

An Inside View of Getting the Wrongfully Convicted Exonerated

By Jim Figorski and Melissa Boyers Bluestine

June 28, 2017

Shaun Thomas walked free from prison May 23 after serving 24 years for a murder he didn't commit. His case is a potent reminder that innocent people get convicted; that our rules and adversary system don't always provide criminal defendants fair trials.

Shaun was convicted of participating in the murder of Domingo Martinez on November 13, 1990. At trial, a witness testified he and Shaun were in a gray car accompanied by three other men in a blue Chevy. The occupants of the blue car staged a fake accident with Martinez, whom they had been hunting, and then shot and killed Martinez. But after 24 years, the truth finally emerged. There was no "gray" car, as prosecutors alleged. There was only one car—as multiple eyewitnesses told police. But Shaun would spend 24 years of his life in prison before that truth became known.

Dechert worked on Shaun's case pro bono with the Pennsylvania Innocence Project at Temple University. As a 25-year veteran of the Philadelphia Police Department, Dechert senior staff attorney Jim Figorski's first instinct when he reviewed the case in 2009 was that Shaun was innocent.

A crucial piece of evidence Figorski obtained through police contacts in 2011 gave Shaun's case a boost: A police lab report prepared during the 1994 trial concluded that paint and a broken tail light found at the crime scene did not come from the car the prosecutor identified as the murder vehicle through photos early in the trial.

The report was never provided to the defense. But it forced the prosecutor to change evidence midway during trial. A homicide detective presented photos of a different car later in the trial, then identified that as the defendants' vehicle. Neither the witness nor the prosecutor commented on the switch. Neither defense counsel nor the judge remarked on the switch.

Withholding this damaging report alone should have been grounds for vacating the conviction under *Brady v. Maryland*. In addition, Shaun had an alibi that looked



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like it should be easy to establish. He claimed he was at Philadelphia's Youth Study Center—part of the city's juvenile justice system—at 9 a.m. the morning of the murder. Shaun, who was 16 at the time, was arrested the night before the murder on suspicion of stealing a motorcycle. The prosecution contended that Shaun and the other

defendants rendezvoused before 9 a.m. in another part of town and that the fatal shooting took place at 9:55.

Finding independent corroboration for the alibi proved difficult. An official from the youth center testified at trial but couldn't definitively state the time Shaurn appeared at the center the day of the murder. The one supporting document was contested by the prosecution. The juvenile center files on Shaurn strangely vanished and have never turned up.

Shaurn was convicted and sentenced to life without parole. His lawyer filed a notice of appeal, but no brief. Thomas was 20 years old.

We filed a petition in Philadelphia Common Pleas Court in 2011 to overturn the conviction based on the prosecution's suppression of the lab report, the introduction of false evidence about the cars, and ineffective assistance of counsel. But the court ruled in 2014 the petition was untimely even though the lab report was not unearthed until 2011.

Along the way, more evidence of Shaurn's innocence emerged. William Stallworth—the only witness who placed Shaurn at the scene of the murder—wrote the Pennsylvania Innocence Project in late 2011, concerning Shaurn's "wrongful conviction." In an interview with Innocence Project legal director Marissa Boyers Bluestine, Stallworth said police confronted him with his brother John's confession that implicated William Stallworth. They pressed Stallworth to plead guilty and testify that he participated in the murder with Shaurn Thomas. Stallworth told Bluestine he signed a confession claiming he and Shaurn were present at the murder, and agreed to testify, to avoid a life or death sentence himself and to spare his brother the death penalty. He told Bluestine—and, more recently, government investigators—his entire trial testimony was fabricated.

The confession from John had its own problems. John initially implicated Stallworth, Thomas, and several other men, but police quickly discovered one of the men was incarcerated the day of the murder. John—by then in jail facing a possible death penalty—recanted his first confession, signed a new one dropping the man who was incarcerated, and agreed to testify at trial for the commonwealth.

Last year, while our appeal of the 2014 dismissal of our petition to vacate the conviction was pending, we contacted the Conviction Review Unit in the Philadelphia District Attorney's Office, formed in 2014.

We presented our case to members of the unit in September. In March, they showed us logs they located from the Police Identification Unit for November 12, 1990. They showed that sometime after 6 a.m., Thomas was transferred from

a central police fingerprinting center back to the precinct where he'd been arrested. Figorski knew from his police days that this was standard procedure: juveniles were held in custody until an adult showed up to collect them. The discovery strengthened Thomas' alibi. Still, it was not until May the government agreed to vacate Thomas' conviction—they had found yet more new evidence.

Twenty-seven years after the crime, the original homicide detectives' files were discovered inside police headquarters. They showed that within days of the murder detectives identified suspects never disclosed in any of the discovery provided at trial. Yet, the case was cold in 1992 when detectives interrogated John Stallworth on another matter, secured his confession to the murder, and then his brother's.

The government acknowledged the detectives' files should have been disclosed under *Brady*. In light of the newly found evidence, the district attorney agreed to support our motion to vacate the conviction, which was granted on May 23.

It was a joy for both of us to pick up Thomas from prison May 23. And on June 13, The Philadelphia District Attorney's Office announced in court before Philadelphia County Court of Common Pleas Judge Rosemarie DeFino-Nastasi that they did not plan to retry Thomas. Judge DeFino-Nastasi previously vacated Thomas' sentence and steps are in motion to expunge his record of conviction.

Yet our satisfaction is tempered by what we had seen—false confessions made under pressure, withheld documents, manufactured testimony, and mysteriously missing records.

Two takeaways stand out in this sorry saga:

1. Leaving it to police and prosecutors to determine what evidence they must turn over under *Brady*—what's favorable and material—is bound to lead to erroneous convictions. And in a state like Pennsylvania, where there is no access to police or prosecutor files through a right-to-know or open records law, there is little likelihood any such failure will ever be discovered. Open-file discovery laws, like those in Texas and other jurisdictions requiring prosecutors to disclose all documents in a case (with obvious precautions for witness or informant safety), are essential to make the adversary system work.

2. Conviction review units like those in Philadelphia and New York are an important step forward. But they work only when they have the resources to investigate cases and with the cooperation of all stakeholders in the criminal justice system.

We hope the attention Shaurn Thomas' case has received will help spare others similar injustices.