, the defendant should also be afforded an opportunity to prove, by a preponderance of the evidence, that trial counsel's representation was ineffective. Although the remedy for ineffective assistance of counsel generally is to grant a new trial, if the defendant prevails on his claim of actual innocence, a new trial would not be necessary." [Op. Cit. 8]

The date of Hamilton's hearing hasn't been set. The hearing should be interesting since

the State no longer has any evidence he committed Cash's murder in Brooklyn which occurred at a time his unrebutted new alibi evidence establishes he was 82 miles away in New Haven. Consequently, if the trial court judge conscientiously applies the appeals court's directive it can be expected the hearing will result in the overturning of Hamilton's conviction and the dismissal of his indictment.

The appeals court's ruling in Hamilton's case paves the way for all imprisoned or paroled persons in New York to have their claim of actual innocence considered on its merits, without them having to endure his arduous 20 year quest for justice.

[Click here to read](#) *People v. Hamilton*, 115 A.D.3d 12, 979 N.Y.S.2d 97 (1-15-14).

[Click here to read](#) "In Connecticut At Time Of Brooklyn Murder – The Derrick Hamil-

ton Story," *Justice Denied* magazine, Summer 2008, pp. 10-13.

[Click here to read](#) "Derrick Hamilton's Alibi By Police Officer He Was 82 Miles From 1991 Murder Ignored By The Courts," By Hans Sherrer, *Justice Denied* magazine, Summer 2011, p. 16.

Source:
[People v. Hamilton](#), 115 A.D.3d 12, 979 N.Y.S.2d 97 (1-15-14)

[Derrick Hamilton's Alibi By Police Officer He Was 82 Miles From 1991 Murder Ignored By The Courts](#), *Justice Denied* magazine, Issue 47, Summer 2011, p. 16

[Brooklyn Appellate Court makes unprecedented ruling](#), *Brooklyn Daily Eagle*, January 16, 2014

[Man released from prison](#) after 20 years can prove innocence in landmark ruling, *New York Daily News*, January 16, 2014

[Brooklyn man is freed from prison](#) after 20 years, *New York Daily News*, December 14, 2011

Derrick Hamilton #93A5631, New York Department of Corrections, [inmate information page](#)

