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"Justice Ratushny turned to an emotional and teary Romeo Phillion and apologized on behalf of the administration of justice for the wrong that had been done to him. The apology was accepted."



JACK WHITE

JACK WHITE'S CONVICTION QUASHED

"He (Jack White) would never hurt anybody. That's not just my opinion; it is attested to in the bulk of the evidence."

- Bruce Stanton, MP for Simcoe North



SHERRY SHERRETT ROBINSON

SURVIVING THE UNIMAGINABLE

"It has lifted a huge weight off my shoulders. Now I don't have to continue to say, 'I didn't do it.' It is just a relief to be a normal person"



KYLE UNGER

ACQUITTED OF A MURDER HE DID NOT COMMIT

"It's the first day of the rest of my life, it's a new beginning."

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AIDWYC CO-PRESIDENT'S MESSAGE

The strategic renewal process that began in the spring of 2009 has been directed toward developing AIDWYC into a national not-for-profit charitable organization and has proceeded at a pace that has exceeded early expectations. In the past twelve months directors and staff have focused on improving AIDWYC's ability to serve a greater number of clients more quickly. Effort has therefore been directed at improving organization, funding, and outreach.

The Board of Directors has continued to focus on improvements in governance and to be active in its oversight role, meeting quarterly since the last Annual General Meeting in June 2009. Committees have been restructured for more efficient operation and have met several times. Attendance at board and committee meetings has been high. A method of rotation of the terms of board members has been developed to open positions for new talent and ideas, while still maintaining continuity and the benefit of experienced Board members. The Board is presently considering fundamental issues of policy— for example, the review of criteria for adoption and endorsement of cases, the scope of crimes considered for adoption, and allocation of resources to AIDWYC's various activities.

In order to serve clients better, we are endeavouring to expand sources of funding. An application has been made to the Canada Revenue Agency for the grant of charitable status to the AIDWYC Foundation. We remain hopeful that the application will be successful and that we will have more funds available for case work, client outreach, and broad-based education. Other funding sources are being identified for

the same purposes. We are very grateful to the Law Foundation of Ontario for its continuing support, which has included core funding for operations and funding for special projects, such as securing new office premises and equipment. The generous donation in late 2008 from Ian Cartwright is also gratefully acknowledged, and has been of particular assistance during the developments of the past year. AIDWYC is also supported by the Criminal Lawyers' Association, with which we enjoy a close relationship.

AIDWYC'S central goal is case work— examining, assessing, and then advancing claims of wrongful conviction. In the past year we have sought to increase our outreach to the inmate population so that our services will be available to more of those who fit our stringent criteria. A very promising meeting with Correctional Service of Canada officials was held in early 2010, and a plan is being developed to launch a new outreach program in prisons across Canada with its co-operation and assistance. In order to facilitate the initial examination and assessment process for new and existing cases, AIDWYC representatives met with Ontario Attorney General Chris Bentley earlier this year to discuss some of the difficulties encountered at the early stages of case development and means of resolving them. We appreciate the Attorney General taking time to discuss issues of common concern and means of avoiding wrongful convictions, and we look forward to establishing a periodic meeting schedule with him to discuss common concerns and issues as they arise.

Procedures for processing cases have been re-

vised to ensure they move ahead more quickly, with fewer intervals of inactivity. Case management monitoring and reporting processes are being developed to ensure that cases, particularly those in the early stages of intake and review, are not left unattended through oversight, lack of resources, or other causes. In another first for AIDWYC, a staff lawyer has been hired to implement the new case management approach, which will involve an electronic case management system that will better facilitate information sharing.

Three cases were completed in 2009. Kyle Unger was acquitted in Manitoba in October and Sherry Sherrett-Robinson was acquitted in Ontario in December. Charges were withdrawn against Romeo Phillion in Ontario in April 2010 following the August 2009 announcement of the Attorney General of the intention of the prosecution to do so. The Jack White case, adopted in 2009, was heard by the Court of Appeal for Ontario on June 30, 2010 and his conviction was quashed. We expect that the changes effected in the past year will result in more cases being considered for adoption and more efficient advancement of those that are. Our greatest expression of appreciation must be extended to the dozens of case reviewers, lawyers, students and office volunteers, who have contributed (we conservatively estimate) \$1.5 million in pro bono services in the past year.

