

Jonathan Fleming Released After 25 Years For NY Murder Committed When He Was At Disney World

Jonathan Fleming [has been released](#) after almost 25 years of imprisonment for a New York murder committed when he was 1,100 miles away in Florida.

On August 15, 1989 Fleming was vacationing with his family at Walt Disney World in Orlando, Florida. Fleming was 1,100 miles from his home in Brooklyn, where an acquaintance was shot to death on the street on August 15.

The investigation of the shooting found that Fleming's car was used by the shooter, and after the 27-year-old Fleming returned to Brooklyn he was arrested and charged with the murder.

During his trial in July 1990 Fleming introduced plane tickets, photos, videos, postcards, and the testimony of family members to support his alibi defense that on the day of the murder he was at Disney World to celebrate his son's 9th birthday. Fleming's uncle testified he picked him up at the airport on August 16 -- the day after the shooting. His lawyer argued to the jury the prosecution didn't introduce any evidence he knew his car was going to be used in the shooting.

The prosecution key evidence was the testimony of their star witness, Jacqueline Belardo, that she saw Fleming shoot the victim. To overcome Fleming's alibi the prosecution argued to the jury his family members couldn't be believed about when he was in Orlando because they would say anything to help him, and he could have created a false alibi by possibly flying from Orlando to New York, committing the murder, and then flying back to Orlando. Inexplicably and contrary to Fleming's alibi defense, his lawyer stipulated it was possible Fleming could have been in Brooklyn at the time of the shooting.

After the jury found Fleming guilty Belardo recanted. She claimed she perjured herself in a deal with the prosecution to drop the charges against her in an unrelated arrest. Fleming filed a motion for a new trial, which his trial judge denied in ruling Belardo's recantation wasn't credible because the prosecution denied she had any pending charges before she testified.

Four months after Fleming's trial the judge sentenced him to 25 years to life in prison.



Jonathan Fleming leaving the courthouse after his release on April 9, 2014 (AP)

In 1993 Fleming's conviction was affirmed on direct appeal. The appeals court's [ruling stated](#):

Prior to trial, the defendant moved to dismiss the indictment arguing that he had been denied the effective assistance of counsel on the ground

that counsel ignored his express desire to testify before the Grand Jury and waived the defendant's right to so testify without consulting him.

...
The defendant's remaining contentions, including those raised in his supplemental *pro se* brief, are either unpreserved for appellate review or without merit.

In 2001 New York's appeals court affirmed the trial court's denial of Fleming's post-conviction petition with a [one-sentence order](#): "The appellant has failed to establish that he was denied the effective assistance of appellate counsel."

Fleming had languished in prison for more than two decades when with money from a civil suit, one of his sons hired two private investigators. The investigators obtained affidavits from several prosecution witnesses, including the key witness who reaffirmed she falsely identified Fleming during his trial in exchange for the dropping of charges against her. Based on the new evidence two attorneys took Fleming's case *pro bono*: Anthony Mayol, and Taylor Koss, who was a former assistant Brooklyn DA.

In response to public outcry about a number of embarrassing exonerations in recent years, the Brooklyn DA's Office set-up the Conviction Integrity Unit in 2011 to investigate cases of possible wrongful conviction. Fleming's lawyers submitted a request to the CIU detailing the new evidence supporting that his case be reinvestigated.

The CIU reopened Fleming's case in June 2013, and two exculpatory documents supporting his alibi defense were discovered in the DA's files that had not been disclosed to Fleming's trial lawyer. The first document was a receipt proving that just hours before the murder took place Fleming paid a phone bill at the Orlando Quality Inn where he was staying. The phone receipt hadn't been disclosed to Fleming's lawyer even though he specifically requested it before trial. The second document was an Orlando police report that several hotel employees remem-

bered Fleming was there on the day of the murder. A third document that wasn't disclosed by the DA's office supported the claim by Belardo she lied in exchange for having charges dropped: A command log from the 90th Police Precinct showed she had been arrested prior to Fleming's trial.

In November 2013 Fleming's investigators and a member of the CIU flew to South Carolina and interviewed the man suspected of driving Fleming's car at the time of the shooting. The man not only [provided an affidavit](#) that Fleming wasn't involved, but he identified who actually shot the victim.

Longtime Brooklyn DA Charles Hynes was defeated in the Nov. 2013 election by Ken Thompson, who criticized the DA Office's handling of possibly tainted criminal cases.

The evidence that wasn't disclosed to Fleming prior to his trial constituted serious *Brady* violations warranting the granting of a new trial that could only reasonably expect to result in his acquittal and release. Under those circumstances the Brooklyn DA's Office filed a motion on April 9, 2014 to dismiss Fleming's murder indictment. After the motion was granted Fleming was released later that day after almost 25 years of incarceration.

Fleming [told reporters](#) after his release, "I have no faith in the system because it shouldn't have taken this long for me to get out. The evidence was there all along that could have freed me 24 and a half years ago. If the documents were turned over 24 years ago, I would've gotten released then." He said in prison he met other apparently innocent men who were trying to get out, and "I learned that the system is—I don't have no trust in it whatsoever."

Fleming's mother, Patricia Fleming, 71, testified at his trial that she was with him in Orlando at the time of the murder in Brooklyn. After his release [she told](#) reporters, "I knew he didn't do it, because I was there. When they gave my son 25 to life, I thought I would die in that courtroom. I never did give up, because I knew he was innocent."

Sources:

[People v. Fleming](#), 196 AD 2d 551 (NY Appellate Div., 2nd Dept. 1993)

[People v. Fleming](#), 280 AD 2d 682 (NY Appellate Div., 2nd Dept. 2001)

[Brooklyn DA Moves to Free Man](#) after Long-Buried Evidence Surfaces, *ProPublica*, April 7, 2014

[Wrongfully Convicted, Jonathan Fleming](#) Is Freed After 24 Years, *Newsweek*, April 11, 2014

[Wrongly convicted Brooklyn man](#) released after 24 years in prison opens up about ordeal as he celebrates freedom, *New York Daily News*, April 13, 2014.

[1989 NYC murder conviction overturned](#), man released after 25 years in prison, *Christian Science Monitor*, April 9, 2014.