Henry Lee McCollum and Leon Brown Exonerated By New Evidence After 31 Years of Wrongful Imprisonment

Leon Brown after his exoneration on September 2, 2014 (Jenny Warburg)

After 31 years of wrongful imprisonment half-brothers Henry Lee McCollum and Leon Brown were released based on new evidence they are innocent of the rape and murder of 11-year-old Sabrina Buie in Red Springs, North Carolina in September 1983. The new evidence was the DNA profile identified from a cigarette butt found *near* Ms. Buie's body that doesn't match McCollum or Brown — but does match a man currently imprisoned for the rape and murder of a teenage girl in Red Springs a month after Ms. Buie's murder.

The 19-year-old McCollum and 15-year-old Brown had recently moved to North Carolina from New Jersey, when they were arrested after a local teenager cast suspicion on McCollum in Ms. Buie's death. After five hours of interrogation without a lawyer present and not being allowed to see his mother, and during which McCollum was threatened he could be executed if he did not cooperate, the police suggested to him he could go home if he told them he committed the crime. After McCollum told the police he and three other youths attacked and killed the girl he asked the detectives: "Can I go home now?"

Brown was also being interrogated and threatened with execution if he didn't confess. He steadfastly denied any involvement in the crime until told that McCollum had confessed. Both young men are "intellectually disabled," and they subsequently recanted their confessions as coerced.

The prosecution had no physical, forensic or eyewitness evidence linking McCollum and Brown to the crime, so their convictions of rape and murder in 1984 were based on their confessions. Both were sentenced to death. After their convictions were overturned on appeal, McCollum was again convicted of rape and murder in 1991 and sentenced to death. Brown was retried in 1992 and after being convicted of only rape, he was sentenced to life in prison.

On August 26, 2014 lawyers for McCollum and Brown filed a motion in Robeson County that requested the overturning of their convictions and dismissal of the charges based on new DNA evidence from a cigarette butt found near Ms. Buie's body that excluded the two men, but matched the DNA of Roscoe Artis. Artis is currently imprisoned for a teenager's rape and murder in Red Springs about a month after Ms. Buie's murder. The motion also included evidence that Artis had admitted to fellow prisoners that he raped and killed Ms. Buie, and that McCollum and Brown were not involved.

Henry McCollum after his exoneration on September 2, 2014 (Jenny Warburg)

A week later, on September 2, 2014, Superior Court Judge Douglas B. Sasser granted the motion and ordered the immediate release of McCollum, 50, and Brown, 46.

McCollum had spent almost 30 years on death row for his rape and murder convictions, while Brown was serving life in prison on for his rape conviction.

Source:

DNA Evidence Clears Two Men in 1983 Murder, *The New York Times*, Sept. 2, 2014

North Carolina Men Are Released After Convictions Are Overturned, *The New York Times*, September 3, 2014

Motion says Roscoe Artis killed Buie: Seeks release of McCollom, Brown, www.robesonian.com, August 27. 2014

Jerry Lee Brock Released After 19 Years In Prison When Accuser Recants

Jerry Lee Brock was released on November 20, 2014 after 19 years and 4 months in prison for a child molestation the alleged victim now admits never occurred.

In early 1995 Brock was living in Thurston County, Washington. His girlfriend's 11-year-old daughter, Regina Rush, accused Brock of molesting her while she was in bed. Brock was charged on March 29, 1995 with first-degree child molestation and appointed a public defender.

Jury selection for Brock's trial began on July 10, 1995. The prosecution's case was primarily based on Rush's testimony, although a detective also testified that when arrested Brock made a vague comment that he "made a mistake." Brock's defense was the incident never happened. On July 12 the jury convicted Brock of one count of first-degree child molestation. Brock was taken into custody. He had two prior non-violent felony convictions -- promoting prostitution and burglary -- and he was sentenced on November 3, 1995 to life in prison without the possibility of parole under Washington's "three-strikes" law.

Thurston County Courthouse (Olympia, Wash.)

Brock's direct appeal was denied by the Washington Court of Appeals in 1997 and the Washington Supreme Court declined to review his case. Brock then filed a personal restraint petition (PRP) (Washington's version of a post-conviction petition) in 2000 that asserted his burglary conviction was invalid and therefore it should not have been used as a basis for determining he was a persistent offender. That petition was denied. In 2007 Brock filed his second PRP, which asserted Washington's Persistent Offender Accountability Act — Initiative 593 passed by the voters in 1994 — was unconstitutional. The court of appeals ruled that Brock's claim was time barred because he needed to raise the issue within one year of his conviction becoming final in 1997.

Then, out of the blue, in 2012 Rush contacted the police in Thurston County and admitted that she had made up the accusation against Brock. At the time she contacted the police Rush didn't know Brock was still in prison. Rush gave a six-page typewritten statement that she signed. She said she made up the story because she wanted her mother to pay attention to her and she was worried that Brock was a drug user and a bad influence on her mom. She said she had previously been taken away from her mother due to her mother's drug use, and she didn't want it to happen again because of Brock. Rush explained why she was coming forward after 17 years:

> "Telling the truth is very important to me now as an adult because now that I am older I realize I do not get anywhere lying. ... I feel like now is the time to tell the truth and get it off my chest. ... I feel bad and the lie eats me up all the time. ... I have a one-year old daughter that I

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Calif. Appeals Court Overturns Steven Spriggs' Conviction For Using iPhone Map App

The California Court of Appeal has overturned the conviction of Steven R. Spriggs for using his hand-held iPhone's map application while driving. The Court ruled California's law prohibiting talking on a hand-held wireless phone while driving doesn't apply to using a map application.

