

# JUSTICE



The Magazine for the  
Wrongly Convicted

**\$275 MILLION AWARDED OR PAID TO WRONGLY CONVICTED PEOPLE IN 2016**

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Awarded \$9 million compensation for false rape convictions in Washington.  
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**Message From The Publisher**

The slowness of the legal system – that can take years to process an appeal – proved fatal for Roger Lee Largent: four days after he was murdered in his prison cell the Maryland Court of Appeals overturned his 2015 rape conviction. See page 3.

The effort to collect new evidence of a person’s innocence can be arduous. There is not a one size fits all solution to finding evidence. To assist that search, Temujin Kensu and his law firm are jointly offering a \$50,000 reward for information that will exonerate him of a 1986 Michigan murder. See page 4.

When does being a Good Samaritan become criminal? Yevgenia Chudnovet was convicted in 2016 of distributing child pornography for posting video clips online alerting authorities about a child abuse case. People throughout Russia were outraged, and even President Putin promised to look into her case. She was acquitted on appeal because of insufficient evidence she committed a crime. See page 5.

The hope of many innocent prisoners who’ve been wronged in state court is that they will get justice in federal court. The reality is that for all but a handful of people, federal court is a death zone where hope for exoneration is extinguished. See page 7.

Protecting the due process rights of a young man accused of sexual assault on a college campus is of paramount importance, because so many are unfounded. One top U.S. Dept. of Education official has estimated 90% of campus rape accusations are bogus. See page 9.

One place where China is light years ahead of the U.S. is in paying compensation to wrongly imprisoned persons. In 2014 and 2015 China paid compensation to 10,881 people. See page 9.

Hans Sherrer, Editor and Publisher  
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# Roger Lee Largent Cleared of Rape Conviction Four Days After His Murder In Prison

The Maryland Court of Special Appeals [reversed the rape conviction](#) of 69-year-old Roger Lee Largent four days after he was beaten to death in his cell by a fellow inmate at the Western Correctional Institution in Cumberland, Pennsylvania, on February 11, 2017.

In the summer of 2015 Roger Largent was 67 and living in Clear Spring, Maryland. His stepdaughter M.F. was in her late 40s, and she lived with her husband in nearby Hagerstown. On June 30, 2015 he drove to M.F.'s house to take her and her husband to a scheduled doctor's appointment. After he arrived, he and M.F. went into the kitchen where they had sex.

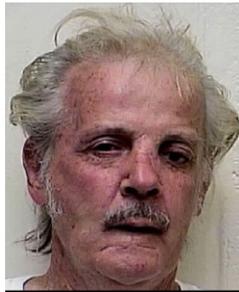
Largent then drove M.F. and her husband to the doctor. When the appointment was over Largent drove M.F. and her husband back to their house.

That night, many hours after Largent had dropped them off, M.F. told her husband while they were talking that she and Largent had sex, but he had raped her. Her husband called the police.

When Officer Joseph Delicati arrived M.F. told him that Largent had roughly handled her arms, neck, and other parts of her body. Officer Delicati did not observe any bruising or red marks on her arms or neck.

M.F. was taken to the Meritus Medical Center's emergency room where she was examined by nurse Ashley Hall. Hall's examination found no vaginal trauma or any other physical indication she had been roughly handled or sexually assaulted.

When questioned by a detective Largent first denied having sex with M.F., but he



Roger Lee Largent  
(Washington County,  
Maryland Sheriff's Office)

me first."

Based on M.F.'s complaint Largent was arrested on July 8, 2015. He was charged with second-degree rape, fourth-degree sex offense, and second-degree assault.

During his trial M.F. testified that while in the kitchen Largent had come up behind her and pulled her pants down while roughly handling her. She said that she screamed for him to stop, and she couldn't get away because he was pressing her against the refrigerator. She said her husband couldn't hear her scream because he was upstairs in a room with the door closed and with the radio and air conditioner on. She also testified that afterwards Largent drove her and her husband to the doctor, drove them home from the hospital, and it wasn't until many hours after he left that during a conversation she told her husband Largent raped her.

Hall testified about the absence of her finding any physical evidence M.F. had been sexually assaulted. [She testified there were](#) "no bruises or marks on M.F.'s body that would indicate where, if anywhere, the alleged victim had been held or restrained during the sexual encounter with" Largent. The prosecutor then asked Hall to express her opinion how M.F. could have been raped without any physical evidence she had been assaulted. Largent's lawyer [objected to the question](#), "now [the prosecutor is] starting to ask for expert opinions and she hasn't been offered as an expert in this field." The judge ruled Hall could provide her expert opinion about reasons a woman could be raped without any physical evidence she had been assaulted.

Officer Delicati testified as a defense witness that M.F. had no visible bruises or red marks on arms and neck when he took her statement at her home. Largent testified [in his defense](#), "I didn't threaten her ... and I didn't force her to have sex." Largent's lawyer told the jury during closing arguments the reason there was no physical evidence M.F. had been raped was because

soon admitted they had consensual sex in her kitchen. He said he initially denied it because he was embarrassed to admit he had sex with his stepdaughter. He [told the detective](#), "I swear on a stack of Bibles" it was consensual sex, and "she came on to

she hadn't been, and she "might have told her husband she was raped out of guilt over being unfaithful with Largent."

The jury was faced with a "She said. He said" case, with the exception of nurse Hall's "expert" testimony.

On March 8, 2016 the jury convicted Largent of second-degree rape and second-degree assault, but acquitted him of fourth-degree sex offense. During his sentencing hearing on May 5, 2016 Largent proclaimed he was innocent of rape and the sex between M.F. and him was consensual. Circuit Judge Daniel P. Dwyer said he didn't think Largent should be penalized for insisting on his innocence, but he then proceeded to sentence him to 18 years in prison -- only two years less than the 20-year maximum. Largent would have to serve at least nine years before he would be eligible for parole.

Largent appealed, arguing Judge Dwyer erred allowing Hall to provide expert testimony without being noticed as an expert by the prosecution or qualified as an expert by the judge. She had been subpoenaed to testify as a lay witness about the facts of her examination -- not to give expert medical opinion testimony there was no evidence she was qualified to provide.

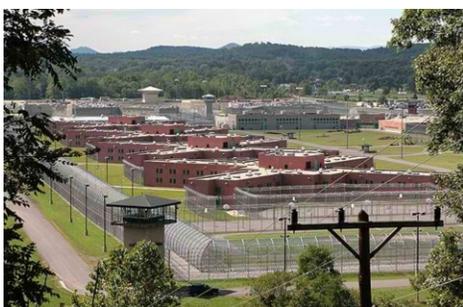
About 8 p.m. on February 11, 2017, Largent was found dead in his cell at the Western Correctional Institution in Cumberland, Maryland. He had visible injuries to his face and arms. An autopsy determined Largent died of blunt-force trauma.

Four days after Largent's convictions were posthumously overturned. On February 15, 2017 the Maryland Court of Special Appeals reversed Largent's convictions on the basis Hall's "expert" testimony was inadmissible because she was a lay witness who was improperly allowed by the judge to provide expert testimony. The Court's opinion reviewed at length the difference between factual lay testimony and expert opinion testimony. The Court [stated in its ruling](#):

"In this matter, by way of contrast, Ms. Hall's testimony was not limited to what she did or what she observed while treating M.F. Her testimony did call for her opinion that a victim of non-consensual sexual intercourse might not exhibit any physical injuries..."

And, Ms. Hall's testimony was intro-

**Largent cont. on page 4**



Western Correctional Institution in Cumberland,  
Maryland

## Largent cont. from page 3

duced to prove an essential element of the rape charge, that is, that M.F. may not have consented to the intercourse even if her SAFE examination showed no physical trauma. Because appellant admitted to having had sexual intercourse with M.F. on the day in question, the only real issue before the jury was whether the intercourse was consensual, as appellant claimed, or non-consensual, as M.F. insisted.

... Because Ms. Hall's testimony addressed the core issue of M.F.'s consent, the trial court's error in admitting her testimony cannot be deemed harmless beyond a reasonable doubt.

Judgments Of The Circuit Court For Washington County Reversed; Case Remanded To That Court For A New Trial; Costs Assessed To Washington County." [*Largent v. Maryland*, No. 587 (MD Ct. Spec App, 2017), 14-15]

The reversal of Largent's conviction is final since he cannot be retried. Nurse Hall's admissible lay testimony supported that no rape occurred, so it can be somewhat doubted the Washington County District Attorney's Office would have retried Largent if he hadn't been murdered. Having sex with his stepdaughter may have been contrary to societal norms, but it wasn't illegal.

The Maryland State Police is in charge of investigating Largent's murder.

[Click here to read](#) *Roger Lee Largent v. State of Maryland*, No. 587 (Maryland Ct. of Special Appeals, 2-15-2017)

Sources:

[Roger Lee Largent v. State of Maryland](#), No. 587 (Maryland Ct. of Special Appeals, 2-15-2017) (Reversing conviction based on inadmissible expert testimony by a lay witness.)

[Murdered inmate's conviction overturned](#) just days after death, *Herald-Mail Media* (Hagerstown, MD), Feb 16, 2017

[Washington County jurv finds man guilty](#) of raping disabled woman, *Herald-Mail Media* (Hagerstown, MD), March 8, 2016

[Clear Spring man sentenced to 18 years in rape case](#), *Herald-Mail Media* (Hagerstown, MD), May 5, 2016

## \$50,000 Reward Offered For Info That Will Exonerate Temujin Kensu Of 1986 Michigan Murder

The tip line number is 1-800-595-0830 to collect up to a \$50,000 reward for information that can help exonerate Temujin Kensu, aka Frederick Freeman.

Kensu is personally offering a reward of up to \$25,000 for credible information that will exonerate him of the Nov. 5, 1986 murder of Scott Macklem in a parking lot at St. Clair Community College in Port Huron, Michigan. Kensu is currently serving a life sentence for his 1987 first-degree murder conviction.\*

The Southfield, Michigan based law firm of [1-800-Law-Firm](#), which represents Kensu, is offering to match Kensu's reward. So the total maximum reward is \$50,000.

Kensu is offering up to \$5,000 (\$10,000 with the matching money) for credible information regarding Macklem's death, and \$25,000 (\$50,000 with the matching money) is being offered for information that exonerates Kensu or results in the conviction of the person who committed the crime.

1-800-595-0830 is the tip line number. [info@hardestypvi.com](mailto:info@hardestypvi.com) is the tip email address.

All tips go to Hardesty Private Investigations. Hardesty PI told Justice Denied they are working with Kensu and 1-800-Law-Firm. Hardesty PI's website is [www.hardestypvi.com](http://www.hardestypvi.com).

Kensu's defense at his trial was that he was on Michigan's upper peninsula where he was living, at the time of Macklem's murder 465 miles away in Port Huron. Port Huron is about 60 miles northeast of Detroit. The prosecution's case was based on the contention that Kensu was jealous of Macklem who was engaged to marry Kensu's former girlfriend, Crystal Merrill, who was pregnant with Kensu's child. Credible witnesses saw Kensu in Escanaba on the peninsula two hours after the murder. However, the prosecution argued it is possible -- without presenting any evidence he did so -- that he could have flown from Port Huron to Escanaba in a private airplane.

Kensu, 23 at the time of his arrest, is now 54.

Kensu has mounted a number of legal challenges in state and federal court to his conviction, all of which to date have been



Temujin kensu (Justice Incarcerated - 2010)

unsuccessful. On June 28, 2017 the Investigation Discovery cable channel aired a program about Kensu's case.

Kensu had a number of medical problems over a 20 year period of time that were largely ignored by the Michigan Department of Corrections, including shoulder surgery that was denied in 2009. In 2013 Kensu filed a federal civil rights lawsuit [that alleged](#) the Michigan DOC and a number of DOC employees had exhibited "deliberate indifference to serious medical needs in violation of 42 U.S.C. 1983." On March 28, 2016 [the jury awarded](#) Kensu \$40,000 in compensatory damages and \$285,000 in punitive damages.

The DOC appealed. In March 2017 the DOC dropped their appeal, conceding that [they wouldn't win](#) the appeal. The DOC paid the \$325,000 awarded by the jury, which has enabled him to post a reward for information. (Some of the money will also be used to privately pay for necessary medical care for Kensu.)

Proving Innocence, which has been advocating for Kensu's innocence for almost ten years, has information about his case on their website, [www.provinginnocence.org](http://www.provinginnocence.org).

"Justice Incarcerated," a 2010 documentary about Kensu's case, can be seen on YouTube at <https://tinyurl.com/yapflj8t>.

A website with extensive information about Kensu's case is, <https://tinyurl.com/ya8dsmb3>.

Endnote:

\* Since he converted to Buddhism Frederick Freeman goes by Temujin Kensu. The Mich DOC lists him under his committed name Freeman.

Sources:

[Proving Innocence](#)

[Reward offered for tips](#) exonerating Burton man convicted in 1986 slaying, *The Flint Journal*, July 12, 2017

[Jury awards \\$325,000](#) to prisoner in dispute over health care, *Detroit Free Press*, April 13, 2016

[State drops appeal of \\$325,000](#) verdict for Temujin Kensu, *Lansing State Journal*, March 7, 2017

[Kensu v. Buskirk et al](#), No. 2:2013cv10279 (E.D. Mich. 2015) (Document 116 -- Order Denying Defendants' Motion For Judgment On The Pleading And For Summary Judgment)



## Yevgenia Chudnovet Acquitted On Appeal For Posting Video Exposing Child Abuse

Yevgenia Chudnovet [was acquitted](#) on March 6, 2017 by a Russian appeals court of her November 2016 conviction of distributing child pornography. Chudnovet was prosecuted for posting a video online to alert authorities about a child abuse case.

In the summer of 2015 Chudnovet was a kindergarten teacher in Kataysk, Russia. Kataysk is a city of 14,000 people about 1,200 miles east of Moscow. The closest large city is Kurgan Oblast, more than 100 miles east.

That summer a boy found a mobile phone in a cafe in Kataysk. He gave it to his father, who discovered it had three videos of a child being abused at a local children's camp called The Red Eagles. One of the videos was a three second clip that showed the back of a male child with his underpants pulled down, and an object that resembled a pencil was being thrust into his anus. While that is happening a woman [is heard saying](#) to the child: "Look, the whole country is looking at you!"

Instead of taking the phone to the police, the father used a fake account to send the videos to the administrators of the open group "Typical Kataysk," on the Russian social network VKontakte. There was a public discussion of the videos, which anyone could see. ([VKontakte](#) is Europe and Russia's largest online social media and networking service, and it is beta testing an English language version - [www.vk.com/club200](http://www.vk.com/club200).)

