

Georgia Appeals Court Exonerates Kevin Andre Williams Of Committing Non-crime

The Georgia Court of Appeals excoriated the trial judge and the prosecution [in acquitting](#) Kevin Andre Williams of driving without a Georgia drivers license. The appeals court ruled Williams had committed no crime.

Williams ordeal began in December 2014 when he was stopped for speeding in DeKalb County, Georgia. He provided the police officer with his Florida drivers license. He told the officer he lived in central Florida, where he owned a home, but he was temporarily staying in Georgia while training for his job as a federal law enforcement officer. The officer ran a check and verified Williams' Florida license was current, and he learned there was no record Williams had ever been cited for a traffic offense.

Williams was not given a speeding ticket, instead he was issued a citation for "not having a license." The officer explained to Williams that his Florida drivers license was not valid for him to drive in Georgia.

The officer also told Williams he could jail him immediately, but he wouldn't if Williams agreed to get a Georgia license. Williams obtained a Georgia drivers license that same day using a temporary address in Georgia. The Georgia DMV didn't charge him for his license because he is a Marine Corps veteran. Williams is also a former Florida law enforcement officer.

Williams waived his right to a jury trial, and his bench trial was in DeKalb County Recorder's Court.

The officer's testimony that Williams had been driving with a valid Florida driver's license hurt the prosecution because it established there was no legal basis for him to be prosecuted for "not having a license." Judge LaTisha Dear Jackson then granted the prosecutor's motion mid-trial to amend the charge against Williams: the new charge was driving without a Georgia license after living in the state for more than 30 days. The prosecutor sought Williams' conviction of the new charge based on the argument that the Georgia driver's license he obtained after being stopped proved he was a Georgia resident -- and thus at the time he was cited he was required to have a Georgia, and not a Florida drivers license.

Williams waived his right to counsel and represented himself. He testified in his defense that he owned a home in central Florida where he lived. He also testified that at the time he was ticketed he was only temporarily staying in Georgia for work related training. Williams [repeatedly testified](#) in response to the prosecutor's cross-examination that he "wasn't living as a resident" and that he only had "a temporary address" in Georgia.

After Judge Jackson found Williams guilty of driving without a Georgia license, she sentenced him to jail, fined him \$600, and ordered that he serve 12 months probation.

After his conviction Williams [hired Atlanta attorney](#) Elizabeth Vila Rogan to represent him. Rogan filed a motion for a new trial, which Judge Jackson denied on May 15, 2015. Rogan then filed an appeal on Williams' behalf with the Georgia Court of Appeals.

Williams arguments in his appeal included that the state introduced insufficient evidence to prove his guilt beyond a reasonable doubt, and his waivers of his right to counsel and a jury trial were not made knowingly or intelligently.

The State basically ignored addressing the merits of Williams' arguments, and instead opposed his appeal based on the procedural argument his claims couldn't be considered because instead of filing a written transcript he filed an electronic audio recording of his bench trial. The State argued an audio recording is not a "transcript" within the meaning of OCGA § 5-6-41.

On March 28, 2016 the Georgia Court of Appeals unanimously [reversed Williams' conviction](#) in *Williams v. State*, No. A15A1973 (GA COA 2016).

Regarding the claim that Williams' improperly relied on the audio recording instead of a written transcript, the Court ruled, "But we do not consider that argument, because the State has waived this contention by failing to interpose a timely objection." [Op. cit. 5]

The Court ruled that Williams was prejudiced by the failure of the trial court "to apprise him of the risks of proceeding without the representation of an attorney, and that he was also not advised at his arraignment, before a different judge, of the risks of proceeding without a jury trial." [Op. cit. 6]

The appeals court also agreed with Williams' claim that the prosecution's evi-

dence was insufficient to prove his guilt beyond a reasonable doubt, since "the State produced no evidence to show that Williams had a "permanent home or abode in Georgia.'" [Op. cit. 18]. The Court noted, "the State, despite changing its theory of the alleged offense mid-trial, still failed to prove that Williams was in violation of the law." [Op. cit. 12]

[Writing for the unanimous court](#), Judge Michael Boggs vented the court's anger with Williams' prosecution for a non-crime:

"As a result of the State's conduct, Williams was convicted of a crime with which he was not charged, jailed, fined over \$600, and sentenced to a year of probation. Moreover, his conviction and sentence carry numerous collateral consequences, including jeopardizing Williams' current job and future prospects in his chosen career of law enforcement. As noted by this Court at oral argument, the State and the trial court had any number of opportunities to terminate this meritless prosecution, including when Williams presented a valid Florida license, when the allegations regarding Williams' residence were called into question, when the State failed to introduce sufficient evidence to prove its case at trial, when Williams produced additional evidence at the hearing on the motion for new trial, or when this appeal was briefed. Yet the State pressed on, forcing Williams to expend substantial time and money to clear his name and wasting the State's scarce resources in a failed prosecution. Even in this court, the State has attempted to avoid the consequences of this miscarriage of justice by relying not upon the merits of its case or the applicable law, but upon a baseless assertion that Williams failed to perfect the record.

