

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)

[Queens man convicted of killing pregnant girlfriend](#) will get new trial because prosecutor said too much to fire up jury, *New York Daily News*, July 8, 2016

[Baby Mom Says Redd Is Innocent](#): Convicted Killer Awaiting Sentencing, *The Wave* (Rockaway Beach, NY), Dec. 2, 2011

[Jamaica Man Gets 25-to-Life For Stabbing Pregnant Girlfriend](#), *The Forum* (Howard Beach, NY), January 5, 2012

[Queens Man Convicted Of Murder](#) Following Jury Trial For Fatal Stabbing Of Pregnant Girlfriend, Press Release, Queens County District Attorney's Office, November 3, 2011

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his 1998 retrial. Rivera was convicted by the jury, and he was again sentenced to life in prison without the possibility of parole.

Melissa Sanders met Rivera in 1998 after his second conviction. She had taken an interest in the law, and volunteered to work on Rivera's case. About two years later, Rivera and Melissa were married on October 31, 2000.

Melissa believed in Rivera's innocence, and advocated on his behalf. She was instrumental in getting the Northwestern University School of Law's Center on Wrongful Convictions to accept his case after his appeal was unsuccessful and his convictions were affirmed in 2001.

In 2004 a petition for post-conviction DNA testing of Holly's vaginal swabs was granted. In 2005 DNA testing excluded Rivera as the source of the sperm recovered from the vaginal swabs. The sperm's DNA profile was not matched to anyone in the Illinois state DNA database, or the FBI's national CODIS DNA database.

Rivera filed a petition for a new trial based on the new DNA evidence, which was granted in 2006.

Rivera's third trial began in April 2009. On May 8, 2009 Rivera was convicted for a third time. The jury chose to believe Rivera's confession over the exculpatory DNA evidence. Rivera was again sentenced to life in prison without the possibility of parole.

Rivera appealed.

On December 9, 2011 the Illinois Appellate Court overturned Rivera's conviction on the basis his confession was unreliable and without it there was not enough evidence to support his conviction: [thus his conviction](#) was "unjustified and cannot stand."

The Cook County State's Attorney's Office decided not to retry Rivera for a fourth time. The SA's Office filed a motion to dismiss the charges against Rivera that was granted on January 6, 2012. Rivera was released after more than 19 years and two months in custody.

On October 30, 2012 Rivera filed a federal civil rights lawsuit complaint that named as defendants: Lake County, the City of Waukegan, and members of the Illinois State Police. The lawsuit sought damages for violation of Rivera's constitutional

rights under color of law.

Rivera also filed a claim for compensation from the State of Illinois after he was granted a Certificate of Innocence. Rivera was awarded about \$213,000 from Illinois in 2014.

More than two years after Rivera's release, he filed a petition on May 23, 2014 to dissolve his marriage to Melissa. Melissa filed a counter-petition for divorce on July 3, 2014.

The divorce of Rivera and Melissa was pending when on March 20, 2015 it was announced that Rivera's federal civil rights lawsuit against Lake County and the City of Waukegan was settled for a total of \$20 million. Lake County agreed to pay Rivera \$12.5 million, and the City of Waukegan agreed to pay \$7.5 million. It was the largest settlement of a civil rights lawsuit in U. S. history without there first being a trial.

Rivera's legal fees and costs of \$8.64 million amounted to more than 43% of the settlement. Rivera's share of the settlement was \$11.36 million. The money was held in trust because of the unresolved divorce between Rivera and Melissa.

In May 2015 Rivera filed a summary judgment motion in his divorce case that argued Melissa wasn't legally entitled to any of the money from either the lawsuit settlement or the State of Illinois compensation, because he was convicted of crimes that occurred in 1992 -- eight years prior to his marriage.

Melissa filed a counter motion that [argued all the money](#) awarded to Rivera, and particularly the lawsuit settlement, was marital property because "the lawsuit did not become property until the conviction was reversed in 2011, after the parties were married; and the lawsuit is marital property because the lawsuit accrued during the marriage." Melissa also noted that Rivera made that same argument to counter the attempt by Lake County and the City of Waukegan to have his lawsuit dismissed as time barred. Rivera argued his lawsuit was timely because he couldn't file it until his conviction was overturned in 2011. Melissa also argued the lawsuit included a defamation claim that appeared in *The New York Times* in 2011, during the marriage.

The divorce court judge granted Rivera's motion. The judge sided with Rivera that none of the money he received as a result of his convictions is marital property because Holly was murdered in 1992 -- before Rive-

ra and Melissa were married.

Melissa appealed.

On September 30, 2016 the Illinois Appellate Court reversed the judge's decision, in ruling the lawsuit settlement is marital property, and Melissa has a right to a share of the settlement. The Court's [ruling stated](#):

"Petitioner did not have a property interest in his lawsuit (or stated differently no lawsuit existed) until the appellate court vacated his conviction in 2011. If there was no lawsuit, or property, in 1992 and 1993, there are no grounds for finding the lawsuit is nonmarital property. Because the lawsuit accrued in 2011, during the marriage, it is marital property subject to distribution pursuant to the factors set forth in section 503 of the Dissolution Act."

[Click here to read *In re Marriage of Juan A. Rivera and Melissa Sanders-Rivera*](#), 2016 IL App (1st) 160552 (Ill. Ct. of Appeals, 4th Div., 9-30-2016).

Although Rivera may have died in prison without Melissa's advocacy on his behalf, Rivera's divorce lawyer Michael Berger said he was "disappointed" in the ruling, and insisted that Melissa wasn't entitled to any of the settlement money. Berger vowed to file an appeal with the Illinois Supreme Court. Berger [told a *Chicago Tribune* reporter](#): "We feel it's a further injustice to Mr. Rivera. Hopefully we'll be able to reverse the appellate court decision. But if the result remains, hopefully a jury would only grant a nominal amount, if any, to Mrs. Rivera."

Sources:

[People v. Rivera](#), 962 NE 2d 53 (Ill. Appellate Court, 2nd Dist., 12-9-2011)

[Appellate court reverses Juan Rivera murder conviction](#), *Lake County News-Sun*, December 11, 2011

[Juan Rivera, Center on Wrongful Convictions](#), Northwestern School of Law

[Illinois man whose murder, rape convictions were overturned](#) settles lawsuit for \$20 million, *Daily Journal* (Franklin, IN), March 20, 2015

Juan Rivera v. Lake County, et al., No. 1:2012-Cv-8665 (USDC Northern Dist Ill., Eastern Div.) (42 USC 1983 lawsuit)

[In re Marriage of Juan A. Rivera and Melissa Sanders-Rivera](#), 2016 IL App (1st) 160552 (Ill. Ct. of Appeals, 4th Div., 9-30-2016) (\$11.36 million settlement from Rivera's wrongful imprisonment is marital property.)

[\\$20 million settlement up for grabs in exonerated man's divorce](#), *Chicago Tribune*, October 5, 2016