The administrators of "Typical Kataysk" knew Chudnovet, who moderated a closed group on VKontakte. They sent her a link to the videos. Chudnovet had a two-year-old



Yevgenia Chudnovet with her son before her prosecution (VKontakte.com)



Yevgenia Chudnovet on her social network "VKontakte" webpage before her prosecution (VKontakte.com)

video to contact the person. Members also began commenting about the videos.

About five hours after Chudnovet posted the videos, a representative of the children's camp contacted her and demanded their removal and all the discussion about them. The representative asserted she could be prosecuted for posting the videos. Chudnovet immediately deleted the video and the group discussion. However, someone made screenshots of the group webpage before the videos and discussion were deleted. Those screenshots would come back to haunt Chudnovet.

Chudnovet's posting of the videos for only a few hours worked. The police began investigating the videos and the The Red Eagles children's camp. The police identified, and interviewed the child. He told the police that a camp counselor and another camp employee regularly bullied him, he had a pencil put in his anus, and he was forced him to run naked in the camp's residential building after lights-out.

Police learned the counselor was twenty-three-year-old Tatyana Kursheva, and the other camp employee was Danil Bezborodov. It was Kursheva who made the video on her phone, and mocked the child as she thrust a pencil in his anus. It was also her phone the boy found in the cafe that contained the videos of what she and Bezborodov did.

Kursheva was charged with "Violent actions of sexual nature committed against a person under 14 years of age," and "Use of minors in producing pornographic materials." Bezborodov was charged with "Vio-

son. In an effort to draw police attention to the treatment of the unidentified child in the video, in August 2015 she re-posted the clips on her closed group, and encouraged any members who knew who initially posted the

lent actions of sexual nature committed against a person under 14 years of age." They were convicted of the charges after a trial in the Katai District Court. On June 29, 2016 Kursheva was sentenced to six years in prison, and Bezborodov was sentenced to three years in prison. (The child's mother sued Kursheva and Bezborodov, with the court ordering Kursheva to pay 100,000 rubles (about \$1,700) and Bezborodov to pay 50,000 rubles (about \$850))

Unbeknownst to Chudnovet, in February 2016 the police began investigating her for reposting the videos. She didn't learn about the investigation until June 2016, during the prosecution of Kursheva and Bezborodov. The screenshots taken in August 2015 of the VKontakte group webpages were key evidence in the charging of Chudnovet on July 21, 2016, with "Manufacturing and trafficking of materials or objects with pornographic images of minors" (Russian Criminal Code, Article 241.1, part 2).

She was visiting relatives in Yekaterinburg, about 90 miles west of Kataysk, when the charges were filed. A federal warrant was issued for her arrest and she was put on the federal Wanted List. She was arrested in Yekaterinburg and transported to Kataysk. After she was questioned, she was released on her own recognizance with instructions not to leave Kataysk pending her trial.

Chudnovet was assigned a public defender, who assured her it was a minor matter and she had nothing to worry about.

Her trial began in the Katai District Court on September 21, 2016. The prosecution's case was based on testimony about the video by members of the VKontakte groups, the screenshots taken during the few hours the videos were posted online, and an expert witness from Moscow. Her defense was she posted the videos to alert the authorities to violations of the child's rights, and they weren't pornographic because they didn't show the child's face or his genitals.



Yevgenia Chudnovet during her trial (znak.com)

There were continuances, so it wasn't until November 8, 2016 that the verdict was announced: Guilty.

The prosecution requested a five year sentence, but the judge sentenced Chudnovet to

**Chudnovet cont. on p. 6**

## Chudnovet cont. from p. 5



Yevgenia Chudnovet protesters outside courthouse

one year in prison (with a minimum of six months to be served before she could be released).

Chudnovet was divorced and had custody of her three-year-old son. The court ordered transfer of the guardianship rights of her son to the authorities during her incarceration, even though the child's father, aunt, and grandmother all offered to care for him. Faced with the vocal protests by Chudnovet's relatives, the judge modified his order and allowed the boy to stay with his father.

Her conviction was affirmed by the Kurgan Regional Court on December 22, 2016. Although the appeals court rejected her request to reduce her sentence to community service, it did reduce it to five months to be served in prison, because she had a three-year-old son.

She was ordered to serve her sentence at the women's penal colony number six, located in the town of Nizhny Tagil, about 175 miles northwest of Kataysk. While awaiting her transfer Chudnovet was sent to "the hole" for 15 days of punishment in solitary confinement because she covered her feet with a blanket without permission.

Chudnovet's case was publicized throughout Russia, and protests were held by her supporters.

Russia's Children's Rights Commissioner Anna Kuznetsova publicly denounced Chudnovet's prosecution, [telling reporters](#): "This is a person who helped the police solve this crime."

During an internationally televised news conference Russian President Vladimir Putin was asked about Chudnovet's case by Znak.com reporter Ekaterina Vinokurova. Putin promised to look into it.

On February 23, 2017 Chudnovet's appeal to Russia's Supreme Court was heard. Dep-

uty Prosecutor General Leonid Korzhinek admitted in his presentation to the Supreme Court there was no corpus delicti supporting she had committed a crime, and informed the Court that the government was withdrawing its opposition to her appeal.

On February 28, 2017 the Supreme Court ordered the Kurgan Regional Court to review Chudnovet's case in light of the prosecution's admission the evidence it presented during her trial failed to prove a crime had been committed.

On March 6, 2017 the Kurgan Regional Court set-aside Chudnovet's conviction and ordered her acquittal on the basis the prosecution introduced insufficient evidence to prove her guilt. Her case was dismissed, and she was ordered to be immediately released after four months in custody.



Yevgenia Chudnovet being interviewed after her release from prison on March 6, 2017

After the court's ruling was announced, President Putin's spokesman Dmitry Peskov told reporters the President believed the court had acted appropriately.

Chudnovet is eligible for rehabilitation and damages from the Russian government for her ordeal.

An alternate spelling of Yevgenia Chudnovet is Evgeniya Chudnovet. An alternate spelling of Tatyana Kursheva is Tatiana Korchevo. An alternate spelling of Danil Bezborodov is Daniel Bezborodov.

Sources:

["The right to protection has been violated"](#): Details of the case against the teacher, who was imprisoned in the colony for repost, [www.znak.com](#), Nov. 15, 2016 (Translated with Google Translate.)

[Court releases preschool teacher](#) convicted for reposting video of child being abused: A brief synopsis of Yevgeniya Chudnevets's case, [www.meduza.io/en/](#), March 6, 2017

[Court releases kindergarten teacher](#) convicted for reposting child abuse video, *TASS* (Russian News Agency), March 6, 2017

[Russia's Supreme Court requests](#) that Chudnovet's case for reposting child abuse video be reviewed, [www.meduza.io/en/](#), February 28, 2017

[Children's Ombudsman Defends Teacher](#) Jailed for Reposting Child Abuse Clip, *The Moscow Times*, November 29, 2016

[Russian Woman Jailed](#) For Reposting Child-Abuse Video Sent To 'The Hole', *Radio Free Europe*, January 16, 2017

[VKontakte](#) (VK) online social network

This is the story of Karlyn Eklof, a young woman delivered into the hands of a psychotic killer. She witnessed him commit a murder and she is currently serving two life sentences in Oregon for that crime. *Improper Submission* by Erma Armstrong documents:

- The way the killer's psychotic bragging was used by the prosecution against Karlyn.
- The way exculpatory and witness impeachment evidence was hidden from the defense.
- The way erroneous assertions by the prosecution were used by the media, judges reviewing the case, and even by her own lawyers to avoid looking at the record that reveals her innocence.

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# Federal Court Is The Death Zone For Innocent State Prisoners

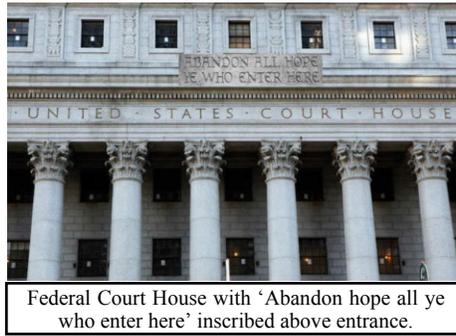
Federal court is the place where an innocent state prisoner goes as a last resort when the highest court in their state has denied justice. It is common to hear people assert a prisoner will finally get justice when they gets out of what is viewed as a state court system rigged to protect shady convictions and the wrongdoing by prosecutors and police. Federal court is envisioned as nirvana populated with judges dedicated to seeking the truth. Unfortunately, reality is that the overwhelming majority of state prisoners have the last vestige of their belief in justice crushed in federal court.

Six state prisoners were exonerated in 2016 after having their federal habeas corpus petition granted. Six out of the thousands of federal habeas petitions filed each year by state prisoners in the United States, plus Puerto Rico, Guam, and the U.S. Virgin Islands. [Those six people were:](#)

- Joel Albert Alcox, convicted of murder and robbery and served 26 years in custody.
- Jaime Caetano, convicted of possessing a dangerous weapon (stun gun) and who served several days in jail.
- Teshome Campbell, convicted of first-degree murder and served 18 years in custody.
- Jimmie Gardner, convicted of rape and assault and served 27 years in custody.
- William Haughey, convicted of arson and served 8 years in custody.
- Jules Letemps, convicted of sexual assault and kidnapping and served 27 years in custody.

The exoneration in 2016 of those six wasn't an anomaly. It was actually more than the annual average of less than five from 2002 to 2016, when there were a total of 64 exonerations of a state prisoner following the grant of their federal habeas corpus. For each year from 2002 to 2016 the number of [exonerations were:](#)

- 2016 = 6
- 2015 = 7
- 2014 = 3
- 2013 = 4
- 2012 = 2
- 2011 = 4
- 2010 = 4
- 2009 = 6
- 2008 = 4
- 2007 = 7
- 2006 = 3



Federal Court House with 'Abandon hope all ye who enter here' inscribed above entrance.

- 2005 = 2
- 2004 = 3
- 2003 = 5
- 2002 = 4
- Total = 64

The 64 state prisoner exonerations in the fifteen years from 2002 to 2016 was *less than one* for each of the 94 federal court districts. Those 64 exonerations were of state prisoners in only 20 states, plus the District of Columbia and Puerto Rico:

- Arizona = 1
- California = 12
- Connecticut = 1
- District of Columbia = 2
- Florida = 2
- Illinois = 6
- Louisiana = 1
- Massachusetts = 4
- Nevada = 3
- New Jersey = 1
- New York = 12
- North Carolina = 2
- Ohio = 6
- Oklahoma = 2
- Oregon = 1
- Pennsylvania = 1
- Puerto Rico = 1
- Texas = 1
- Virginia = 1
- Washington = 1
- West Virginia = 1
- Wisconsin = 2

More than half — 36 — came from federal courts in four states: California (12); Illinois (6); Ohio (6); and, New York (12). *So in the fifteen years from 2002 to 2016 there wasn't a single state prisoner exonerated by a federal court in thirty states!*

The rarity of an exoneration as the result of action by a federal court is not only shown by how few occur, but by the low number of successful petitions compared with the number of habeas petitions filed. From 2002 to 2016 there were 51,010 federal habeas petitions filed by state prisoners seeking to overturn their conviction(s). That means the overall the success rate was one out of 797, or 00.1255%. That is very long odds at best.

However, federal courts treat a case in which the death penalty was imposed more favorably than a non-death penalty case. That is reflected in the significant difference in the exoneration rate between the two types of cases.

There were 56 exonerations out of the 50,884 state prisoner non-death penalty federal habeas petitions filed. So 1 out of 909 petitions was successful, a rate of 0.11%.

There were 126 habeas petitions filed in a death penalty case, and 8 exonerations. So 1 out of 15.75 petitions was successful, a rate of 6.3%.

Hovering over every failed federal habeas corpus petition is the gleeful ghost of deceased U.S. Supreme Court Justice William Rehnquist. He was a champion of the Anti-Terrorism and Effective Death Penalty Act (AEDPA) enacted in 1996. Rehnquist was a passionate proponent of limiting the ability of state prisoners to successfully raise post-conviction constitutional claims in federal court. The AEDPA codified some of the judicial rules in effect during his reign as chief justice.

The AEDPA established procedural requirements and review standards so onerous that few state prisoners can meet them, regardless of the merits of their case -- or their factual innocence. Consequently, the AEDPA is working exactly as Rehnquist intended to make federal court the place where state prisoners go to have their hopes die.

[Click here to go to the United States Court webpage](#) that has statistical tables for the filing of federal habeas petitions.

The information about the exonerated individuals and the number of exonerations are from the [Innocents Database](#).

Selected previous Justice Denied articles about the AEDPA:

[Study Shows 300% Fewer Federal Habeas Petitions](#) Granted After 1996 AEDPA Was Enacted, Justice Denied, August 21 2007

[U.S. Supreme Court Sends Message To Federal Courts](#) That When In Doubt Deny A State Prisoner's Habeas Petition, March 23, 2011

[Federal Appeals Court Judge Declares Habeas Corpus](#) Is "Dead In This Country", Justice Denied, June 7, 2011

Sources:  
Statistical Tables for the Federal Judiciary, United States Court, [uscourts.gov](http://uscourts.gov)  
[Innocents Database](http://www.forejustice.org/exonerations.htm), [www.forejustice.org/exonerations.htm](http://www.forejustice.org/exonerations.htm)



# Thenjiwe Griffiths Acquitted Of 'Black Widow' Carjacking Murder Of Her Husband

On April 6, 2017 Thenjiwe Griffiths [was acquitted](#) of the 2006 murder of her husband Allan. The Pietermaritzburg High Court in South Africa ruled the prosecution's evidence didn't support her conviction of being involved in his murder during a carjacking.

Thenjiwe was 24 when she married Allan Griffiths in April 2005. She was 35 years younger than the 59-year-old Allan. His family disapproved of their marriage because they thought she was a gold digger.

On January 20, 2006 Thenjiwe and Allan stopped to pick-up two hitchhikers while they were driving on the N3 highway near Estcourt, about 110 miles northwest of Durban. The men forced Thenjiwe and Allan out of the car, and she was able to escape.

Thenjiwe led the police to where they stopped. Their car was gone, but Allan's body was found in tall grass next to the road. She gave a description of the men to the police.

Allan had been beaten, but his death was caused from strangulation.

The car was found abandoned on the N3 highway, which is the main road between Durban and Johannesburg.