For the first time in AIDWYC's history we have a proper boardroom in which to hold our board, committee, and staff meetings, and modern, well-equipped offices for staff and volunteers to advance the important work in which AID-

WYC is involved. We moved into new office premises in early January 2010, and we want to acknowledge and express our appreciation for the dedicated effort of Andy King of King and King, Barristers and Solicitors, who devoted his expertise and a great many hours of pro bono legal time over several months, reviewing leases and advising us about moving into new premises. Also our appreciation is also expressed to Paul McLeod and Jon Pezim of Devencore Realities for their relentless determination in helping us to find appropriate space and then providing support to negotiate the lease. Finally, our special thanks to volunteer Maxx Nisenboim for many long hours over the hot days of last summer visiting sites and assessing options.

Before completing our report, we really must acknowledge our Executive Director, Debbie Oakley, for her boundless energy, comprehensive organizational skills, and vision, which together have provided ongoing impetus to accomplishing the significant administrative developments of the past year. Although case-work is the foundation of AIDWYC, it depends heavily on administrative and funding support at all stages. In the past year our organization has been considerably strengthened and we look forward to making the special work that AIDWYC does known to more people who need its services, and available to them more efficiently, so that their wrongful confinement can come to an end as quickly as possible.

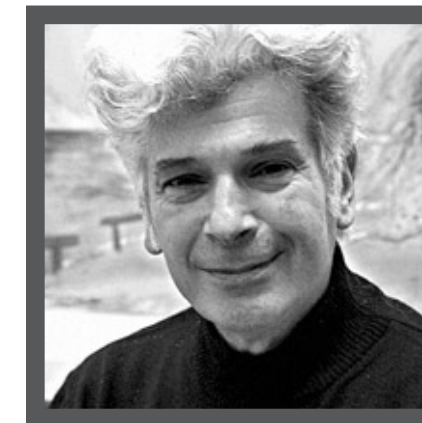
We look forward to seeing members at the next Annual General Meeting, which will be held in the spring of 2011. Until then we encourage everyone to visit our website at aidwyc.org to

keep informed of case progress and other issues of interest.

Jonathan and Ralph



RALPH STEINBERG



JONATHAN FREEDMAN

CANADIAN CASES

KYLE UNGER — ACQUITTED OF A MURDER HE DID NOT COMMIT

Kyle Unger was acquitted of the murder of Brigitte Grenier on October 23, 2009 when Manitoba Assistant Deputy Attorney General Don Slough announced that the Crown had no physical evidence linking him to the murder and therefore would not retry him. The case for his innocence had been made by AIDWYC lawyers James Lockyer and Alan Libman in a brief to the Minister of Justice in 2008.

Mr. Unger told media after his acquittal that “It’s the first day of the rest of my life, it’s a new beginning. The hardest part (has been) waiting for it to come to an end. It’s been a long time in coming.”

Kyle Unger spent 14 years in prison for the 1990 murder of Ms. Grenier. A hair sample found on Ms. Grenier’s t-shirt was ordered to

be re-tested and it was found that the hair did not belong to Mr. Unger but to someone else. His co-accused Timothy Houlahan had his conviction overturned on appeal but committed suicide prior to a second trial.

Mr. Unger was released on bail in 2005 pending ministerial review of his s.696.1 application that was submitted on his behalf by AIDWYC lawyers James Lockyer and Alan Libman in 2004.

Mr. Unger falsely confessed to the murder after being targeted by a RCMP undercover sting operation known as “Mr. Big.”

Manitoba Justice Minister Dave Chomiak advised Mr. Unger less than two hours after his acquittal, that no compensation will be paid to

him. Mr. Chomiak said “The sad reality of this entire tragedy is that, had it not been told to an undercover police officer that he killed Brigitte Grenier, even all the other available evidence would not have sent him to jail. Without his confession, he would not have been charged. Without the confession, he would not have been convicted. Twelve men and women in a jury convicted him.”

According to Mr. Chomiak because of the standards during the time of Mr. Unger’s trial and conviction, the police and Crown did nothing wrong during their investigation and prosecution of his case.



SHERRY SHERRETT ROBINSON SURVIVING THE UNIMAGINABLE

On December 7th, 2009 in a crowded Ontario Court of Appeal courtroom in Toronto, Sherry Sherrett-Robinson accompanied by her fiancée Aaron Weese, lawyers James Lockyer, Andras Schreck and Zachary Kerbel listened intently as Justice Marc Rosenberg addressed her with the decision of the three-judge panel.

