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Death Sentences in India (2000-2015): An Overview

The Overview that begins on page 149 of Vol. 2 includes a number of graphics and 29 tables of data.

[Click here to read online the Summary](#) of the Death Penalty India Report.

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[Click here to go to the website of the Centre On The Death Penalty, NLU, Delhi.](#)

Sources:

[1 in 3 sentenced to death is eventually acquitted](#), reveals study, *The Times of India*, May 7, 2016

[Centre On The Death Penalty](#), NLU, Delhi

[Death Penalty India Report](#) (Summary) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 30 pgs.

[Death Penalty India Report](#) (Volume I) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 174 pgs.

[Death Penalty India Report](#) (Volume II) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 210 pgs.

Death Penalty India Report (Volume I and II) Hardcover – 2016, by Dr. Anup Surendranath (Author,



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Derrick Redd Awarded New Trial Based On Pervasive Prosecutor Misconduct

Derrick W. Redd was [awarded a new trial](#) on July 6, 2016 by the Appellate Division of the New York Supreme Court based on pervasive prosecutor misconduct during his trial. Derrick Redd was convicted of second-degree murder in 2012, and the appeals court identified at least six different types of prejudicial prosecutor misconduct during his trial.

In October 2008 Redd was 35 and living with his mother in Queens County, New York (One of New York City's five boroughs). Redd had been seeing 25-year-old Niasha Delain off and on for some months. She was pregnant, but Redd didn't think it was his child. Niasha lived in Queens several miles from Redd.

On the early evening of October 25, 2008, Niasha's mother, Townada Wimms, called Redd and told him she hadn't heard from her daughter that day. They arranged to meet at Niasha's apartment. When they entered they found Niasha was dead. The New York Police were called at 7:40 p.m.

When the police arrived they found that Niasha, who was nine months pregnant, had multiple stab wounds, including stab wounds to her stomach.

The murder weapon was not found in her apartment. However, the police found the bars on one of the apartment building's rear windows had been removed and that window was open.

Niasha's autopsy later determined she died from her stab wounds, and her fetus didn't survive the attack.

Police asked Redd and Townada to go to the police station for questioning. Redd arrived at about 10 p.m., and he was vigorously interrogated during the next 27 hours without being allowed to sleep, or eating. His interrogators later claimed he was given his *Miranda* warning about midnight, and he waived his rights to remain silent and to consult with a lawyer. Redd was allowed to go to the



Derrick W. Redd

bathroom with an officer present, but he wasn't allowed to make any phone calls.

During Redd's marathon interrogation he repeatedly denied having anything to do with Niasha's death, and he did not make any statement implicating him in the crime. He was released.

Redd's two cars were searched, as were the residences of his mother, his father, and his grandparents. No physical evidence was found linking him to Niasha's death. No witness was found who saw Redd outside or inside Niasha's apartment building on the day she died.

Redd was not identified by DNA testing as the father of Niasha's unborn child.

However, three weeks later, in November 2008, Redd was charged with second-degree murder, second-degree abortifacient act, and fourth-degree criminal possession of a weapon.

While Redd was awaiting trial, his girlfriend gave birth to their son in July 2009.

Redd's jury trial began in October 2011.

The prosecution had no physical, forensic, eyewitness, or confession evidence linking him to the crime. Its circumstantial case was based on the prosecution's belief he killed Niasha because she refused to have an abortion, that cell phone records showed he had made a call within five blocks of Niasha's apartment in the early morning of October 25, 2008, and an upstairs neighbor, Jinette Gerve, said that between 5:30 and 6 a.m. on October 25 [she heard a woman](#) in the apartment below her apartment scream "Stop," "No," and "Don't Do that."

To make up for the lack of evidence presented during the trial, the lead prosecutor, Queens County Assistant District Attorney Eugene P. Reibstein, made numerous claims during his opening statement and closing argument that were either not supported by evidence or that were misstatements of the evidence. Redd's lawyer objected to many of those statements, but the judge didn't deter Reibstein from continuing to do so.

Redd's defense was the cell phone location



Niasha Delain
(Richmond Hill Times)

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Juan Rivera's Wrongful Conviction Lawsuit Settlement Is Marital Property In Divorce

The Illinois Appellate Court [ruled on](#) September 30, 2016 that the \$11.36 million Juan Rivera is to receive for being wrongful imprisoned for more than 19 years is marital property. Rivera is in the midst of divorcing Melissa Sanders-Rivera, his wife of 16 years. Under the court's ruling Rivera must equitably share the \$11.36 million with Melissa.

Juan A. Rivera Jr. was convicted of charges related to the August 17, 1992 rape and

murder of 11-year-old Holly Staker in 1993 in Waukegan, Illinois. Rivera was sentenced to life in prison without the possibility of parole.