In 2006 carjackings were a common occurrence in South Africa. A March 2006 [article in the](#) *The Guardian* of London stated: "Thousands of motorists are ambushed at gunpoint each year in South Africa. The lucky ones are left by the roadside, shaken and without their cars. The unlucky ones are abducted, raped and murdered." A South African movie about carjacking, *Tsotsi*, won the Academy Award for the Best Foreign Language Film of 2005.



Thenjiwe Griffiths after her release from prison on April 6, 2017. (Supplied)

Eight years after the crime Thenjiwe was charged with murder and robbery in the death of her husband. She was charged even though the men who killed Allan hadn't been found, she had not confessed to any involvement, and no physical or forensic evidence linked her to his murder. She was released on bail pending her trial.

The press dubbed her the "Black Widow" killer.

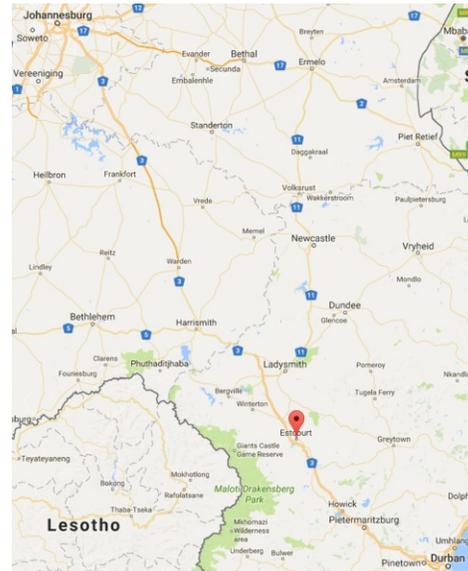
During Thenjiwe's trial the prosecution's case was primarily based on circumstantial and hearsay evidence. The circumstantial evidence was the 35 year age difference between her and Allan suggested she married for money and not love. The hearsay evidence was testimony by several people that Allan told them he wasn't happy with Thenjiwe and he wanted a divorce.

Thenjiwe testified in her defense what she told the police in 2006: they stopped to pick up two hitchhikers who turned out to be carjackers, and she was able to escape.

In their closing, the prosecution argued she set-up the car hijacking as an alibi by arranging for the killers to pose as hitchhikers. However, the prosecution presented no evidence to support their argument. The prosecution also argued Thenjiwe was guilty because she took the police to where the hijacking took place and Allan's body was found.

On December 8, 2014 the panel of Judge Rishi Seegobin and two assessors found Thenjiwe guilty of murder and robbery.

During her sentencing hearing two days later, Thenjiwe's insistence on her innocence offended Judge Seegobin. [He said](#), "Griffiths continues to deny her guilt. She has shown no indication of remorse and persists in her denial.



Estcourt on Hwy 3 between Durban and Johannesburg (Google Maps)

The court is obliged in these circumstances to impose a life sentence." He also ordered a sentence of 15 years in prison for robbery with the aggravating circumstance of the stolen car. He revoked her bail and she was taken into custody to begin serving her sentence.

In May 2015 the Pietermaritzburg High Court [granted Thenjiwe](#) leave to appeal her convictions, but she was denied bail.

On April 6, 2017 the Pietermaritzburg High Court overturned Thenjiwe's convictions. The Court ruled there had been a "serious failure of justice," because the prosecution failed to present evidence establishing a *prima facie* case against her. The lack of evidence was compounded by prejudicial procedural and evidentiary errors by the trial judge. Those errors included considering evidence of Thenjiwe's guilt was that she took police to the scene of the hijacking where Allan was killed.

The High Court noted the prosecution's case was based on circumstantial evidence related to the age difference between Thenjiwe and Allan, and uncorroborated hearsay evidence they may have had marital problems. [However](#), "The state did not tender any direct evidence tending to prove the appellant [Thenjiwe Griffiths] had unlawfully and intentionally robbed and killed the deceased [Allan Griffiths] at all. Nor did it prove that she in any way participated in the commission of the crimes charged."

The Court observed the trial court assumed the age difference and possible marital problems between Thenjiwe and Allan was



Thenjiwe Griffiths, with her attorney Narain Naidoo, outside the Westville Prison after her release on April 6, 2017. (Supplied)

**Griffiths cont. on p. 9**

## 90% of Campus Rape Accusations Are Bogus Says Top U.S. Dept. of Education Official

Ninety percent (90%) of rape accusations on college campuses in the U.S. are false, [according to](#) Candice E. Jackson, who heads the U.S. Department of Education's Office for Civil Rights. Jackson is particularly qualified to speak out about rape accusations: she was the victim of a sexual assault, and she represented sexual assault victims as a private lawyer before joining the Department of Education.

Jackson's comments about rape on college campuses were published in *The New York Times* on July 12, 2017.

Jackson described that the overwhelming majority of coed rape accusations were fueled by regret or revenge for consenting to being sexually intimate with a man ... or men. Jackson was [quoted as saying](#) that investigative processes have not been "fairly balanced between the accusing victim and the accused student." She said students

### Griffiths cont. from p. 8

proof of her guilt, while disregarding the prosecution presented no actual evidence she had anything to do with the carjacking and his murder.

Thenjiwe was released later that day, after two years and four months in Westville Prison near Durban.

Immediately after her release [Thenjiwe told](#) a reporter for *The Witness* newspaper, "I am so excited I can't even talk. First I can thank God. I worshipped God like crazy. I was fasting for two months at a time. I would like to thank my attorney, Narain Naidoo, and my advocate, Shane Matthews, for everything. But most of all I thank God. He is great."

Sources:

[Woman acquitted of husband's murder](#) after 2 years in jail, News24.com, April 6, 2017

[A free woman as judges overturn murder conviction](#), News24.com, April 7, 2017

[KZN killer wife to appeal](#), Daily News (iol.co.za), May 29, 2015

[Convicted wife denies her guilt](#), Daily News (iol.co.za), December 10, 2014

[Carjacking](#): the everyday ordeal testing South Africa, *The Guardian* (London), March 2, 2006



Candice E. Jackson  
(twitter.com-cejacksonlaw)

have been branded rapists not only "when the facts just don't back that up," but in most cases there's "not even an accusation that these accused students overrode the will of a young woman. Rather, the accusations — 90 percent of them — fall into the category of 'we were both drunk,' 'we broke up, and six months later I found myself under a Title IX investigation because she just decided that our last sleeping together was not quite right.'"

The administration of former President Barack Obama significantly reduced the legal protections for a person accused of sexual assault on a college campus. Under Obama the Department of Education approved the handling of campus sexual assault allegations by extra-judicial civil administrative procedures weighted toward finding an accused person guilty. Among other things those procedures restrict the introduction of possible exculpatory evidence by an accused person, who can be found guilty by a mere preponderance of the evidence. Without the due process protections of a criminal proceeding there is virtually no check on an innocent person being falsely found "guilty" and branded as a rapist.

Current Education Secretary Betsy DeVos is considering revising the federal government's mandates regarding the handling of sexual assault allegations on college campuses under Title IX, to protect the rights of accused individuals.

[Title IX](#) of the Education Amendments of 1972 prohibits discrimination on the basis of sex in any educational institution that receives any form of federal financial assistance. Consequently, the federal government can dictate certain policies on every college campus in the United States that benefits from federal aid.

[Click here to read](#) *The New York Times* article that has Jackson's interview, "Campus Rape Policies Get a New Look as the Accused Get DeVos's Ear."

Sources:

[Campus Rape Policies Get a New Look](#) as the Accused Get DeVos's Ear, *The New York Times*, July 12, 2017

[Title IX](#), Wikipedia.org

## China Paid Wrongful Imprisonment Compensation To 10,881 People In 2014 & 2015

In 2014 and 2015 [China paid](#) compensation to 10,881 people who had been wrongly imprisoned. The largest payment was \$322,000 to the family of Mr. Huugjilt, who was 18 when executed in 1996 after being wrongly convicted of raping and murdering a woman. Huugjilt's posthumous acquittal on December 15, 2014 after a retrial was based on the actual perpetrator's confession. The compensation to Huugjilt's mother and father was awarded 15 days after his acquittal. The compensation took into account the time from Huugjilt's conviction to his exoneration 18 years later.

In 1995 compensation to the wrongly imprisoned was decreed in Article 33 of State Compensation Law of the People's Republic of China. An award of compensation for infringement of a citizen's personal freedom is based on the daily average wage in China. On May 31, 2017 China's Supreme People's Procuratorate — which is the approximate equivalent of the U.S. Department of Justice — announced that based on the average daily wage in 2016, the payment to a wrongly imprisoned person was immediately being increased to 258 yuan (about \$38) per day of imprisonment.\*

The fairness of using China's standard daily wage as a basis for wrongful imprisonment compensation is being questioned, even in semi-official circles. A May 2016 editorial [in the state-run](#) *People's Daily* newspaper argued: "The core



Mr. Huugjilt (Huugjilt family photo)

value of the Rule of Law lies in human rights. When the most fundamental right of personal liberty is infringed in prosecution of criminal acts due to the miscarriage of justice by law enforcement agencies, decent compensation should be given to the wrongly convicted. This is the inevitable result of logic in context of modern laws by which human rights are respected and guaranteed. ... Is it appropriate to equalize the loss of personal liberty for 24 hours to a day job of 8 hours?"

### China cont. on p. 10

# Eric Asante Exonerated By DNA Of Defiling Student In 2005

Eric Asante [has been acquitted](#) by the Supreme Court of Ghana of defiling a 14-year-old girl in 2005. Asante's acquittal was based on a DNA paternity test that excluded him as the father of the son born to the now 26-year-old woman.

In 2005 Eric Asante was 28 and a teacher at the Nyorhini Presby Junior High School in Tamale, Ghana. Tamale is a city of 360,000 people about 269 miles north of Ghana's capital of Accra that is on Africa's Western coast.

One of Asante's female students was 14-year-old Rubamatu Mohammed.

In January 2005 Rubamatu and several relatives informed the police that Asante forcibly had sex with her one time, and she became pregnant.

A medical examination showed Rubamatu was pregnant.

Asante was charged with defiling Rubamatu, and on February 1, 2005 he was relieved of his teaching position.

During his trial in the Tamale High Court the prosecution's case was based on the testimony of Rubamatu and the hearsay testimony of her relatives, that he had sex with her and got her pregnant.

Asante's defense was he only had a professional teacher-student relationship with Rubamatu, and he never had any sexual

## China cont. from p. 9

\* The daily rate of 258 Chinese Yuan was equivalent to US\$37.87 on May 31, 2017, when the exchange rate was 6.812917 Chinese Yuan (CNY) per US\$1 (1 CNY = \$US.14671).

[www.xe.com/currencyconverter/convert/](http://www.xe.com/currencyconverter/convert/)

Sources:

[Time really is money for China's top court](#) – about US\$38 per day: People's Procuratorate sets new rate for settling cases of wrongful incarceration, *South China Morning Post*, May 31, 2017

[Commentary](#): It is Unreasonable to Compensate 24-hour Wronged Jail Time with 8-Hour Salary, *People's Daily Online*, May 19, 2016

Current and Historical Rate Tables, [www.xe.com](http://www.xe.com) (Currency exchange on 12-31-2015, 0.1539593169 (\$US1 per CNY) and 6.4952223738 (CNY per \$US1))



Eric Asante after his release from prison in 2015 (The Mirror, Accra)

and her relatives. Asante was found guilty on September 5, 2005, and he was sentenced to 15 years in prison at hard labor.

Asante's appeal to Ghana's Court of Appeal was denied on October 6, 2006.

*The Mirror*, a weekly newspaper in Accra took an interest in Asante's case. *The Mirror's* parent company, the Graphic Communications Group Limited (GCGL), approached prominent human rights lawyer Francis Xavier Sosu [about representing Asante](#). He agreed, with the GCGL paying all legal and filing fees.

In 2012 Ghana's Supreme Court granted Asante leave to appeal his conviction. His appeal claimed there were inconsistencies in the prosecution's evidence presented at trial that failed to prove his guilt.

In addition, he requested an order for a paternity test to determine if he was the biological father of Rubamatu's child. The Supreme Court promptly granted Asante's request and ordered a paternity test. The order was served on Rubamatu's aunts Juliet Tinjina and Gladys Abokokpa in Tamale, who were taking care of Rubamatu's child. They were commanded to bring the child to the Korle Bu Teaching Hospital in Accra within eight weeks of being served with the court order. The women refused to bring the child to Accra, even after the Northern Regional Police Commander intervened in an effort to force their compliance with the court order.

After almost three years of non-compliance with its 2012 order, the Supreme Court issued an order on February 11, 2015 that Tinjina and Abokokpa make Rubamatu's son available to Ghana's Police Forensic Unit, so a sample of his DNA could be obtained for a paternity test. Tinjina and Abokokpa complied with the second court order.

contact with her. Although Rubamatu had given birth to her baby boy, Rubamatu's lawyer did not request a paternity test.

Faced with a "He said, She said" case, the judge chose to believe Rubamatu and her relatives. Asante was found guilty on September 5, 2005, and he was sentenced to 15 years in prison at hard labor.

In July 2015 the Police Forensic Unit notified the Supreme Court that Asante's DNA excluded him as the boy's biological father.

Asante was released in September 2015 after ten years of imprisonment. The Supreme Court granted his release on bail for his good behavior in completing two-thirds of his sentence at the Nsawam Maximum Security Prison.

On November 10, 2015 the Supreme Court publicly released the DNA test result that Asante was not the biological father of Rubamatu's son.

[Asante told](#) *The Mirror* in response to the DNA test result: "Right from the beginning of this case, there was no evidence to show I had defiled the girl, except for the pregnancy. It has been over 10 years of pain and suffering for a crime I did not commit. It saddens my heart that all these years have been wasted. I have suffered for nothing and it has cost me so much."

Nineteen months after receiving the exclusionary paternity test, Ghana's Supreme Court unanimously granted Asante's appeal on January 26, 2017, and ordered his acquittal and discharge from custody. The Court ruled there was no substantial evidence supporting Asante's guilt, and the trial judge would have found Asante not guilty if he had known the exculpatory DNA evidence that was discovered after his conviction.

The Supreme Court directed that Asante could file a claim for compensation. Asante's lawyer Sosu told reporters Asante would apply for 10 million Ghana Cedi (About US\$2.1 million) in compensation.[1]



Eric Asante (in blue) with his lawyer, Francis Xavier Sosu outside the Supreme Court building in Accra after his acquittal on January 26, 2017. (Emmanuel Ebo Hawkson)

[Asante called for](#) Ghana's Attorney General to open an investigation of the case, because "there is a true culprit out there who committed the crime and connived with the lady to implicate me." The lady he referred to is Rubamatu Mohammed. The sixty-four dollar questions are why she falsely accused him of having sex with her and being the father of her child, why she actively participated to ensure he was falsely convicted, and why she did nothing while he languished in a maximum security prison for ten years before his release.

