

Michael Kenneth McAlister Will Forfeit More Than \$1 million In Compensation If Convicted Of Drug Charge

Michael Kenneth McAlister will forfeit more than \$1 million in wrongful imprisonment compensation if he is convicted of pending [felony drug charges](#) in Florida.

McAlister's saga began more than thirty years ago.

On February 23, 1986 a man attempted to rape and abduct a 22-year-old woman from the laundry room at the Town and Country Apartments in Richmond, Virginia. She told the police her assailant wore a red plaid shirt and a stocking mask hid most of his face. She also said she scratched his face while trying to fight him off.

The police made a composite sketch from the woman's description. An investigator thought the sketch resembled McAlister, who had a misdemeanor criminal record. When he was questioned he had no scratches on his face and adamantly denied involvement in the attack. He agreed to pose for a picture to be shown the victim, and he also agreed to wear a red plaid shirt. On March 3, 1986 the woman identified McAlister from that photo.



Michael Kenneth McAlister in 2015 (Richmond Times-Dispatch)

McAlister was charged with attempted rape and abduction based solely on her identification. No physical or eyewitness evidence linked him to the crime.

He waived his right to a jury trial.

During McAlister's bench trial the prosecutor told the judge that he was guilty "pure and simple." The judge found McAlister guilty of both charges on September 24, 1986.

McAlister was sentenced to consecutive terms of 40 years in prison for abduction with the intent to defile, and 10 years for attempted rape. Fifteen years were suspended, so his final sentence was 35 years in prison.

After McAlister was convicted the lead detective in the case, Charles M. Martin, became convinced that the crimes had actually been committed by Norman Bruce Derr. Derr was a suspect in sexual assaults with a similar MO. Martin believed the victim misidentified McAlister because he was wearing a red plaid shirt and his face resembled Derr. McAlister's prosecutor, Joseph D. Morrissey, also suspected that McAlister had been misidentified, and stated that if he had known about Derr at the time of McAl-

ister's trial he wouldn't have prosecuted him.

Martin and Morrissey testified before the Virginia Parole Board to urge McAlister's early release, which was denied.

McAlister then filed a clemency petition that included Martin's statement: "I am convinced that Mr. McAlister did not commit the crimes for which he is incarcerated and that he was simply misidentified by the victim." Virginia Gov. Mark Warner declined to pardon McAlister in 2003.

McAlister was released on mandatory parole on August 19, 2004. His parole was revoked in 2006 for violating conditions of his release, that included excessive drinking. He was returned to prison to serve the remainder of his sentence.

On June 7, 2013 Jerry Lee Jenkins was exonerated of a rape that DNA testing linked to Derr. That rape had been committed on February 6, 1986 by Derr while he was wearing a stocking mask and a plaid shirt. It occurred only 17 days before the rape that McAlister had been convicted of committing. At the time of that DNA testing Derr was in prison serving life sentences for his convictions of two 1984 rapes, one in Maryland and the other in Virginia. His convictions were based on cold case DNA testing conducted in one of those cases in 2004, and the other case in 2010.

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months in custody.

David Bryant, now 66, [told reporters](#) outside the court building after his conviction was quashed: "After over two years jailed for a crime I did not commit, today I am a free man. This was a case that should never have been brought, which has caused so much pain and hurt to me and my wife and our family. Danny Day is a fantasist and a liar and it is his actions and the failure of the police and the CPS that led to me, an innocent man, being wrongly jailed in a gross miscarriage of justice. While today is a victory and I am once again free, there are serious questions about how allegations of historic sexual abuse are investigated and dealt with. What happened to me must never be allowed to happen again. Being wrongly imprisoned as an innocent man is a living hell and something I wouldn't wish upon my worst enemy." Bryant also said, "This could happen to any decent citizen. That is the frightening thing about it. Some-

body has made an absolutely ludicrous allegation and the police have run with it."