On January 5, 2012 Spriggs was driving in Fresno, California when he encountered road construction. He activated his Apple iPhone 4's map application to see if there was a route around the traffic jam. Spriggs heard a siren and saw a California Highway Patrol motorcycle officer was motioning him to pull over. Spriggs told the officer he wasn't talking, and showed him his iPhone that had its map application open. The officer told Spriggs that when driving he couldn't use his wireless phone for any purpose. Spriggs was cited for looking at a map on his hand-held wireless phone while driving.

Spriggs, 58, who was working as professional development officer at Fresno State University, was a law school graduate. He contested the ticket and during his hearing in April 2012 he demonstrated that trying to use a traditional folded paper map is much more cumbersome than using his iPhone's map application. Spriggs argued that it is legal to use a paper map while driving, and the statute didn't specifically bar him from using a less distracting wireless phone map application. The judge rejected his arguments and found him guilty of violating California Vehicle Code §23123(a). He was fined $165.

Steven R. Spriggs (Robin Abcaria, LA Times)

Spriggs appealed, and representing himself he filed a brief that argued the statute only prohibited "listening and talking" on a hand-held wireless phone while driving. The State of California did not file a brief opposing Spriggs arguments. In March 2013 a three-judge panel of the Appellate Division of the Fresno County Superior Court affirmed Spriggs' conviction based on their interpretation the statute prohibited using a hand-held wireless phone for any purpose while driving. **Their ruling stated**: "Because it is undisputed that appellant used his wireless telephone while holding it in his hand as he drove his vehicle, his conduct violated Vehicle Code section 23123, subdivision (a)."

Spriggs appealed that ruling to the Court of Appeals. He argued his conduct didn't violate the statute that specifically only prohibits using a hand-held wireless phone to converse while driving. Perhaps realizing the potential implications if Spriggs prevailed, the California Attorney General's Office assigned *five assistant and deputy attorney generals* to support the State's position the statute *banned any* use of a hand-held wireless phone while driving.

The California Court of Appeals overturned Spriggs' conviction in its unanimous 18-page opinion issued on February 27, 2014. **The Court recognized** the State's interpretation of the statute "would lead to absurd results," and stated:

> "Based on the statute's language, its legislative history, and subsequent legislative enactments, we conclude that the statute means what it says – it prohibits a driver only from holding a wireless telephone while conversing on it. Consequently, we reverse his conviction."

Click here to read the ruling in *The People v. Steven R. Spriggs*, No. F066927 (CA Ct. of Appeals, 5th Dist, 2-27-14).

Sources:

The People v. Steven R. Spriggs, No. F066927 (CA Ct. of Appeals, 5th Dist, 2-27-14)

The People v. Steven R. Spriggs, No. 0002345 (Fresno County Superior Ct., Appellate Div., 3-21-13)

Fresno driver can't be ticketed for using phone's map app, court rules, *The Fresno Bee*, February 27, 2014

Brock cont. from page 10

> care for very well. ... I have a brother who has been in the pen for a very long time so I know what it is like to have a brother taken from me. .. I am giving this statement now because I want to clear my conscience."

Based on the new evidence of Rush's statement Brock filed a third PRP. During an **evidentiary hearing** on November 10, 2014 Rush, 31, testified at length about her recantation. The prosecution argued her statement and testimony wasn't credible and she only came forward because she was bothered by the length of Brock's sentence. At the conclusion of the hearing Thurston County Superior Court Judge Erik Price announced his ruling that he was granting Brock a new trial.

Ten days later, on November 20, Judge Price issued his written ruling granting a new trial in which he rejected the prosecution's arguments about Rush's motivation for recanting her trial testimony, by noting she didn't know Brock was still in prison when she came forward in 2012. **The judge wrote**: "Ms. Rush testified that she realized just how wrong it is to make such serious false accusations. ... The Court concludes that Ms. Rush's recantation was not motivated by anything other than her stated desire to tell the truth." Judge Price then set conditions for Brock's release. Brock, 55, was freed after 19 years and 4 months in custody, and his brother Tommy was present to take him to his home in Tacoma.

Brock didn't speak to reporters, but his public defender Patrick O'Connor **said**: "He's a very gentle guy. He doesn't seem to have any animosity or anger, anything like that." Until he was transferred to the Thurston County Jail for the evidentiary hearing, Brock had been serving his sentence at Clallam Bay Corrections Center, where he served as a minister.

Judge Price ordered Brock's retrial for February 10, 2015, but without Rush's testimony there is no evidence a crime occurred, so it is likely that the State will move to dismiss the charges.

Source:

Man gets new trial in Thurston County after woman recants molestation charge, *The Olympian* (Olympia, WA), November 10, 2014.

Man in Prison 19 Years Freed After Claim Recanted, *The Olympian* (Olympia, Wash.), November 20, 2014.