Ghana is a former British colony whose

**Asante cont. on p. 11**

# Mother

Review of the movie  
By Hans Sherrer

*Mother* is a South Korean movie that tells the tale of a young man arrested for the murder of a teenage girl in a small town. The morning of the murder the young man and a friend had a run-in with some men at a golf course but they were released by the police without being charged. A golf ball is found near the murdered girl and he was seen in the area, so the police are convinced he is guilty.

The only person convinced of the young man's innocence is his mother. She is a hard working woman who lives modestly and has saved the money necessary to hire a lawyer for her 27-year-old son – who is normal physically, but somewhat mentally slow. When the mother realizes the lawyer is not going to help her son prove his innocence, she sets out to find evidence he was framed.

The mother runs into some dead-ends, but she keeps forging ahead with a quiet intensity and single-mindedness that nothing is going to stop her from finding proof her son is innocent.

*Mother* has a gritty feel, and its unexpected plot twists are reminiscent of *Lady Vengeance*, a 2005 South Korean movie about a

woman wrongly convicted of kidnapping a child. The main character in *Mother*, like the lead character in *Lady Vengeance*, shows a degree of uncompromising proactiveness that isn't portrayed in U.S. movies about a wrongly accused or convicted person.

*Mother* is filmed primarily in dark tones that almost give it the feel of a black and white movie, it has unglamorous actors, it is subtitled in English, and there are no special effects, so it is unmistakably a foreign film that makes no effort to mimic a Hollywood movie. What *Mother* has is a powerful story about what can happen when hands-on involvement seems like the only course of action available to a concerned person when the legal system is lined-up against a person they believe is innocent.

The viewer doesn't learn until the end if the mother's determined quest to prove her son's innocence is successful – or is there a twist to solving the girl's murder?

*Mother* had a very limited release in major U.S. cities in January 2010, so few people saw it in a theater. However, U.S. critics loved it with [95% positive reviews](#) on Rottentomatoes.com.

*Mother* was honored during the 2010 Asian Film Awards (the Asian equivalent of the U.S. Academy Awards) with the awards for Best Film, Best Actress, and Best Screenwriter.

*Mother* is [available on DVD](#) and Blu-ray.



Watch *Mother*'s 2-minute [trailer by clicking here](#).

*Mother*

Stars: Hye-ja Kim (mother) and Bin Won (son).

Director: Joon-ho Bong

Writers: Joon-ho Bong (story) and Eun-kyo Park (screenplay).

128 minutes

U.S. theater gross, \$547,292 (IMDb.com)

Released to theaters in South Korea in 2009, and the U.S. in January 2010.

## Asante cont. from p. 10

official language is English, and its legal system is rooted in the English Common Law, the same as the United States. [Asante told](#) *The Mirror* in an interview that his case of being convicted and imprisoned though innocent wasn't unique: "there were countless other people in jail who did not deserve to be there but the system had made them convicts."

On February 17, 2017 [Asante filed a petition](#) with the Ghana Education Service to reinstate him as a teacher, and for the payment of salary arrears and other allowances due him from February 1, 2005 to the date of his reinstatement. The petition also requested that the GES consider promoting him to an appropriate teaching rank that he would have achieved if he had not been wrongly convicted and incarcerated.

Asante's exoneration was the first in Ghana attributable to post-conviction DNA test-

ing. Historically there are few DNA exonerations outside the U.S. The [Innocents Database](#) documents there were only seven known DNA exonerations outside the United States during the five years from 2012 to 2016, and only 39 since 1989.

Note 1: The exchange rate was .217 Ghana Cedi to 1 US dollar on February 26, 2017.

Sources:

[DNA exonerates Ghanaian man](#) jailed 15 years for defiling 14-year-old girl, *AfricaNews.com*, January 28, 2017

[Wrongfully jailed 12-years](#) for defilement; teacher freed after DNA test, *Citifmonline.com* (Ghana), January 26, 2017

[DNA proves man innocent](#) after 10 years in prison, *Graphic Online* (Ghana), November 20, 2015

[Eric Asante petitions GES](#) for reinstatement, *Graphic Online* (Ghana), February 24, 2017

[When the justice system fails](#): the Eric Asante story, *Graphic Online* (Ghana), February 3, 2017

When the justice system fails: the Eric Asante story, *Graphic Online* (Ghana), February 3, 2017

[Wrongfully jailed](#): Man freed after DNA test proves his innocence, *Graphic Online* (Ghana), January 26, 2017

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### 2016 Innocents Database Exoneration Report

Read on Justice Denied's website at, [www.justicedenied.org](http://www.justicedenied.org)

Or purchase from from Amazon.com. In Amazon.com's Search box enter:

### 2016 Innocents Database

Click on the cover to go to the book's page.

## In 2016 \$275 Million Was Awarded Or Paid To Wrongly Convicted Persons In U.S.

More than a quarter billion dollars is known to have been awarded or paid in 2016 as compensation to 139 people who were wrongly convicted in the United States. The people were imprisoned for a total of 2,033 years. The people were convicted in 13 states and the District of Columbia.

With the total compensation of \$274,972,084, the average was \$135,254 per year of wrongful imprisonment. However, there were significant differences between compensation obtained from states, and from federal lawsuits.

The five ways people obtained a compensation award or payment in 2016:

- Federal civil rights lawsuit under 42 USC §1983.
- Federal compensation lawsuit.
- State compensation claim/lawsuit.
- State legislative compensation bill.
- State compensation annuity. (Annuity for prior compensation award.)

The following observations relate to new compensation cases.

The 55 male compensation awards totaled \$250,227,185 for 972 years of wrongful imprisonment, for an average of \$257,435 per year. The four women were awarded a

	Homicide	Sexual Assault	Drugs	Arson	Kidnapping	Total Avg.
State compensation statute	\$134,108	\$46,591	\$2,275	\$48,205	\$240,000	\$111,071
State legislative damage bill	\$20,856	\$43,748	0	0		\$37,453
Federal civil rights lawsuit	\$397,184	\$416,505	\$500,000	0		\$401,155
Federal compensation lawsuit	\$330,840	0	0	0		\$330,840
Total average	\$292,312	\$147,754	\$137,605	\$48,205	\$240,000	\$264,257

total of \$19,315,000 for 48 years of wrongful imprisonment, for an average of \$402,396 per year. The four women were each convicted of a homicide related crime.

The individual awards for each year of wrongful imprisonment covered a wide range depending on the state and county/city where the person's conviction occurred.

The smallest state award was \$2,275 per year for Frank C. Davis' 6 years of wrongful imprisonment in Ohio for a drug conviction: a total of \$13,651. The largest state award was \$262,500 per year to four men for 16 years of wrongful imprisonment in Connecticut for murder: a total of \$4,200,000 each.

The smallest federal court award was \$20,588 per year to Alprentiss Nash for 17 years of wrongful imprisonment for murder, robbery and burglary in Chicago: a total of \$350,000. The largest federal court

award was \$1,224,444 per year to Nathson Edgar Fields for 18 years of wrongful imprisonment for murder in Chicago: a total of \$22,000,000.

Six awards were for a total of \$10 million or more, and 22 awards were for \$5 million or more -- all in federal court. There were 20 awards of \$1 million to \$5 million: 7 in federal court and 13 by states.

The most awards by state, and the number of federal court or state awards in those states:

- New York: 14 (10 federal and 4 state).
- California: 6 (3 federal and 3 state).
- Nebraska: 6 (all federal).
- Ohio: 5 (all state).
- Illinois: 5 (3 federal and 2 state).

The eight successful federal court compensation cases against New York City were more than any entire state other than New York.

Homicide was the primary crime in 73% of compensation cases, and in 20% of the cases sexual assault/molestation was the primary crime:

- Homicide: 43 cases
- Sexual assault/molestation: 12 cases
- Drugs: 2 cases
- Kidnapping: 1 case
- Arson: 1 case

The average time from an exoneration to a state compensation award was 3 years, while the average time for a successful federal lawsuit was 5-¼ years. Overall, a person was awarded compensation 4-1/3 years after being exonerated.

Three people had to wait ten or more years after their exoneration for a compensation award, with Troy D. Hopkins' 11 year wait

Chart summarizing the number of people and amount for each of the five methods:

	Men	Women	Yrs Imprisoned	Total Amt.	Yearly Avg.
<b>New compensation cases</b>					
State compensation statutes	26	0	415	\$46,094,545	\$111,071
State legislative damage bill	2	0	40	\$1,498,113	\$37,453
Federal civil rights lawsuit	25	4	512	\$204,415,000	\$399,248
Federal compensation lawsuit	2	0	53	\$17,534,527	\$330,840
Sub-total	55	4	1,020	\$269,542,185	\$264,257
<b>Prior compensation cases</b>					
State compensation annuity*	72	9	1,013	\$5,429,899	\$67,036
Total	127	13	2,033	\$274,972,084	\$135,254

\* All annuities are by the State of Texas. The monthly amount paid is \$452,491.57.

Note: One man was awarded both state and federal compensation.

**Compensation cont. on p. 13**

## Compensation cont. from p. 12

after his 2005 exoneration of murder in Virginia the longest.

Eleven of the 57 people falsely confessed, and one was convicted based on the false confession of a co-defendant. So 21% the compensation awards were to a person convicted as the result of a false confession.

The leading reasons for an exoneration resulting in compensation were:

- DNA evidence: 19 cases – 33% of awards.
- Prosecution concealed exculpatory evidence (Brady violation): 6 cases – 10%.
- New evidence (other than DNA): 11 cases – 19%.
- Witness recanted testimony: 9 cases – 16%.

The following are several general observations that can be gleaned from the compensation awards or payments for 2016:

- Federal civil rights lawsuits overall result in significantly higher awards than state compensation schemes.
- The odds are significantly higher that compensation will be awarded for a homicide or sexual assault related conviction, than for other types of crimes.
- The average award per year of wrongful imprisonment was almost double for a homicide related exoneration as for sexual assault.
- The compensation for men and women convicted of homicide was comparable.
- Exonerations attributable to DNA and other types of new evidence resulted in more compensation awards than exonerations based on all other types of evidence combined.

### Table summarizing persons awarded wrongful conviction compensation in 2016

This table doesn't include the 81 people in Texas paid total annuity compensation of \$5,429,899 as a continuation of their compensation cases. Information about the cases in the table and the Texas annuity cases is in the Innocents Database online at [www.justicedenied.org/innocentsdatabase.htm](http://www.justicedenied.org/innocentsdatabase.htm).



Name	Compensation	State	Crime
Sean Adams	4,200,000	CT	Murder & Assault
LaMonte Armstrong	6,420,000	NC	Murder
Carlos Ashe	4,200,000	CT	Murder & Assault
Devon Ayers	8,000,000	NY	Murder
Phillip Bivens	5,500,000	MS	Murder & Rape
Ronnie Bridgeman (aka Kwame Ajamu)	1,979,100	OH	Murder
Wiley Bridgeman	2,399,584	OH	Murder/Robbery
Francisco Carrillo Jr.	10,100,000	CA	Murder
Dahn Clary Jr.	552,900	TX	Child sexual assault
Christopher Coleman	220,000	IL	Sexual Assault, Robbery & Burglary
Reginald Connor	3,000,000	NY	Kidnapping
Michael Cosme	8,000,000	NY	Murder
Frank C. Davis	13,651	OH	Drugs
Derrick Deacon	6,000,000	NY	Murder
James Dean	2,190,000	NE	Aiding & abetting 2nd-degree murder
Jack M. Dempsey	337,434	OH	Arson & Burglary
Bobby Ray Dixon	5,500,000	MS	Murder & Rape
Angel Echavarria	450,000	MA	Murder & Robbery
Nathson Edgar Fields	22,040,000	IL	Murder
Eric Glisson	8,000,000	NY	Murder
Angel Gonzalez	220,000	IL	Rape & Kidnapping
Kathy Gonzalez	2,190,000	NE	Aiding & abetting 2nd-degree murder
John Grega	1,550,000	VT	Murder
Willie Grimes	3,250,000	NC	Rape & Kidnapping
Michael Ray Hansen	917,000	MN	Second-degree murder
Darcus Henry	4,200,000	CT	Murder & Assault
Tyrone Hicks	1,500,000	NY	Attempted rape & attempted sodomy
Michael James Holmes	2,500,000	MO	Drugs
Troy D. Hopkins	229,419	VA	Murder & Robbery
Ricky Jackson	2,647,056	OH	Murder/Robbery
Johnnie Johnson	4,200,000	CT	Murder & Assault
Luther Jones Jr.	936,880	CA	Child molestation
Koua Fong Lee	395,000	MN	Vehicular homicide
Bruce Lisker	7,600,000	CA	Murder
Roger Logan	3,750,000	NY	Murder
William Lopez*	12,450,000	NY	Murder & Robbery
Kevin Martin	4,300,000	DC	Manslaughter
Michael Kenneth McAlister	1,268,694	VA	Attempted rape and Abduction
Marco Milla	654,500	CA	Murder
Alprentiss Nash	350,000	IL	Murder & Rape
Robert E. Nelson	318,000	MO	Sexual Assault & Robbery
Alan Newton	12,000,000	NY	Rape, Robbery & Assault
Martin Nnodimele	2,000,000	NY	Murder & Robbery
Roger Lee Olsen	475,000	MN	Child sexual assault
Freddie Peacock	6,200,000	NY	Rape
Carlos Perez	8,000,000	NY	Murder
Larry Pohlschneider	762,440	CA	Child molestation
Kash Delano Register	16,700,000	CA	First-degree murder & robbery
Larry Donnell Ruffin	5,500,000	MS	Murder & Rape
Rodell Sanders	15,000,000	IL	Murder
Debra K. Shelden	1,825,000	NE	Aiding & abetting 2nd-degree murder
Willie Stuckey Jr.	2,016,000	NY	Murder, Kidnapping & Robbery
Ada JoAnn Taylor	7,300,000	NE	Second-degree murder
Santae A. Tribble	13,234,527	DC	Murder & Robbery
Cathy Watkins	8,000,000	NY	Murder
Joseph White	7,300,000	NE	Murder
Charles Wilhite	1,400,000	MA	Murder
Thomas Winslow	7,300,000	NE	Aiding & abetting 2nd-degree murder

## Clyde Ray Spencer's \$9 Million Jury Award For False Rape Prosecution Upheld On Appeal

A \$9 million federal jury award to Clyde Ray Spencer for a police officer's fabrication of evidence he committed child rape [has been upheld](#) on appeal. Spencer was convicted in 1985 of the statutory rape of his three children in Vancouver, Washington, and he was imprisoned for more than 19 years before his release in 2004.