Bryant [called for a](#) criminal investigation of Day (and possibly his friend) for perverting the course of justice and perjury. Bryant told reporters: "Dorset [police] didn't do a proper job. Their mindset was, if a "victim" comes forward they are to be believed."

Bryant credited his wife's support and perseverance [for his release](#): "I owe her everything, she is the one that has battled and fought for me and got me this far."

Lynn Bryant [told reporters](#) outside the courthouse, "Danny Day is an evil man. He was after the money."

After Bryant's release, there was criticism in England of the lack of a police investigation of Day's claims prior to Bryant being charged, and that the Crown Prosecution Service didn't vet the case and Day's credibility before proceeding to trial.

Based on the appeals court's ruling, Day's civil lawsuit will likely be dismissed either by Day voluntarily withdrawing it, or by the granting of a motion by Bryant and Dorset County to dismiss it.

It is not known if the government will seek repayment by Day of the £50,000 (US\$78,000) he was paid by fraudulently claiming to be the victim of crime. Day lives in Bromley, a suburb of London.

Sources:

[Fire chief wrongly accused of sex attack freed](#) after three years in jail thanks to loyal wife's detective work, *The Telegraph* (London, UK), July 23, 2016

[Fire chief wrongly convicted of rape freed](#) from 8-year prison sentence by devoted wife, *Mirror* (London, UK), July 26, 2016

[Fireman David Bryant found guilty](#) of raping schoolboy almost 40 years ago, *The Argus*, December 20, 2013

[Former fireman David Bryant jailed for six years](#) for raping schoolboy almost 40 years ago, *The Bournemouth Echo* (Bournemouth, UK), January 24, 2014

[Police and prosecutors criticised](#) after firefighter wrongly convicted of sex attacks solely on testimony of fantasist, *The Telegraph*, July 20, 2016

[The shocking case of David Bryant](#) reveals the fallacy that we can always spot a liar, *BarristerBlogger.com*, July 21, 2016

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In 2014 the Washington D.C. [law firm](#) of Miller & Chevalier agreed to represent McAlister *pro bono*, and the Mid-Atlantic Innocence Project became involved in McAlister's case. There was no physical evidence or a rape kit to test for DNA evidence. However, when questioned Derr gave a full confession to the rape McAlister had been convicted of committing.

In April 2015 McAlister filed a Petition for Pardon that was supported by the Richmond Commonwealth's Attorney. McAlister was nearing completion of his sentence. A hearing was scheduled for May 18, 2015 to determine if he should be kept in custody indefinitely as a sexual predator under Virginia's civil commitment law.

McAlister's petition was fast-tracked because of the pending commitment hearing. On May 13, 2015 McAlister was pardoned by Virginia Governor Terry McAuliffe. Governor McAuliffe [said in his statement](#):

"Today I am issuing an absolute pardon for Michael Kenneth McAlister. My staff and I have carefully and thoroughly reviewed the documentation in this case and concluded that a pardon is appropriate in light of the overwhelming evidence, including a recent confession by another individual, pointing to Mr. McAlister's actual innocence of the crime for which he was convicted."

McAlister was released after serving more than 27 years in custody.

A bill was introduced in Virginia's legislature to compensate McAlister. On April 8, 2016 the Virginia legislature [approved payment of](#) \$1,268,694 to McAlister: \$253,740 was to be paid in a lump sum, and the balance of \$1,014,954 was to fund an annuity. McAuliffe signed the bill.

On October 8, 2016 the 60-year-old McAlister was arrested in Orlando, Florida. [He was charged with](#) felony possession of cocaine, felony destruction of evidence, and misdemeanor resisting arrest.

Orange County Sheriff Deputy Andrea Solorzano stated in her arrest affidavit that McAlister's car was illegally parked in a handicap space, and when asked he said he didn't have any identification. He also said he was drunk. After McAlister was ordered out of the car he began to place his hands underneath the front passenger-side seat. Solorzano states: "I then pulled him out of

the vehicle. As I pulled McAlister out of the vehicle for my safety, I observed a nickel-sized piece of cocaine in plain sight underneath the front passenger seat where he was sitting." She also asserts that McAlister tried to fight against being handcuffed.