"The State has the power to take liberty, but commensurate with that power is the duty to do justice." *Wesley v. State*, 225 Ga. 22, 24 (2) (165 SE2d 719) (1969). Justice was denied to Williams in this case, and accordingly, the judgment of conviction is reversed." [Op. cit. 19-20]

[The appeals court's anger](#) at Williams' treatment boiled over in a footnote:

Williams cont. on p. 6



Elizabeth Vila Rogan
(www.theroganlawfirm.com)

Qian Renfeng Awarded \$258,915 For 14 years Wrongful Imprisonment For Murder

Qian Renfeng [was awarded](#) \$258,915 on August 9, 2016 for being wrongly imprisoned in China's Yunnan Province for almost 14 years after being convicted of murdering a child.

In February 2002 Renfeng was 17-years-old, and working as a nurse at the Xing Rui Kindergarten in Qiaojia County in Yunnan province in Southwest China.

On February 22, 2002 three children in the school became ill and were hospitalized. One of the children who was two-years-old died, and the other two recovered.

The police learned that Renfeng was involved in a dispute with the school's principal



Qian Renfeng after her release on Dec. 21, 2015 (South China Morning Post)

pal and that she had prepared the children's food the day they became ill. They suspected the children may have been poisoned by Renfeng because of the dispute.

Renfeng insisted she was innocent.

However, after 12 hours of non-stop intensive police interrogation that included forcing Renfeng onto her knees for eight hours with her hands cuffed behind her back and repeatedly hitting her face with a black leather shoe, the police said she confessed to mixing rat poison in the food of the three children.

Renfeng was charged with murdering the child. Her trial in 2002 was held before an autopsy on the deceased child was completed.

During her trial Renfeng disputed the truthfulness of her confession, claiming she had not signed it, and that she had blurted out that she was guilty because she was suffering from severe fatigue and hours of torture.

The trial court rejected Renfeng's defense, and convicted her of murder based on her confession. On September 3, 2002 she was given the lenient sentence of life in prison because she was 17 at the time of the child's death. She was also ordered deprived of her political rights for life.

Renfeng's appeal was denied.

In 2010 a group of women lawyers visited the No. 2 Prison for Women in Yunnan Province to offer free legal advice. Renfeng made an impassioned plea of her innocence to lawyer Yang Zhu. An appeal was filed in her case based on insufficient evidence of her guilt. In August 2011 her appeal was rejected. The [appeal court ruled](#), "the details of the matter were clear, the accused has admitted to her crimes, the charge was correct and the sentence was appropriate."

In 2012 an online campaign advocating Renfeng's innocence went viral in China. Responding to the media attention, on May 30, 2013, the Yunnan Provincial Procuratorate began a post-conviction review of Renfeng's case.

Almost two years later, on May 4, 2015, the Procuratorate notified Renfeng that due to "facts are unclear and insufficient evidence" it would recommend her retrial to the Yunnan Provincial High Court.

The investigation discovered a number of irregularities in Renfeng's case, including that handwriting analysis showed the confession she purportedly signed had been faked by three police officers, and the deceased child didn't show toxic symptoms of rat poisoning.

On December 21, 2015 the Higher People's Court of Yunnan province acquitted Renfeng after her retrial, on the basis there was insufficient evidence to prove her guilt. The Court stated her confession had been coerced, and the prosecution's case had many contradictions and presented unreasonable explanations regarding the alleged poisoning.

Renfeng was immediately released after more than 13 years and 10 months in custody. [She told reporters](#) that her mother died in April 2015, and "My biggest regret is that I couldn't fulfil my filial responsibility towards my mother for even one day."



Qian Renfeng before her arrest in 2002 (Family photo)

In June 2016 Renfeng filed a compensation claim for up to 9.55 million yuan (about US\$1.45 million) in damages. On August 9, 2016 the Yunnan Provincial government awarded Renfeng compensation of 1.72 million yuan — the equivalent of US\$258,915.

Williams cont. from p. 5

"Footnote 2. "The process in which Williams found himself enmeshed was particularly troubling. After waiving his right to counsel and to a jury trial, Williams was at the mercy of the State, which showed no mercy. His attempts to comply with the instructions of the police officer, who then testified against him, were used by the State to win a conviction for a crime other than that with which he originally was charged, with the acquiescence if not the assistance of the trial court."

When asked about the ruling completely exonerating Williams, his attorney Elizabeth Rogan [told a reporter](#), "He was driving while black is what happened. He was a completely upstanding gentleman who got pulled over and his life got turned upside down."

[Click here to read](#) the Georgia Court of Appeals ruling in *Kevin Andre Williams v. The State of Georgia*, No. A15A1973 (GA Ct. of Appeals, 3-28-2016).

Sources:
[Kevin Andre Williams v. The State of Georgia](#), No. A15A1973 (GA Ct. of Appeals, 3-28-2016) (Reversed conviction based on insufficient evidence of guilt of every essential element.)

[Court of Appeals](#): 'Justice Denied' in DeKalb County Traffic Court, *Daily Report*, April 1, 2016

[The Rogan Law Firm](#), Elizabeth Vila Rogan webpage



Qian Renfeng holds the judgment of innocence issued by the Yunnan Provincial Higher People's Court on December 21, 2015 (CFP)

Sources:
[Moment teen nanny is cleared after serving 13 years of a life sentence for poisoning toddlers](#), *Daily Mail* (London, UK), December 22, 2015

[Nurse receives 1.72 million yuan for spending 14 years in prison on wrongful murder conviction](#), *Shanghaiist.com*, August 10, 2016