In 1984 Clyde Ray Spencer was a Vancouver, Washington motorcycle police officer. His first wife and their two children lived in Sacramento, California.

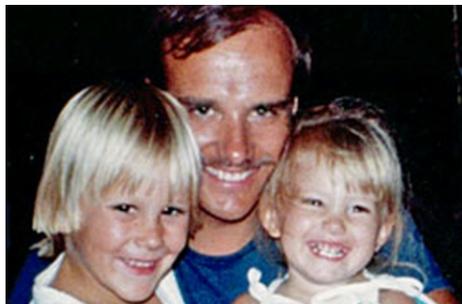
While his children were visiting in August 1984, Spencer's second-wife, Shirley, told him she thought they might have been abused. He contacted the Vancouver Police, the Clark County Sheriff's Office, and CPS in both Vancouver and Sacramento.

On January 2, 1985 Spencer was charged with the statutory rape of his daughter Katie after Clark County Sheriff's Office Detective Sharon Krause had interviewed her a number of times. He was released on bail.

After further "investigation" by Officer Krause, he was charged on May 3, 1985 with the statutory rape of both his natural son Matt, and his stepson, also named Matt.

On May 16, 1985 Spencer pled guilty pursuant to an *Alford* plea, instead of putting his three children through the ordeal of testifying in court. An *Alford* plea has all the legal consequences of a guilty plea, while allowing a person to claim their innocence while acknowledging there is enough evidence to convict them of the crime. While maintaining his innocence, Spencer was sentenced to two life terms, plus 171 months.

Spencer's wife Shirley divorced him in the summer of 1985.



Clyde Spencer with his son Matt and his daughter Katie (Spencer family photo)



Clyde Ray Spencer after the charges were dismissed on September 29, 2010 (Columbian)

Spencer [married his third-wife](#) Norma, in 1987. They first met in Guam in 1968 during the Vietnam War, when he was an Air Force air traffic controller and she was a civilian nurse in a U.S. Naval Hospital. They reconnected when Spencer wrote to her from prison that he still loved her and he was not guilty of molesting his children and stepson. For almost two decades Norma worked two jobs to pay for Spencer's legal appeals and reinvestigation of his case.

Based on new evidence casting doubt on the police investigation and accounts of abuse by his children, his sentence was commuted to community supervision for three years by Washington Governor Gary Locke in 2004. He was released after almost 20 years in custody. However, he was required to register as a sex offender.

Spencer subsequently filed a post-conviction personal restraint petition to withdraw his guilty (*Alford*) plea based on recantations by Spencer's natural children (His adult son Matthew Spencer signed an affidavit in February 2006 stating he was never abused and that he lied to get Krause to leave him alone after she had questioned him for months, and his adult daughter Kathryn Spencer Tetz recanted in September 2007. She said she didn't remember what she told Krause, but she said it after Krause bought her ice cream.); discovery the prosecution failed to disclose prior to his plea that medical exams of his natural children showed no evidence of abuse (his step-son wasn't examined); and, that statements in the police investigation reports were fabricated.

On October 13, 2009 the Washington Court of Appeals granted Spencer's petition and he was allowed to withdraw his guilty (*Alford*) plea.

On September 29, 2010 Spencer was rearraigned, and he pled not guilty. The Clark County District Attorney's Office's motion to dismiss was granted by the Clark County Superior Court.

In June 2011 Spencer filed a 13 count federal civil rights lawsuit under 42 USC §1983 that named Clark County, several officers, and his ex-wife Sharon as defendants.

During Spencer's 17-day his attorney Kath-

leen Zellner read to the jury more than 300 statements in the police investigator's reports that were fabricated. Zellner also presented evidence the children repeatedly told the investigators that no abuse took place, and that the medical exams of his two natural children didn't show any abuse.

On February 4, 2014 [the jury awarded](#) Spencer \$9 million. The jury found that Sharon Krause, the Clark County Sheriff's Office detective who investigated Spencer's case, "deliberately fabricated" false evidence that he raped his children, and either "knew or should have known" Clyde Spencer was innocent of the crimes he was charged with. The jury also found Krause's supervisor, Clark County Sergeant Michael Davidson, had an affair with Spencer's wife and was liable for damages in his supervisory capacity.

On February 12, 2014 the Board of Clark County Commissioners voted unanimously [not to pay](#) the judgment. The Commission was advised by Chris Horne, the county's chief civil deputy prosecutor, that since Krause was found to have fabricated evidence, she was outside the scope of her duties as a county employee and so the county wasn't financially responsible.

On August 13, 2014 U.S. District Court Judge Benjamin Settle in Tacoma, Washington granted the county's motion to overturn the judgment on the basis there was insufficient evidence presented at trial to prove Krause knew or should have known that Spencer was innocent, and that jurors were given erroneous instructions. Judge Settle ruled that if Spencer wanted to pursue his case there would be a new trial.

Spencer appealed Judge Settle's ruling to the Ninth Circuit Court of Appeals.

On March 9, 2017 the U.S. Ninth Circuit Court of Appeals heard oral arguments in Spencer's appeal. On May 18, 2017 the 9th Circuit reversed Judge Settle and ordered reinstatement of the jury's verdict. The [court ruled in](#) *Spencer v. Peters*, et al, No. 14-35689 (9th Cir. 5-18-17):

"The Fourteenth Amendment prohibits the deliberate fabrication of evidence by a state official. ...

In this 42 U.S.C. § 1983 action, Plaintiff Clyde Raymond Spencer introduced direct evidence of deliberate fabrication, specifically, evidence that Clark County Sheriff's Office Detective Sharon Krause deliberately mischaracterized witnesses' statements in her investiga-

Spencer cont. on p. 15

# New Zealand Parliament Apologizes To Men Convicted Of Consensual Homosexual Crimes

Members of New Zealand's Parliament [have apologized](#) to approximately 200 men convicted of homosexual related acts that are no longer considered a crime. Legislation that will expunge their convictions is now being considered by Parliament.

Sixteen is the age of consent in New Zealand.

New Zealand's Homosexual Law Reform Act 1986 legalized consensual sexual relations between males aged 16 and over. The 1986 law repealed the provisions of the Crimes Act 1961 under which sodomy, indecent homosexual acts, and providing a place for homosexual acts were illegal for all males. Under the 1986 law homosexual acts between someone 16 and over and someone younger than 16 remained a crime – which it continues to be.

Consensual sex between women has never been illegal in New Zealand.

Between 1961 and 1986 an estimated 200 men were solely convicted of crimes involv-



New Zealand's Justice Minister Amy Adams (www.beehive.govt.nz)

New Zealand's Justice Minister Amy Adams announced on February 9, 2017 that legislation had been crafted that would enable some men convicted of a homosexual crime to have their conviction expunged. She also said they would not receive compensation because their convictions weren't wrongful: they had been correctly convicted under the then prevailing law. Minister Adams [apologized to those men](#):

“There is no doubt that homosexual New Zealanders who were convicted and branded as criminals for consensual activity suffered tremendous hurt and stigma ... We are sorry for what those men and their families have gone through.”

The Criminal Records “Expungement of Convictions for Historical Homosexual Offences” Bill [was filed](#) in New Zealand's Parliament on June 28, 2017. The bill pro-

## Spencer cont. From p. 14

...tive reports. A jury found for Plaintiff and against Defendants Krause and Sergeant Michael Davidson, Krause's supervisor. [Op. cit., 4]

“To prevail on a § 1983 claim of deliberate fabrication, a plaintiff must prove that (1) the defendant official deliberately fabricated evidence and (2) the deliberate fabrication caused the plaintiff's deprivation of liberty. [Op. cit., 14]

“Because Plaintiff introduced direct evidence of deliberate fabrication, he did not have to prove that Krause knew or should have known that he was innocent.” [Op. cit., 16]

“In sum, the Constitution prohibits the deliberate fabrication of evidence whether or not the officer knows that the person is innocent. ...The district court erred by granting judgment as a matter of law to Defendants because, in this case involving direct evidence of fabrication, Plaintiff was not required to show that Krause actually or constructively knew that he was innocent.” [Op. cit., 19]

... REVERSED and REMANDED with instructions to reinstate the verdict. [Op. cit., 19]

On June 26, 2017 the ruling became final when the 9th Circuit denied a hearing to reconsider the ruling en banc.

Clark County's refusal to pay \$9 million to Spencer in February 2014 backfired, because with the addition of more than three years interest they will now be paying him in excess of \$10 million.

Clyde and Norma Spencer live in the Los Angeles area.

[Click here to read the court's ruling in Clyde Spencer v. Peters, et al](#), No. 14 35689 (9th Cir., 5-18-17).

Sources:

[Clyde Spencer v. Peters, et al](#), no. 14-35689 (9th cir. 5-18-17) (Reversing Dist. Ct. ruling and reinstating \$9 mil. jury award.)

[Clyde Spencer v. Peters, et al](#), no. 14-35689 (9th cir. 6-26-17) (Denying en banc review, ruling final)

[Jury awards \\$9 million to former local cop](#), *The Columbian* (Vancouver, WA), February 3, 2014

[Clark County refuses to pay \\$9 million Spencer judgment](#), *The Columbian* (Vancouver, WA), February 12, 2014

[Judges reinstate \\$9 million award to Clyde Ray Spencer](#), *The Columbian* (Vancouver, WA), May 18, 2017

...ing a consensual homosexual act by males 16 and over. During those 25 years an estimated 800 men were convicted of committing a homosexual crime involving minors or in conjunction with committing other criminal acts.

...vides for expunging the convictions of approximately 200 men who from 1961 to 1986 were solely convicted of homosexual activities involving consenting males 16 and over, that would not be considered a crime under current law. A person will have to submit an application to have their conviction reviewed by the Ministry of Justice. No hearing will be held. A relative or other interested person can request permission to represent a deceased person and submit an application on their behalf for a posthumous expungement. No compensation will be paid as a result of an expungement, and no fines paid will be reimbursed.

The purpose of the expungement is to clear the stain of the conviction from the person's name, and eliminate adverse consequences that may result from having the criminal conviction on their record.

On July 6, 2017 the New Zealand Parliament [formally apologized](#) “to those homosexual New Zealanders who were convicted for consensual adult activity, and recognize[s] the tremendous hurt and suffering those men and their families have gone through, and the continued effects the convictions have had on them.”

The expungement bill has widespread support and is expected to be enacted into law by the fall of 2017.

[Click here to read New Zealand's Criminal Records “Expungement of Convictions for Historical Homosexual Offences” Bill](#).

New Zealand is joining a growing list of countries and states that have enacted or are in the process of enacting legislation that provides for the expungement of historical convictions for homosexual acts that are no longer considered criminal:

- United Kingdom [in 2017](#).
- Germany [in 2017](#).
- And, five Australian states.
- South Australia [in 2013](#).
- New South Wales [in 2014](#).
- Victoria [in 2015](#).
- Australian Capital Territory [in 2015](#).
- Tasmania [in 2017](#).

Sources:

[Criminal Records](#) (Expungement of Convictions for Historical Homosexual Offences) Bill, New Zealand Legislation, filed June 28, 2017

[Homosexual Law Reform Act 1986](#), New Zealand Legislation (last viewed 7-17-2017)

[New Zealand Men Convicted of Gay Sex to Have Records Wiped](#), By Associated Press, NBC News, Feb. 9, 2017

[New Zealand Parliament apologizes](#) for homosexuality convictions, By Staff, Jurist.org, July 6, 2017

# Innocents Database blocked by ICANN, the world's most dangerous NGO

By Hans Sherrer

On Sunday June 18, 2017 the Innocents Database unexpectedly went offline. For people unfamiliar with the Innocents Database (IDb), it is the world's largest database of people wrongly convicted in the United States and other countries. It currently includes more than 8,500 cases. The IDb has been accessible through links on Justice Denied's website at [justicedenied.org](http://justicedenied.org). However, the IDb has been stored on my personal website, Forejustice.org, since it has been a project of mine for more than 20 years.

At the same time I found out the IDb was offline, I also learned Forejustice.org was offline. I checked, and all of Forejustice.org files were still on its webhost's server, and nothing appeared irregular.

I immediately contacted the Forejustice.org webhost. Their tech person couldn't find any reason it wasn't online, but they said they would check further and contact me as soon as the problem had been identified. Several hours later they contacted me and said that ICANN had blocked Forejustice.org – making it invisible to the Internet. ICANN is the acronym for the Internet Corporation for Assigned Names and Numbers.

Few people know about ICANN, but it is the most powerful Non-Governmental Organization (NGO) in the world. ICANN controls the Internet domain name system (DNS). With a mouse click ICANN can block the accessibility of any website in the world that relies on an ICANN controlled domain name. In an instant ICANN can “turn off” Facebook.com, Twitter.com, Microsoft.com, Bankofamerica.com, or whatever website they want to block ... which in this case was Forejustice.org.

Until October 1, 2016 ICANN was controlled by the United States Department of Commerce. On that date President Barack Obama permitted control of it to be transferred to what is euphemistically referred to as multistakeholder Internet governance. A review of ICANN's website ([icann.org](http://icann.org)) was unable to identify exactly who the “multi-stakeholders” are who now control it. With its unrestrained power and lack of transpar-

ency can any NGO in the world be more dangerous than ICANN?

There was some opposition to the transfer, in part because of concern that foreign interests could influence ICANN to be used as a weapon. I told a number of people in the summer and fall of 2016 that transferring control of ICANN could have serious consequences. Who knew I'd be my own guinea pig!

Somewhat amazingly, with the power to destroy an Internet website with a mouse click, there is no outside oversight of ICANN. It is a law unto itself. It is incorporated in the State of California, so possibly a victim of its capriciousness could sue for damages.

I created and have owned the Forejustice.org domain name for going on twenty years. During that entire time I have used the same web hosting company. They directly communicated with ICANN to try and convince them to turn on Forejustice.org.

ICANN responded by making the demand that they would only allow Forejustice.org to be accessible on the Internet if I provided evidence proving my identify. It apparently wasn't important to ICANN that my name is on *more than 25,000 webpages* on the Forejustice.org website!

ICANN's demand was also bizarre because Forejustice.org has been online for almost twenty years, and ICANN has all the registration and renewal documentation for all those years! Yet, out of the blue ICANN put a gun to my head by turning off access to the website until I essentially provided them with the information a bank demands before an account can be opened!