There was no physical, forensic or eyewitness evidence tying Rivera to the crime. However, the police received a tip about 2-1/2 months after the crime that Rivera, a former special education student who was 19 at the time, might have been involved.

Rivera was taken into custody on October 26, 1992. After four days of interrogations during which he repeatedly denied any involvement, he finally broke. On October 30,



Juan Rivera with wife Melissa Sanders-Rivera at Northwestern U. Law School January 2012. (Abel Uribe, Chicago Tribune)

1992 Rivera signed a confession prepared by his interrogators.

Rivera's trial was in 1993. The prosecution's case was based on his confession. He was sentenced to life in prison without the possibility of parole after the jury that convicted him rejected the prosecution's request for the death penalty.

His convictions were overturned in 1996 and a new trial was ordered by the Illinois Appellate Court. The prosecution again primarily relied on Rivera's confession during

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records didn't identify he was with Niasha at the time of her death, and, the medical examiner specifically testified: "I found nothing in my autopsy that would be consistent with the time of death of six a.m. the previous day." On cross-examination Gerve admitted that when she was interviewed by the police she gave a statement that she didn't hear anything coming from the downstairs apartment on October 25. She also admitted that in exchange for agreeing to contradict her police statement and say she heard screaming, the Queen's County DA's Office [promised to provide](#) significant assistance to her: "She admitted that she received assistance from the District Attorney's office with regard to her residence, employment, and immigration status."

The jury convicted Redd of all the charges on November 3, 2011.

During Redd's sentencing hearing on January 4, 2012, the judge denied Redd's post-verdict motion for a judgment of acquittal based on insufficient evidence, rejecting lawyer Barry Krinsky's argument the prosecution's entirely circumstantial case didn't prove Redd's guilt beyond a reasonable doubt. Redd then gave a statement during which [he told the judge](#): "I stand here an innocent man. ... It's sad that you're sentencing an innocent man today." The judge sentenced Redd to the maximum of 25 years to life in prison.

Redd appealed.

More than four years later the New York Supreme Court Appellate Division reversed Redd's conviction on the basis prosecutor Reibstein engaged in a tsunami of misconduct that deprived Redd of a fair trial.

The Court stated in [People v Redd](#), 2016 NY Slip Op 05392 (NY SCt, App. Div., 2nd Dept., 7-6-16) that "the judgment of conviction must be reversed and a new trial ordered as a result of pervasive prosecutorial misconduct. During opening statements as well as on summation, the prosecutor repeatedly engaged in improper conduct, including":

- "misstating the evidence"
- "vouching for the credibility of witnesses with regard to significant aspects of the People's case"
- "calling for speculation by the jury"
- "seeking to inflame the jury and arouse its sympathy"
- "improperly denigrating the defense"
- "improperly cast the prosecutor as an unsworn expert witness in his own case"

The [court ruled](#) regarding prosecutor Reibstein's pervasive misconduct, "it cannot be said that there is no significant probability that the verdict in this circumstantial case would have been different absent the cumulative, prejudicial effect of these errors."

Somewhat inexplicably, relying primarily on the cell phone records that showed Redd was in the vicinity of Niasha's apartment at a time when she wasn't killed, the appeals court ruled against his claim he should have been acquitted based on the prosecution's failure to introduce sufficient evidence proving every essential element beyond a reasonable doubt.

The Queens County DA's Office will have to decide if it will retry Redd, try to induce him to pled guilty to lesser charges in exchange for his immediate release from prison, or dismiss the charges. If there is a retrial it will not be handled by ADA Reib-

stein, who retired after 31 years with the Queens County DA's Office.

Even though Queens County Supreme Court Judge Daniel Lewis allowed Reibstein to engage in his outrageous conduct throughout Redd's trial, the appeals court failed to order that on remand the case would be assigned to a new judge. Judge Lewis disregarded most of the objections by Redd's lawyer to Reibstein's antics, while only directing a few mild admonishments to Reibstein. The appeals court [also ruled](#) in their opinion, that Judge Reibstein violated Redd's right to a fair trial by allowing Reibstein to introduce extensive evidence about Niasha's personal and family life that "was not probative of any issue to be determined at trial and was prejudicial to the defendant." None of that irrelevant evidence will be allowed to be admitted if Redd is retried. Judge Lewis' prosecution favorable leanings are indicative that he began his career as an assistant district attorney in New York County.

[Click here to read People v Redd](#), 141 A.D.3d 546, 35 N.Y.S.3d 402 (NY SCt, App. Div., 2nd Dept., 7-6-16).

Sources:

[People v Redd](#), 141 A.D.3d 546, 35 N.Y.S.3d 402 (NY Sup. Ct., Appellate Division, 2nd Dept., July 6, 2016)

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