

# Massachusetts Governor Pardoned 12 People Based On Innocence ... In 1884

Regular news reports about the exoneration of a man or woman who was wrongly convicted of a crime may mislead a person to think it is a recent phenomena. It isn't.

In the four years since 2013 there have been 13 exonerations in Massachusetts. That is impressive.

However, Massachusetts Governor George D. Robinson granted full pardons and ordered the release of 12 people from custody based on evidence of their innocence in one year ... 1884. What is remarkable about those cases, other than the number of them, is their reinvestigation was initiated by a police officer, prosecutor, or the pardon board. Their pardons were supported by a police officer, district attorney, the pardon board, and in one case by the trial judge.

Those 12 cases demonstrate that the causes of an innocent person's conviction 130 years ago was for some of the same reasons as they are today, including mistaken eyewitness identification, witness perjury, and inadequate police investigation.

The 12 pardoned people, 10 men and 2 women, were: Daniel Baxter; Patrick Brennan; George Caldwell; Daniel Callahan; Margaret Conway; Joseph Downey; Louise Gadbois; Dennis Mant; Charles McKenna; Franklin C. Pratt; Job Sweet; and, Alexander Tenney.

A brief summary of several of those cases follows.

Job Sweet was convicted on January 21, 1882 of raping a woman in Berkshire County, Massachusetts. Sweet's prosecution was based on his identification by the alleged victim. After his conviction by a jury Sweet was sentenced to six years in prison. While Sweet was imprisoned his accuser recanted her testimony. The Berkshire County District Attorney investigated her recantation, and after determining it was credible he recommended Sweet's pardon. On March 5, 1884 Gov. Robinson granted Sweet a full pardon and he was released from prison.



Massachusetts Governor George D. Robinson (1884-1887)

Charles McKenna was convicted on April 16, 1884 of assault in the Charlestown District of Boston, Massachusetts. McKenna's prosecution was based on his identification by the victim and several eyewitnesses. After his conviction

by a jury McKenna was sentenced by Superior Court Judge Ruffin to four months in prison. District Police Officer Shaw had doubts about McKenna's guilt, and Shaw reinvestigated his case. McKenna identified that the actual perpetrator was Edward J. Kirby, who had an uncanny resemblance to McKenna. When the victim and eyewitnesses were shown Kirby, they recanted their identification of McKenna. Kirby was charged with the assault. He pled guilty before Judge Ruffin, and swore under oath that he committed the crime alone and McKenna was not present. Eyewitnesses corroborated Kirby's statement that he alone committed the assault. Based on the new evidence the Suffolk County District County recommended McKenna's pardon. On May 1, 1884 Gov. Robinson granted McKenna a full pardon and he was released from prison.

Daniel Baxter was convicted on April 3, 1882 of raping a woman in Middlesex County, Massachusetts. Baxter's conviction by a jury was based on his identification by the alleged victim. Baxter was sentenced to

10 years in prison. After a full Pardon Board hearing of the evidence, the District Attorney who tried the case determined there were serious doubts about the truthfulness of the woman's trial testimony. The Middlesex County District Attorney recommended Baxter's pardon based on serious doubts about Baxter's guilt. Baxter was released from prison after being granted a full pardon on May 21, 1884 by Gov. Robinson.

George Caldwell was convicted on February 21, 1879 of committing arson in Middlesex County, Massachusetts. After his conviction by a jury Caldwell was sentenced to seven years in prison. After a careful review of the record and hearing new evidence during a hearing, the Massachusetts Pardon Committee concluded Caldwell was likely innocent. The Pardon Committee recommended Caldwell's pardon. Gov. Robinson granted Caldwell a full pardon on July 31, 1884, and he was released from prison.

Dennis Mant was convicted on November 2, 1883 of being a tramp in Boston, Massachusetts. Mant was arrested and charged after asking for bread in Boston. Mant was convicted in the Foxbury District Municipal Court and sentenced to two years in prison. After Mant began serving his sentence, his case was investigated by the Board of Directors for Public Institutions of the city of Boston. The Board of Directors discovered that the day before Mant's arrest, the ship on which he was employed as a cook had docked in New York, and the captain left without paying Mant and his shipmates. At

the time of his arrest Mant had not used any intoxicating liquor, and he listed South Carolina as his residence, where his mother and father lived. The Board of Directors recommended Mant's pardon based on the evidence he was the victim of having his wages stolen, and wasn't a tramp. On September 9, 1884 Gov. Robinson granted Dennis Mant a full pardon, and he was released from prison.

Louise Gadbois was convicted on June 23, 1884 of committing adultery in Middlesex County, Massachusetts. Gadbois was sentenced to one year in prison. Police Officer Bean had doubts about Gadbois' guilt, and he investigated her case after she was imprisoned.

Name	Crime	Sentence	Convicted	Pardoned
Daniel Baxter	Rape	10 yrs	1882	1884
Patrick Brennan	Perjury	3 yrs	1882	1884
George Caldwell	Arson	7 yrs	1878	1884
Daniel Callahan	Larceny	2 yr	1884	1884
Margaret Conway	Arson	3 yrs	1882	1884
Joseph Downey	B & E	3 yrs	1882	1884
Louise Gadbois	Adultery	1 yr	1884	1884
Dennis Mant	Vagrancy	2 yrs	1883	1884
Charles McKenna	Assault	4 months	1884	1884
Franklin C. Pratt	Larceny	1 yr	1883	1884
Job Sweet	Rape	6 yrs	1881	1884
Alexander Tenney	B & E	18 months	1883	1884

**Pardons cont. on p. 8**

## John Kennedy O'Hara's Voting Fraud Convictions Overturned After 18 Year Fight

On January 12, 2017 John Kennedy O'Hara's 1999 voting fraud related convictions [were overturned](#) in Kings County, New York.