ICANN has no accountability because it is a monopoly with no competition, so it can make whatever bizarre demands it wants. You either submit or they kill your website. They are a Mafia like organization that can make an “offer you can't refuse” -- just like [Don Vito Corleone](#) in “*The Godfather*.”

However, there are two key differences between ICANN and the Mafia. First, ICANN is a more shadowy organization than the Mafia because we don't know who ICANN's Don is: who is pulling its strings? Second, ICANN is infinitely more powerful than the Mafia because ICANN is the most powerful NGO in the world: in less time than it takes to snap your fingers ICANN can “disappear” Facebook or any other

website by simply shutting off access to its domain name.

After four days of being blacked-out, ICANN resurrected Forejustice.org to the land of living websites after their information extortion demand was met. Powweb.com went out of its way in negotiating with ICANN to get Forejustice.org and the Innocents Database back online. But, the reality is ICANN holds all the cards and could have responded: “No! We aren't going to turn it back on.”

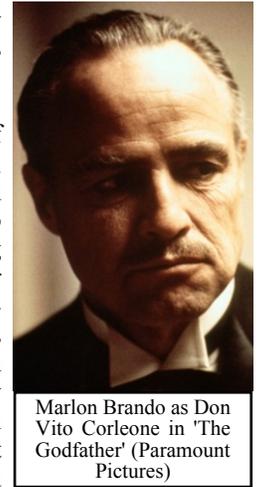
This episode reveals the extreme fragility of the Internet because of the iron-fisted control ICANN has of access to websites. ICANN is the weak link of the Internet. Whoever controls ICANN has life and death control of the Internet, and not incidentally, the immense amount of the world's commerce that flows through it. No single organization should have that kind of power. It is a megalomaniacs wet dream.

This experience has made it crystal clear that ICANN is an extremely dangerous and tyrannical organization, and it was a serious mistake for the U.S. to give up control over it – at least then it was known who was running the show. Who needs nuclear weapons to bring the U.S. or any other country to its knees, when its economy can be crippled by ICANN simply turning off access to financial and other critical economic websites? It is essential that an alternate “Internet” be developed, or ideally, multiple alternative “Internets,” so that a victim of ICANN's monopoly will not have to just lay back and take its abuse.

The Innocents Database is accessible – as long as ICANN allows – at, [www.forejustice.org/innocentsdatabase.htm](http://www.forejustice.org/innocentsdatabase.htm).

Sources:

Vito Corleone, The Godfather Wiki  
[www.godfather.wikia.com/wiki/Vito\\_Corleone](http://www.godfather.wikia.com/wiki/Vito_Corleone)



Marlon Brando as Don Vito Corleone in 'The Godfather' (Paramount Pictures)



## \$1,000 Reward Offered To Anyone Who Answers 20 Questions To Prove Kirstin Lobato Is Guilty

A \$1,000 reward is being offered by Justice Denied to anyone who can answer 20 questions to prove Kirstin Blaise Lobato is guilty beyond a reasonable doubt of Duran Bailey's homicide on July 8, 2001. The contest runs from August 24 to October 1, 2017.

Justice Denied began investigating Kirstin Lobato's case in 2003, and has been unsuccessful in finding substantive evidence of Ms. Lobato's guilt.

Mr. Bailey died in the trash enclosure for the Nevada State Bank across from the Palms Casino in west Las Vegas. His body was hidden behind a dumpster and covered by "trash" from the dumpster.

Ms. Lobato gave a Statement to Las Vegas Metropolitan Police Department detectives on July 8, 2001. She described that prior to mid-June 2001 she used her pocket knife to fend off a rape attempt late at night in the parking lot of a Budget Suites Hotel on Boulder Hwy. in east Las Vegas. She said her assailant as alive when she escaped in her car.

During her trial in 2006 Ms. Lobato vigorously disputed the prosecution's contention her Statement concerned Bailey's homicide, and not an attempted rape weeks earlier in another part of Las Vegas.

Ms. Lobato's alibi defense was that during the entire weekend of July 6 to 8, 2001 she was at home in Panaca, 165 miles north of Las Vegas.

The jury convicted Ms. Lobato of voluntary manslaughter and sexual penetration of a dead human body. (The latter charge was based on a non-fatal injury to Mr. Bailey's rectum from an unknown cause. One doctor has opined it was caused by a kick from a foot, while another has opined a knife was involved.) She was sentenced to 13 to 35 years in prison and is currently incarcerated.

The rules for the contest are:

1. Open to anyone -- journalists, commentators, students, public, etc.
2. All 20 questions must be fully answered referencing credible evidence that includes transcripts, case evidence, and reproducible (i.e., scientific) experiments, that establishes Ms. Lobato's guilt beyond

a reasonable doubt.

3. All submissions must identify the participant's name, address, and driver's license number.

4. Submissions that have conclusions for any of the 20 questions with no acceptable supporting evidence will not be considered.

5. Justice Denied reserves the right to make the determination as to whether a contestant has satisfactorily answered all 20 questions and is entitled to the \$1,000 reward.

6. By entering a contestant knowingly acknowledges and accepts that Justice Denied's determination is final as to whether a contestant has satisfactorily answered all 20 questions.

7. Submit answers on or before October 1, 2017 to the email address: [contest@justicedenied.org](mailto:contest@justicedenied.org).

The 20 questions are:

1. Explain how Ms. Lobato could have committed Mr. Bailey's homicide when there is no direct evidence she had ever met him, that she knew who he was, that she knew anyone who knew him, or even that she had ever been to the Nevada State Bank where his homicide occurred.

2. Explain how Ms. Lobato could have committed Mr. Bailey's homicide when there is no direct evidence from an eyewitness, surveillance video, gas receipt, or confession, that she was in Las Vegas at any time on July 8, 2001, while at least 13 people are known to have seen or talked with her throughout the day in Panaca from very early morning until after Bailey's body was discovered that night.

3. Explain how Ms. Lobato could have committed Mr. Bailey's homicide by driving to Las Vegas from Panaca in her car when there is no direct evidence it was in Las Vegas on July 8, 2001, or even that it had moved from where it was parked in front of her parent's house in Panaca and driven at any time on July 8, 2001.

4. Explain how Ms. Lobato could have committed Mr. Bailey's homicide while high on methamphetamine as the prosecution speculated during her trial, when there is no direct evidence she took any methamphetamine at any time during the month of July 2001, and she tested negative for methamphetamine after both a blood draw on July 5 and a urine sample collected on July 7.

5. Explain how anyone other than Mr. Bailey's assailant could have made the shoeprints imprinted in blood leading away from

his body and imprinted on cardboard covering his body -- which forensic testing establishes were not made by Ms. Lobato -- considering that all the crime scene blood was covered by cardboard and other items when police officers first arrived at the scene. (The shoeprints are 2-1/2 to 3 sizes larger than Ms. Lobato's shoe size, and they don't match the soles of any of her shoes seized by police.)

6. Explain how Mr. Bailey's homicide -- that involved a very physical altercation between him and his assailant, and which was notable for how much blood was on and around him at the crime scene -- could be the same event Ms. Lobato described in her Statement when the prosecution doesn't deny that during that event she was wearing high-heeled platform shoes that have no blood on the soles or sides of the shoes and they have no scuff marks. (Those shoes were impounded by the police on July 20, 2001 from the trunk of her car, and remain as evidence in her case.)

7. Explain how Mr. Bailey's homicide -- which was notable for how much blood was on him and at the crime scene -- could be the same event that Ms. Lobato described in her Statement when under questioning by two homicide detectives she didn't mention a single time that there was *any* blood on her, her clothing, her shoes, or her car, and confirmatory forensic tests of her car were negative for the presence of any blood.

8. Explain how Ms. Lobato's Statement could be an admission to Mr. Bailey's homicide when his autopsy determined his primary cause of death was brain swelling from a head injury ("blunt head trauma"), and a contributory cause was stabbing and incised wounds (particularly a severed carotid artery), while she neither states she inflicted a head injury to her assailant or that he fell and hit his head, nor that she inflicted a cutting wound to her assailant's neck.

9. Explain how Ms. Lobato was prosecuted in good faith for Mr. Bailey's homicide when trial testimony by the prosecution's medical expert, Dr. Lary Simms, establishes his head injury that was his primary cause of death occurred at least two hours prior to the event in the trash enclosure where his body was found, and that latter event -- hours after his head injury occurred and from which he was in the process of dying -- was the only one the prosecution alleged Ms. Lobato was involved in.

10. Explain how Mr. Bailey could have been dead at the time his rectum was injured when crime scene photographs establish he

**Reward cont. on p. 18**

## Reward cont. from p. 17

bled profusely from multiple wounds after receiving that injury, and if he was dead his heart wouldn't have been beating to circulate the blood that flowed from those wounds.

11. Explain how Ms. Lobato's Statement could not describe an attempted rape at the Budget Suites Hotel in east Las Vegas that occurred weeks prior to Mr. Bailey's homicide, when nine witnesses have provided an affidavit or statement that between late May 2001 and July 4, 2001 they learned from Ms. Lobato details about the attempted rape described in her Statement -- and it is impossible there was collusion by those people because many of them aren't acquaintances, each of them learned about the assault at a different time from Ms. Lobato, and some were told about it by her in Panaca, some in Las Vegas, and one while they were driving to Utah together.

12. Explain how Ms. Lobato's Statement could be an admission to Mr. Bailey's homicide when it doesn't contain a single essential element of either voluntary manslaughter or sexual penetration of a dead human body:

a. It doesn't identify she was in Las Vegas on July 8, 2001, the day of his homicide;

b. It doesn't identify she was in the trash enclosure at the Nevada State Bank when his homicide occurred;

c. It doesn't identify that she inflicted a lethal wound on the assailant who she said attempted to rape her at the Budget Suites Hotel prior to mid-June 2001;

d. It doesn't identify Mr. Bailey or someone matching his physical description as her rape assailant;

e. It doesn't identify that she inflicted any wounds to the neck, head, and rectum of her rape assailant;

f. It doesn't identify she in any way caused any penetration of her assailant's rectum;

g. It doesn't identify that she did anything beyond defending herself against an attempted rape by a man who grabbed her from behind in a dark parking lot, and that she fled from him at her first opportunity, and;

h. It doesn't identify that her assailant was dead when she fled, to the contrary, she states he was alive.

13. Explain how -- considering that the foundation of forensic science is Locard's Exchange Principle that every contact leaves a trace -- Ms. Lobato could have

committed Mr. Bailey's homicide when her fingerprints don't match those found at the crime scene, her DNA doesn't match the crime scene evidence that has been DNA tested, her shoeprints don't match those imprinted in blood leading away from Mr. Bailey's body and on the cardboard covering his body, and her car's tire treads don't match those identified as evidence near the trash enclosure.

14. Explain how Ms. Lobato, who at the time was an 18-year-old high school graduate with no specialized skills, could have performed precision cutting of Mr. Bailey's groin area that forensic pathologist Dr. Glenn Larkin has opined was performed by a person "skilled either with medical knowledge or animal husbandry."

15. Explain how Ms. Lobato could have committed Mr. Bailey's homicide when the prosecution contends he was killed in the early morning of July 8 -- possibly before sunrise -- and then laid undiscovered in the open air trash enclosure all day, yet there were no fly eggs (or rodent or insect bites) on his body when it is scientifically known that flies are opportunistic diurnal insects that during daylight lay eggs in orifices and wounds on a body within minutes of a person's death. (The prosecution concedes that on July 8 Ms. Lobato was in Panaca at 11:30 a.m. -- and possibly 10 a.m. -- until after his body was found that night. There was trial testimony of a three-hour travel time from Las Vegas to Panaca. So based on the prosecution's contention, for it to have been unreservedly possible for her to have committed the crime his death needed to occur sometime prior to 7 a.m.)

16. Explain why Las Vegas Metro PD homicide detectives didn't investigate as suspects Diann Parker and her male "Mexican" friends who all lived 100 yards from where Mr. Bailey died, when they had the motive, means and opportunity to commit what multiple experts have opined was his revenge type homicide. (Prior to arresting Ms. Lobato the detectives didn't obtain statements from Parker and her male friends, they didn't compare their fingerprints, DNA, shoe size, shoe soles, and car tire treads with crime scene evidence, and they didn't have their shoes and clothes forensically tested for the presence of Mr. Bailey's blood. The detectives failed to conduct any investigation even when Parker admitted to them that the morning after Mr. Bailey's homicide she had a bloody shirt and pants, that may have had his blood on them. Parker made that admission three days after Ms. Lobato's arrest.)

## Do these shoes match the crime scene?

The foundation of the Clark County DA's case against Kirstin Lobato is their claim her police statement on July 20, 2001, in which she described an attempted rape that occurred prior to mid-June 2001, was actually about Duran Bailey's violent bloody homicide weeks later on July 8, 2001.

The DA admits she was wearing the high-heeled platform shoes her statement describes she was wearing during the attempt rape ... but which the prosecution contends was Bailey's homicide. Forensic testing of the shoes was negative for the presence of Bailey's blood.

The following are official Las Vegas Metro PD Lobato case photographs of the platform shoes and Bailey's bloody crime scene.



The Clark County DA thinks those bloodless and scuff free shoes were worn by the perpetrator while committing Bailey's violent homicide that involved a copious amount of blood and defensive wounds on Bailey's hands from fighting against his assailant(s).



## Reward cont. on p. 19

## Reward cont. from p. 18

17. Explain why the Clark County District Attorney's Office wants to prevent the police officer whose phone number was handwritten on two pieces of paper found in Mr. Bailey's pants pockets, from testifying in court under oath about what he may know about Mr. Bailey's homicide, and person or persons who may have committed the crime or have information about the crime.

18. Explain why Clark County DA Steven Wolfson adamantly opposes post-conviction DNA testing of numerous evidence items collected at the crime scene, by DNA testing techniques perfected since Ms. Lobato's trial that could identify the DNA profile of Mr. Bailey's assailant, and that could be uploaded to the FBI's national DNA database to search for a match. (Trial testimony established that DNA testing of a limited number of crime scene evidence items excluded the presence of Ms. Lobato's DNA.)

19. Explain why the DA's Office has disregarded the unequivocal determination of Las Vegas polygraph examiner Ron Slay that "I am certain Ms. Lobato is innocent of Mr. Bailey's murder," when he has conducted over 27,000 polygraph examinations and the DA's Office has so much confidence in his competence as a polygraph expert that it has relied on him to determine if suspects are telling the truth.