The day after his arrest McAlister filed an Application For Criminal Indigent Status. His application that listed an Orlando address as his home, identified that he owned a 2014 Toyota Camry, he had \$140,000 in assets, and that he had certificates of deposit or money market accounts. In spite of his considerable assets, the judge granted McAlister's indigency application, and he was appointed a public defender.

After five days in jail, McAlister was released on bond on October 13, 2016. He pled not guilty to the charges on October 31, 2016. His public defender withdrew, and was replaced by criminal [defense attorney](#) Alexander Pearson, who McAlister had retained.

On December 22, 2016 the Orange County State's Attorney [filed two charges](#) against McAlister: Felony possession of cocaine; and, misdemeanor resisting arrest. The State decided not to pursue the destruction of evidence charge.

Conviction of the felony charge will bar McAlister's receipt of any annuity payments, and the money will be returned to the State. His forfeiture of the more than \$1 million would be required [under Virginia law](#) that states as a condition for continued compensation:

"Any person awarded compensation under this article who is subsequently convicted of a felony shall, immediately upon such conviction, not be eligible to receive any unpaid amounts from any compensation awarded and his beneficiaries shall not be eligible to receive any payments under an annuity purchased pursuant to subsection B of § 8.01-195.11. Any unpaid amounts remaining under any annuity shall become the property of the Commonwealth and shall be deposited into the general fund of the state treasury." [Code of Virginia, § 8.01-195.12 (A).]

McAlister's arraignment on the two charges is scheduled for January 12, 2017 in the Orange County Circuit Court.

Sources: [Miller & Chevalier](#), Washington D.C. [Gov. Terry McAuliffe Grants Absolute Pardon](#) to Michael McAlister in Wrongful Conviction Case, Press Release, Miller & Chevalier (Washington D.C.), May

13, 2015

[An Act for the relief of Michael Kenneth McAlister](#), Virginia Acts of Assembly — 2016 Session

[Code of Virginia, § 8.01-195.12 \(A\)](#). Conditions for continued compensation.

[Exonerated man arrested on new charges](#), *Culpeper Star-Exponent*, December 17, 2016

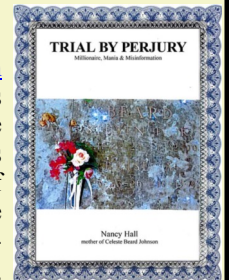
[State of Florida v. Michael Kenneth McAlister](#), No. 48-2016-CF-012890-O (Orange County, Florida Circuit Court) (Information filed Dec. 22, 2016)

[The Law Office of Alexander Pearson](#), Orlando, Florida

Trial by Perjury: Millionaire, Mania & Misinformation

by Nancy Hall

This \$3.99 [Amazon Kindle e-book](#) book is about how Celeste Beard Johnson was convicted in 2003 of capital murder in the death of her then husband Steven F. Beard, who died of natural causes in 2000. She was sentenced to life in prison.



While in bed at home in Oct. 1999, Steven was shot in his stomach with a shotgun. Tracey Tarlton, a woman who became infatuated with Celeste after they met in February 1999, admitted the shooting and she was charged with Injury to an Elderly Person. Steven recovered and was discharged from the hospital on January 18, 2000. The next day he was readmitted with a yeast infection and he complained of chest pains. Exams showed he had severe heart disease and other medical problems. He died four days later. Tarlton and Celeste were charged with murdering Steven. Tarlton pled guilty and agreed to testify against Celeste in exchange for a 10-20 year prison sentence. Celeste was convicted even though medical evidence showed Steven died of natural causes – not murder. Order for the Amazon Kindle for [only \\$3.99 from Amazon.com](#). (252 pgs)

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