John O'Hara was an attorney in Brooklyn who in the early-to-mid-1990s was an active political opponent of Kings County District Attorney Charles Hynes. In the 1990s O'Hara ran five times against Hynes allies — twice for City Council and three times for Assembly — and he backed candidates who tried to unseat Hynes as DA.

In 1996 Hynes' office obtained a seven-count indictment against the 35-year-old O'Hara: five counts of illegal voting; and one count each of offering a false instrument for filing and false voter registration.

O'Hara's prosecution was based on his voter registration on November 2, 1992 that

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### Pardons cont. from page 7

oned. Bean discovered she had been driven from her home by her husband's harsh treatment, and that he had divorced her. Consequently, she didn't commit adultery, and the district attorney and the judge had erroneously been misled that she was a woman of immoral character. The Middlesex County District Attorney recommended the pardoning of Gadbois. On October 1, 1884 Gov. Robinson granted Louise Gadbois a full pardon and she was released from prison.

Daniel Callahan was convicted on July 17, 1884 of larceny in Lowell, Massachusetts. Callahan was sentenced to one year in prison. After he was imprisoned a police officer investigated Callahan's case and determined he had been misidentified. Based on the new evidence Callahan's trial judge recommended his pardon. On October 22, 1884 Daniel Callahan was granted a full pardon by Gov. Robinson, and he was released from prison.

The Innocents Database includes 4,276 cases of persons exonerated in the United States, and more than 900 of those exonerations were before 1989. The database is online at, [www.forejustice.org/exonerations.htm](http://www.forejustice.org/exonerations.htm).



John Kennedy O'Hara in courtroom when his conviction was overturned on January 12, 2017 (Jesse Ward, NY Daily News)

because it was uninhabitable. O'Hara used that address to vote five times from November 1992 to November 1993.

After a jury trial O'Hara was convicted on July May 13, 1997. He was sentenced to five years of probation, payment of a \$20,000 fine, and performing 1,500 hours of community service.

O'Hara appealed his conviction.

On November 10, 1997 the Appellate Division of the Supreme Court of New York ordered the 36-year-old O'Hara's immediate disbarment and his name was struck from the roll of attorneys and counselors-at-law.

On August 31, 1998 O'Hara's convictions were reversed and a new trial was ordered by the Appellate Division of the New York Supreme Court, Second Department. The Court's [ruling noted that](#) the "The trial court, over defense counsel's objections, granted the People's request for a missing witness charge with respect to Ms. Magaly Lucas, ... former girlfriend of the defendant." The prosecution contended that O'Hara didn't subpoena Lucas although he knew where she was and she had material evidence. The appeals court ruled the [judge prejudicially erred](#) by granting the "missing witness" charge, because there was no evidence O'Hara knew where his ex-girlfriend was, and "There was no evidence ... that Lucas had any knowledge concerning whether the defendant falsely used the 47th Street address to vote during the period of November 1992 to November 1993."

O'Hara's retrial in May 1999 ended in a mistrial after the jury couldn't reach a verdict.

O'Hara's third trial was in July 1999. The jury convicted him of all seven felonies. Kings County Supreme Court Judge Abraham Gerges sentenced O'Hara to three

years probation, 1,500 hours of community service, a fine of \$6,000, restitution of \$9,192, and payment of a \$5,000 civil penalty to the New York City Campaign Finance Board. (In 2002 the \$5,000 civil penalty was vacated in *People v. O'Hara*, 297 A.D.2d 768.)

In 2000 the Supreme Court Appellate Division affirmed O'Hara's convictions and sentence. O'Hara was granted leave to appeal that ruling.

On June 14, 2001 the New York Court of Appeals affirmed O'Hara's convictions in a majority 5 to 2 ruling. A dissenter argued that the address O'Hara used qualified as his residence under New York's civil Election Law, and noted that O'Hara was the only person known to have ever been convicted of violating New York's voter registration law.

O'Hara then filed a post-conviction motion based on ineffective assistance of counsel, which Judge Gerges denied in 2002. After that ruling [was affirmed](#) on appeal, O'Hara filed a federal habeas petition that was denied.

In 2005 O'Hara filed a selective prosecution motion that Judge Gerges denied.

O'Hara subsequently filed a motion for reinstatement as an attorney. Following a hearing concerning his motion, an investigating subcommittee of the Committee on Character and Fitness for the New York Supreme Court Appellate Division, Second Department, [issued its](#) Report on June 1, 2009. The Report expressed the opinion that O'Hara's prosecution was politically motivated: "Mr. O'Hara, accurately it appears, claims that the [Hynes's political] machine was gunning for him and pounced on his change of residency calling it election fraud." The Report concluded: "Although the committee has grave doubts that Mr. O'Hara did anything that justified his criminal prosecution, even if Mr. O'Hara was guilty of the offense for which he was convicted, we believe that Mr. O'Hara now has the requisite character and fitness to be reinstated as a member of the bar." (*In the Matter of John Kennedy O'Hara*, No. 1997-06257, slip op. (2d Dept., Committee on Character and Fitness, June 1, 2009, 2 and 6)

Based on the committee's report, O'Hara was reinstated to the New York bar on October 6, 2009. After his reinstatement [O'Hara told the](#) *Brooklyn Paper*, "Starting over at

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