20. Explain why the DA's Office has disregarded the unequivocal public declaration by current United States District Court Judge Gloria Navarro that was published in the *Las Vegas Review-Journal* in 2002, that Ms. Lobato is innocent and she was "convicted of a crime that she did not commit" -- based on her first-hand knowledge of Ms. Lobato's case as one of her lawyers at the time -- when President Barack Obama endorsed Judge Navarro's legal ability and sound judgment in December 2009 by accepting Nevada Senator Harry Reid's recommendation and nominated her to be a U.S. District Court judge, and the United States Senate expressed its total confidence in Judge Navarro's legal ability and judgment by unanimously confirming her to a lifetime appointment by a vote of 98-0 in May 2010. (Judge Navarro has not retracted her declaration, and she referenced the 2002 *Review-Journal* article in her written submission to the U.S. Senate prior to her confirmation as a U.S. District Court judge.)

Send any questions regarding the contest to: [contest@justicedenied.org](mailto:contest@justicedenied.org).

Information about Ms. Lobato's case is available on Justice Denied's website at [www.justicedenied.org/kbl.htm](http://www.justicedenied.org/kbl.htm).

## DA Wolfson's CRU Deceived The Innocents Project About Kirstin Lobato's Case

By Hans Sherrer  
Justice Denied

Special for the *Las Vegas Tribune*  
(Published in the *Las Vegas Tribune*, Sept. 20-26, 2017 issue, p. 8)

**K**irstin Lobato's application for review of her claim that new evidence proves her actual innocence of Duran Bailey's homicide in Las Vegas on July 8, 2001, was rejected in March 2017 by DA Steven Wolfson's Conviction Review Unit (CRU).

Documents obtained by Justice Denied show Wolfson's CRU deceived the Innocents Project (IP) based in New York, which submitted the application on Ms. Lobato's behalf.

In addition, Wolfson's CRU disregarded nationally recognized CRU standards of what constitutes new evidence of actual innocence in its evaluation of her application.

Evidence supports that Wolfson's CRU rejected Ms. Lobato's application for non-legal reasons, without any meaningful consideration of her new evidence and how it applies to the relevant facts of her case.

More than two dozen CRUs have been set-up around the country in the last ten years as an extra-judicial method for a DA's Office to review a convicted person's claim of actual innocence based on new evidence.

Wolfson hired Dan Silverstein to head Clark County's CRU that was established in the fall of 2016.

Ms. Lobato submitted her application to the CRU on March 7, 2017 while her habeas corpus petition challenging her 2006 convictions was pending in the district court. An issue the district court is considering is her habeas claim of actual innocence supported by new evidence from more than 20 people that includes multiple experts and alibi witnesses.

Her CRU application stated six areas of new evidence proving her actual innocence:

1. New forensic evidence establishes Duran Bailey died after 8 p.m. on the evening of July 8. During Ms. Lobato's trial the prosecution did not dispute the fact

she was in Panaca from late morning on July 8 until the early morning of July 9.

2. New expert psychology evidence Ms. Lobato's police statement of July 20, 2001 detailed her attempted rape in the parking lot of a Budget Suites Hotel in east Las Vegas prior to mid-June 2001, and it was not about Bailey's homicide weeks later in a west Las Vegas bank's trash enclosure.

3. New alibi evidence Ms. Lobato told many people from late May to July 4, 2001 about the attempted rape of her in the Budget Suites Hotel parking lot; and, new evidence of police perjury.

4. New alibi evidence Ms. Lobato was in Panaca the entire weekend of July 7 and July 8.

5. New forensic science evidence the physical evidence in Ms. Lobato's case excludes her from the crime scene and undercuts the prosecution's narrative of the crime.

6. New evidence Metro did not investigate suspects who had the motive, means and opportunity to commit Bailey's homicide.

The jury that convicted Ms. Lobato heard none of that new evidence.

New York's Brooklyn District Attorney's Office CRU (Brooklyn CRU) is the country's most well-known CRU and considered a national model. Twenty-three people have been exonerated as a result of its work from 2014 to 2017.

Ms. Lobato's CRU application includes five types of evidence the Brooklyn CRU has relied on to exonerate 19 people. Those types are, with the number of exonerations in parenthesis:

- Alibi corroborated (2)
- Expert analysis of crime related evidence (3)
- Alternate suspect likely committed crime (3)
- Defendant's statement unreliable link to crime (4)
- False or unreliable prosecution witness (7)

Two of the Brooklyn CRU's 23 exonerations have been based on new DNA evidence. Its most recent exoneration involved new evidence of false police trial testimony -- which was also presented in Ms. Lobato's CRU application.

**CRU cont. on p. 20**

## CRU cont. from p. 19

Silverstein is certainly aware of the Brooklyn CRU that is the national model. He wrote in a December 17, 2016 email: "We've spoken to virtually every CRU, I myself spoke to about ten chiefs ..."

Ms. Lobato's application was submitted to the CRU on Tuesday, March 7. That same day the IP was informed by Silverstein in an email: "We are travelling out of the jurisdiction on Thursday and Friday for an interview in another case." The first work day after his travelling he would be able to devote to her application was Monday, March 13.

Three days later, on March 16 the letter was produced from Silverstein to the IP rejecting Ms. Lobato's application for review. The stated reason for rejecting her case was:

"The new evidence presented in Lobato's application — the opinions of forensic entomologists, crime scene reconstructionists, and false confession experts, additional alibi witnesses, and impeachment of Detective Thowsen's credibility — does not meet the criteria for re-investigation by the Conviction Review Unit, because it is not capable of potential substantiation."

On its face, that explanation is dishonest.

Nineteen of the 23 people exonerated by Brooklyn's CRU -- 83% of the cases -- relied on the same types of new evidence Ms. Lobato submitted as proving her actual innocence. Additionally, her application included five of the eight types of new evidence that have resulted in all of the Brooklyn CRU's exonerations.

Furthermore, her application included types of new evidence that has resulted in at least 91% of CRU exonerations nationally.

It is known Silverstein has been in contact with CRUs across the country. He can't reasonably feign ignorance that people are regularly being exonerated based on the same types of new evidence Ms. Lobato submitted.

The CRU's letter also stated: "New evidence that raises factual questions rightfully decided by a jury does not *substantiate* the petitioner's innocence in the same way as a DNA test or a third party confession."

That statement is patently false, because as explained above, the Brooklyn CRU has exonerated 19 people based on non-DNA evidence of types submitted by Ms. Lobato,

and none of its exonerations were based on a "third party confession."

The dishonesty by the DA's Office regarding the rejection of Ms. Lobato's CRU application goes far beyond its disreputable claim the new evidence of her actual innocence can't be substantiated. Consider the following three examples:

First. Silverstein's stated in his rejection letter:

I have reviewed the entirety of your application, the affidavits and expert reports you submitted, as well as the transcript of the August 7, 2001 preliminary hearing, transcripts of both of Kirstin Lobato's jury trials from May 2002 and September 2006, the complete investigation conducted by the Las Vegas Metropolitan Police Department, and all of the motions, petitions, and other documents in the case.

The documents Silverstein cites total over 7,000 pages. Using a standard font the King James Authorized Bible is said to be about 1,200 pages long. So in the nine days from when the CRU received Ms. Lobato's application to when the rejection letter was produced, Silverstein claims he reviewed the equivalent of six Bibles full of detailed and complex information — and those nine days included a weekend and at least two other days when he was traveling while working on another case.

Second. Silverstein also stated in his rejection letter:

"Clearly, the information presented could raise questions regarding Lobato's guilt in this matter; however, such questions have been presented to and considered by two separate juries ..."

That statement is inaccurate because her application presented new legal evidence of her actual innocence -- not "information," and it is a fact verifiable by anyone who actually reads her case documents that "two separate juries" did not hear, and hence did not "consider," her new evidence by more than 20 people supporting her actual innocence. The following is just one example of the statements extreme falsity.

The documents Silverstein claimed to have read detail Ms. Lobato's new forensic evidence — which was discovered after her second trial in 2006 so it is impossible any jury "considered" it — that establishes Bailey died after 8 p.m. on the evening of July 8. The prosecution conceded during their argument to the jury that credible evidence

establishes she was in Panaca 165 miles from Las Vegas the entire afternoon and evening of July 8 until after Bailey's body was found. The prosecution freely made that concession because it was unimportant to their case: which hinged on their narrative Bailey died in the very early morning hours of July 8, which is when the prosecution asserted she was in Las Vegas.

Thus, the jurors who convicted Ms. Lobato didn't know her new forensic evidence Bailey died after 8 p.m., a time when it was undisputed during her 2006 trial she was in Panaca.

Third. The CRU's letter to the IP rejecting Ms. Lobato's application was produced on March 16, 2017. However, Silverstein did not inform the IP her application had been rejected. Not knowing it was futile, on March 27 the IP provided the CRU with an additional forensic report concerning Bailey's time of death.

Fifteen days after the CRU's rejection letter was produced, it was sent to the IP with the date March 31 in an email that stated: "Attached, please find a letter explaining the Conviction Review Unit's decision not to accept this case for a formal reinvestigation."

From the foregoing it is known Ms. Lobato's CRU application was not rejected for legal reasons; and, the CRU did not even take the facts of her case and the new evidence of her actual innocence into consideration in rejecting her application.

It is also known the CRU deceived the IP by waiting more than two weeks to inform it Ms. Lobato's application had been rejected.

The conduct of the DA's Office regarding Ms. Lobato's CRU application has serious implications. It is conceivable she would now be free if she had been prosecuted by the Brooklyn DA's Office. An investigation of her application by the Brooklyn CRU could realistically have resulted in their advocacy for her exoneration as it has done in almost two dozen cases.

Consequently, there is reason to conclude Kirstin Lobato is currently in prison only because of the egregiously dishonest mishandling of her CRU application by Wolfson's Office.

The information in this article came from sources that include public records requests to the Clark County District Attorney's Office.



## Judge William Kephart Is Charged With Publicly Interfering In Kirstin Lobato Case

Judge William Kephart Is Charged With Publicly Interfering In Kirstin Lobato Case, was the [lead news story on the front page](#) of the *Las Vegas Tribune's* May 17, 2017 issue.

The news story details that five misconduct charges have been filed against Clark County District Court Judge William Kephart by the Nevada Commission on Judicial Discipline. The charges are based on the Commission's investigation of allegations he publicly interfered in Kirstin Lobato's case during an on-camera interview that was broadcast on February 29, 2016, by KSNV News 3 in Las Vegas.

Kephart was the lead prosecutor when Lobato was convicted in 2006 of voluntary manslaughter and other charges related to the July 2001 homicide of Duran Bailey in Las Vegas.

In May 2010 Lobato filed a habeas corpus petition in the Clark County District Court that included new evidence she is actually innocent.

Kephart was elected a District Court judge in November 2014, and at the time of the interview Lobato's case was pending before the Nevada Supreme Court.

The news story can be read on the *LV Tribune's* website at, [Las VegasTribune.net](#). The article was written by Hans Sherrer, *Justice Denied's* editor and publisher.

In November 2016 the Nevada Supreme Court remanded Lobato's habeas corpus back to the District Court, where it is currently pending.

[Click here to read the](#) Formal Statement Of Charges against Kephart on the Commissions' website.

Information about Kirstin Lobato's case is on Justice Denied's [Kirstin Blaise Lobato's case webpage](#).

Sources:  
["Judge William Kephart Is Charged](#) With Publicly Interfering In Kirstin Lobato Case," *Las Vegas Tribune*, May 17, 2017

[Kirstin Blaise Lobato's](#) case webpage, Justice Denied website

## Justice Denied's Mobile Device Homepage Is Online!

Justice Denied's [mobile device homepage](#) is now online. The mobile friendly homepage has the narrow width recommended for smartphones and other mobile devices.

Justice Denied's homepage detects when it is accessed by a mobile device, and the user is automatically redirected to the mobile homepage. There is also a link to the mobile homepage in the upper right-hand corner of [Justice Denied's homepage](#).

The mobile friendly homepage was created because half of all visitors to Justice Denied's website now use a hand-held device. The following shows the growth of hand-held devices used to access [justicedenied.org](#).

Year	Desktop	Mobile	Tablet
2008	100%		
2009	99.7%	0.3%	
2010	97%	3%	
2011	92%	8%	
2012	82%	13%	5%
2013	72%	19%	9%
2014	61%	28%	11%
2015	51%	37%	12%
2016	50%	39%	11%

Justice Denied's mobile device homepage is [www.m.justicedenied.org](#).

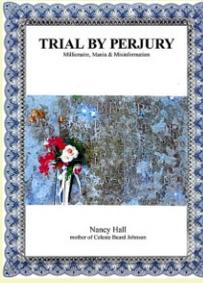
**Visit the Innocents Database**  
 Includes details about more than 8,700 wrongly convicted people from the U.S. and other countries.  
[www.forejustice.org/search\\_idb.htm](http://www.forejustice.org/search_idb.htm)

**Visit the Wrongly Convicted Bibliography**  
 Database of hundreds of books, law review articles, movies and documentaries related to wrongful convictions.  
[www.forejustice.org/biblio/bibliography.htm](http://www.forejustice.org/biblio/bibliography.htm)

"... any participant in our habeas regime would have to agree that it resembles a twisted labyrinth of deliberately crafted legal obstacles that make it as difficult for habeas petitioners to succeed in pursuing the Writ as it would be for a Supreme Court Justice to strike out Babe Ruth, Joe DiMaggio, and Mickey Mantle in succession—even with the Chief Justice calling balls and strikes."  
 Federal Ninth Circuit Judge Stephen Reinhardt in "Demise Of Habeas Corpus And The Rise Of Qualified Immunity," 113 MichLawRev. 1219.

**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)

**Database of Japanese Cases**

The Japan Innocence & Death Penalty Information Center has a database of wrongful Japanese convictions online at, <http://www.jiade.org>

**Visit Justice Denied's Wordpress Page**

Justice Denied's Wordpress page has the latest articles and information. See, [www.justicedenied.org/wordpress](http://www.justicedenied.org/wordpress)

**Justice Denied's Website Has Had Visitors From 225 Countries**

Justice Denied's website has had visitors from 228 countries through 2016. Those visitors were from more than 22,704 cities and towns. Six of the 20 cities where the most visitors were from are outside the U.S.  
[www.justicedenied.org](http://www.justicedenied.org)

## 8,723 Cases Now In Innocents Database

The Innocents Database now includes 8,723 cases: 5,632 from the U.S., and 3,091 from 117 other countries. The database includes 4,693 U.S. cases from 2017 to 1989, when the first DNA exoneration occurred.

The [Innocents Database](#) is the world's largest database of exonerated persons, and it includes all identifiable exonerations in the United States, as well as internationally. The Innocents Database includes:

- 600 innocent people sentenced to death.
- 1,067 innocent people sentenced to life in prison.
- 2,270 innocent people convicted of a homicide related crime.
- 1,117 innocent people convicted of a sexual assault related crime.
- 827 innocent people were convicted after a false confession by him or herself or a co-defendant.
- 3,428 innocent people were convicted of a crime that never occurred.
- 229 innocent people were posthumously exonerated by a court or a pardon.
- 88 people were convicted of a crime when they were in another city, state or country from where the crime occurred.
- 1,988 innocent people had 1 or more

co-defendants. The most innocent co-defendants in any one case was 29, and 22 cases had 10 or more co-defendants.

- 12% of wrongly convicted persons are women.
- The average for all exonerated persons is 7-1/8 years imprisonment before their release.
- 31 is the average age when a person is wrongly imprisoned.
- Cases of innocent people convicted in 117 countries are in the database.
- 5,632 cases involve a person convicted in the United States.
- 3,091 cases involve a person convicted in a country other than the U.S.

[Click here to go to the Innocents Database at www.forejustice.org/exonerations.htm.](http://www.forejustice.org/exonerations.htm)

All the cases are supported by public sources for research. Those sources include court rulings, newspaper and magazine articles, and books. The database is linked to from [Justice Denied's](#) website.

User defined searches, and user defined sorts of any combination of more than 100 columns of data can be made for:

[U. S. cases from 1989 to 2017](#);  
[U. S. cases prior to 1989](#);  
and, [International cases up to 2017](#)

The database can now be sorted on a Com-

pensation column to find such information as: the compensation awarded to persons for any year or state, or the compensation awarded in a particular type of case, such as those involving DNA or a false confession, etc.

The Innocents Database is an ongoing project that began more than 20 years ago, and now contains millions of bytes of data related to exonerations. The accessibility and usefulness of that data to the public and researchers is improved by the ability to search and sort for specific information.

Email a question, correction, or suggested addition to the Innocents Database to: [innocents@forejustice.org](mailto:innocents@forejustice.org).



### Visit the Innocents Database

Includes details about more than 8,700 wrongly convicted people from the U.S. and other countries.

[www.forejustice.org/search\\_idb.htm](http://www.forejustice.org/search_idb.htm)

### Visit Justice Denied's Facebook Page

Justice Denied's Facebook page has information related to wrongful convictions. Justice Denied's homepage has a link to the Facebook page,

[www.justicedenied.org](http://www.justicedenied.org)

## 3rd Revised and Updated Edition of "Kirstin Blaise Lobato's Unreasonable Conviction" Online!

The third revised and updated edition of [Kirstin Blaise Lobato's Unreasonable Conviction](#) — *Possibility of Guilt Replaces Proof Beyond A Reasonable Doubt* is available in PDF format to be read or downloaded at no charge for personal use from [Justice Denied's](#) website.\*

The book details how Kirstin Lobato has twice been convicted of a July 8, 2001 Las Vegas homicide when the prosecution doesn't deny it has no physical, forensic, eyewitness, confession, informant, surveillance video or documentary evidence she was in Las Vegas at any time on the day of the crime. The prosecution also concedes she was at her home 165 miles from Las Vegas at the time new forensic entomology and forensic pathology evidence conclusively proves the man died between 8 p.m. and 10 p.m. The book also details that in 2001 the 18-year-old Ms. Lobato was prosecuted

even though the Las Vegas Metropolitan Police Department and the Clark County District Attorney's Office obtained evidence three days after her arrest she is innocent.

The 3rd revised edition has 57 pages of new information, that includes:

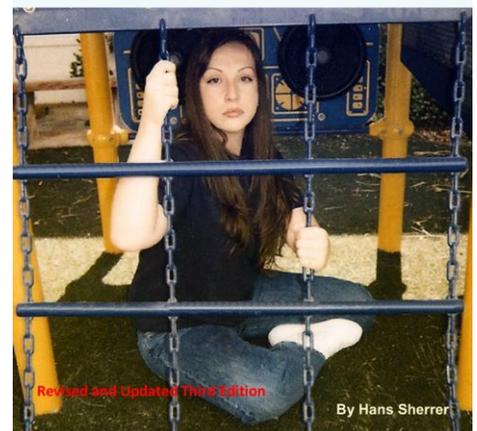
\* An updated Timeline of Ms. Lobato's case from 2001 to the present, that begins on p. 10.

\* Six new sub-chapters in the Appendix that begin on page 150. Those include a Power Point presentation of Ms. Lobato's case and the new evidence in her habeas corpus petition currently under review by the Nevada Supreme Court. Ms. Lobato's petition includes new evidence her jury didn't hear by more than two dozen expert, alibi, and third-party culprit witnesses that supports her actual innocence.

The 232-page book written by *Justice Denied's* editor and publisher Hans Sherrer is supported by 427 source endnotes. In documents filed in the Nevada Supreme Court, the Clark County District Attorney's Office and the State of Nevada don't assert there is a single factual error in the book.

### KIRSTIN BLAISE LOBATO'S UNREASONABLE CONVICTION

Possibility Of Guilt Replaces Proof Beyond A Reasonable Doubt



[Click here to download at no charge](#) *Kirstin Blaise Lobato's Unreasonable Conviction* in PDF format from [www.justicedenied.org/kbl.htm](http://www.justicedenied.org/kbl.htm).

Justice Denied's webpage with information about the Kirstin Lobato case is [www.justicedenied.org/kbl.htm](http://www.justicedenied.org/kbl.htm).

\* The book can be printed at no charge for non-commercial use only.

## High Fence Foodie Cookbook Now Available!

*High Fence Foodie* is [a new cookbook](#) by Texas prisoner Celeste Johnson that was recently published by The Justice Institute.

*High Fence Foodie* has more than two hundred easy to prepare recipes for meals, soups, snacks, desserts, and beverages. These recipes can be made from basic items a prisoner can purchase from their unit's commissary, or people on the outside can purchase from a convenience or grocery store. They are written by Celeste Johnson, a woman imprisoned in Texas who loves to cook and try out new combinations of the simple food ingredients available to her.

*High Fence Foodie's* all new recipes are a follow-up to the more than 200 recipes in *From The Big House To Your House* that was written by Celeste Johnson and five fellow prisoners at the Mountain View Unit, a woman's prison in Gatesville, Texas.

*From The Big House To Your House* received

rave reviews on Amazon.com, with 75% of reviewers giving it 4 or 5 stars! Some of the comments are:

"A lot of the recipes are very imaginative, and fun to make. Well worth the money." J.C.

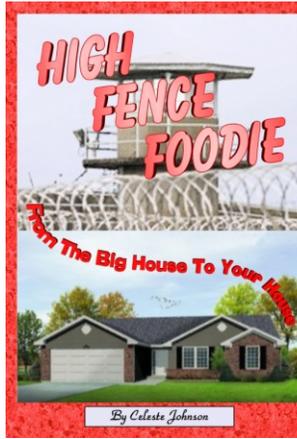
"I loved the food and was inspired by the can-do attitude of the ladies involved with this project." Dan

"My daughter got this for her husband for father's day. He loves using it!!" J.H.

"I am a college student making a limited income and these recipes are great and fulfilling for people like me who don't have a ton of \$ to spend on groceries." Alicia

"I sent this to my daughter. She absolutely loves this little cookbook!" D. G.

*High Fence Foodie* continues the high standard of *From The Big House To Your House!* Celeste hopes her recipes will ignite a read-



er's taste buds as well as spark their imagination to explore unlimited creations of their own! She encourages substitutions to a reader's individual tastes or availability of ingredients. She is confident users of her recipes will enjoy creating a home-felt comfort whether behind the High Fence, or at Your House!

Celeste Johnson does not financially profit from sales of *High Fence Foodie*. All profits from the book's sale are

donated to [The Justice Institute](#) Justice Denied to contribute to its work on behalf of wrongly convicted persons.

[Click here for more information](#) about the book's contents and to [order it from Justice Denied](#) with no shipping charge.

[Click here to buy High Fence Foodie from Amazon.com.](#)

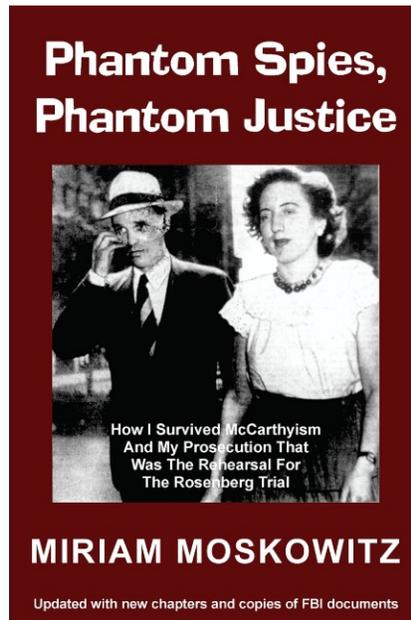
[Order with a check or money order by using the form on page 25.](#)

## Phantom Spies, Phantom Justice

*Phantom Spies, Phantom Justice* by Miriam Moskowitz was published in July 2012 by Justice Denied/The Justice Institute. The book is Ms. Moskowitz' autobiography that explains how it came to be that in 1950 she was falsely accused, indicted and convicted of obstruction of justice in a grand jury that was investigating Soviet espionage. The books subtitle is *How I Survived McCarthyism And My Prosecution That Was the Rehearsal For The Rosenberg Trial*. The Afterword written by *Justice Denied's* editor and publisher Hans Sherrer states in part:

Miriam Moskowitz is an innocent person who was caught up in the whirlwind of anti-communist hysteria that prevailed in this country at the time of her trial in 1950. We know that because of FBI documents she obtained through the Freedom of Information Act decades after her conviction for conspiring to obstruct justice during a grand jury investigation.

The prosecution's case depended on the trial testimony of FBI informant Harry Gold. He testified that in 1947 *she observed* a conversation during which he and her business



partner, Abraham Brothman, allegedly discussed providing false testimony to a grand jury investigating possible Soviet espionage. She did not testify before that grand jury.

The FBI documents Ms. Moskowitz obtained are proof that prior to her trial Mr. Gold told the FBI *she was not present* during that alleged conversation. Furthermore, Mr. Gold told the FBI he didn't speak candidly in front of Ms. Moskowitz because of

her possible negative reaction if he said something incriminating in her presence, and he didn't like her.

Although Ms. Moskowitz's case had nothing directly to do with the Rosenberg trial that took place four months after her trial, they were tied together because Mr. Gold was a key witness against the Rosenbergs and the same prosecutors and judge were involved in both trials.

*Phantom Spies, Phantom Justice* is a compelling story of how an innocent 34-year-old woman found herself being publicly branded as an enemy of the United States. Ms. Moskowitz is now 96 and still seeking the justice of having her conviction overturned, although she can't get back the time she spent incarcerated because of her two-year prison sentence.

**\$19.95**

(postage paid to U.S. mailing address)  
(Canadian orders add \$5 per book)  
302 pages, softcover

Use the order form on page 25 to order with a check or money order. Or order with a credit card from Justice Denied's website:

<http://justicedenied.org/phantomspies.html>

Or order from: [www.Amazon.com](http://www.Amazon.com)

Published By Justice Denied !!

## FROM THE BIG HOUSE TO YOUR HOUSE

### Cooking in prison

With

Ceyma Bina, Tina Cornelius, Barbara Holder, Celeste Johnson, Trena Kemmerer, and Louanne Larson

**F**rom The Big House To Your House has two hundred easy to prepare recipes for meals, snacks and desserts. Written by six women imprisoned in Texas, the recipes can be made from basic items a prisoner can purchase from their commissary, or people on the outside can purchase from a convenience or grocery store.

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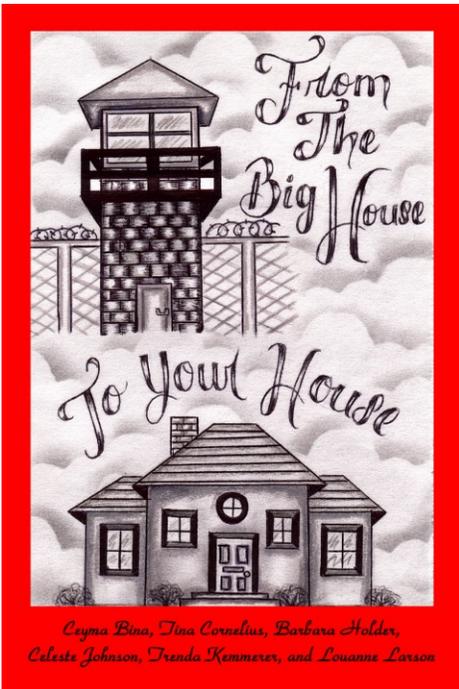
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## Edwin M. Borchard – Convicting The Innocent

**E**dwin M. Borchard – *Convicting The Innocent and State Indemnity For Errors Of Criminal Justice* has [been published](#) by The Justice Institute/Justice Denied.

Yale University Law School Professor Edwin Borchard was an early pioneer in exposing the causes of wrongful convictions and the inadequacy of compensation for exonerated persons in the United States. So it is important that it be remembered his works laid the foundation for today's advocates for wrongly convicted persons, and the encouragement of public policies that may prevent wrongful convictions and ensure adequate indemnification when they occur.

This 358-page book includes Borchard's key works *European Systems Of State Indemnity For Errors of Criminal Justice*, and *Convicting The Innocent: Sixty-Five Actual Errors of Criminal Justice*. The Table of Contents is:

Introduction

Chapter 1. Edwin M. Borchard: Pioneer In Analyzing Wrongful Convictions And Advocate For Compensation

Chapter 2. Edwin Borchard, Law Expert, Dead

Chapter 3. European Systems Of State Indemnity For Errors Of Criminal Justice

Chapter 4. Convicting The Innocent: Sixty-Five Actual Errors Of Criminal Justice

*Convicting the Innocent* (Chapter 4) has not lost its luster as one of the most insightful books published on the topic of wrongful convictions. Seventy-one years after its publication the multitude of causes underlying the cases of injustice it details not only continue to plague the legal system in the United States, but they are arguably more prevalent today than when the book was published, with the exception of confessions extracted by physical violence.

Compensating exonerated persons is as topical a subject as it was one hundred years after Borchard's article about indemnifying wrongly convicted persons. Borchard article (Chapter 3) makes it clear that many European countries were more advanced in providing indemnification 100 years and more ago, than is the norm in the United States in 2015.

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In 2016 \$275 million was awarded or paid to 182 persons wrongly convicted in the U.S. \$222 million was awarded as the result of a federal court lawsuit to 27 people, and \$53 million was awarded or paid by a State to 155 people.

See p. 12

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