“You were wrongly convicted. It’s no surprise to anyone that you are being acquitted. Experts

found serious errors and found Dr. Smith’s findings wrong. The child’s death was compounded by the mother being wrongfully convicted and spending a year in jail and the loss of her other child.”

In agreeing to the acquittal, Crown counsel Riun Shandler said that Ms. Sherrett-Robinson would not have been prosecuted had the evidence of Dr. Charles Smith’s flawed opinion been available.

Ms. Sherrett-Robinson finally heard the words that she had waited for 13 years to hear and

when asked by the media what hearing the decision of the court meant to her she replied: “This is a huge sigh of relief to finally have this behind me. [Baby killer] stays with you no matter where you go. The acquittal means a lot. It has lifted a huge weight off my shoulders. Now I don’t have to continue to say, ‘I didn’t do it.’ It is just a relief to be a normal person.”

Sherry Sherrett-Robinson contacted AIDWYC in January 2006 after she came across information on the internet about Dr. Charles Smith. Ms. Sherrett-Robinson was convicted of

infanticide in 1999 for the January 23, 1996 death of her four-month-old son, Joshua. Her eighteen-month-old son, Austin, was removed from her care by the police and Northumberland Children's Aid on March 7, 1996. On March 27, 1996 she was arrested and charged with first degree murder.

The now discredited Dr. Charles Smith testified at Ms. Sherrett-Robinson's preliminary trial speculating that Joshua had died a non-accidental death caused by a skull fracture and neck injuries.

Ms. Sherrett-Robinson had no explanation for the injuries detected by Dr. Smith.

While amidst the confusion and heartache, Ms. Sherrett-Robinson plead to the crime of infanticide, upon taking that plea she at no time admitted to causing the death of her infant son.

Ms. Sherrett-Robinson was advised by AIDWYC to contact the Ontario Coroner's office and request that her case be considered as one of the Dr. Charles Smith cases that were being re-examined.

Dr. Michael Pollanen, chief forensic pathologist with the Ontario Coroner's office was assigned the review of Ms. Sherrett-Robinson's case. In his first report released on March 28, 2006, he stated that, in his opinion, Joshua had neither a skull fracture nor pre-mortem trauma and that he believed Joshua may have died as a result of his sleeping environment, which was unsafe.

On May 29, 2006 at Dr. Pollanen's suggestion, Sherry agreed to have Joshua's body exhumed. Dr. Pollanen had not found any x-rays or other materials to substantiate or

to justify Dr. Smith's conclusion that Joshua had died from a skull fracture. Dr. Pollanen conducted a second autopsy and concluded that Joshua in fact did not die from a skull fracture but he said the post-mortem findings point to Joshua having accidentally asphyxiated in an unsafe sleeping environment, "without any influence by another party." Joshua had been put to bed in a playpen, on top of a sleeping bag that had been folded over several times, with a comforter and blankets on top of him.

Sherry attended a special service that was held before Joshua's body was returned to its resting place.

In December 2006, Dr. Jack Crane, the state pathologist for Northern Ireland, reviewed the case as part of the coroner's investigation and confirmed Dr. Pollanen's findings.

On April 19, 2007 Ms. Sherrett-Robinson attended a press conference held by the Chief Coroner and participated in the AIDWYC press conference which followed. Although extremely emotional at the prospect of finally being exonerated and with media cameras and microphones picking up every emotion and every word, Sherry spoke eloquently and passionately about how Dr. Charles Smith and the false accusation has impacted her life and most particularly the loss of both of her sons because of it.

AIDWYC informed the Crown that Ms. Sherrett-Robinson would be seeking an extension of time to file an appeal.

Ms. Sherrett-Robinson's case was also a part of the 2007-2008 Inquiry into Pediatric Forensic Pathology in Ontario overseen by the Honourable Stephen T. Goudge.

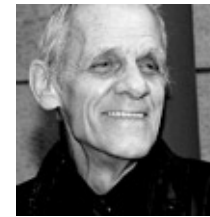
Ms. Sherrett-Robinson's son Austin, now 15 years old, was adopted; she has not seen him since the day of her arrest. His adopted parents allow her to write him twice a year and send presents. They keep her informed as to how he is doing in school and send her photos of him. She is happy that Austin is being raised by a loving family and hopes that one day she will be able to have the opportunity to meet him. Ms. Sherrett-Robinson hopes "he will know the truth, but that isn't up to me; it is up to his adoptive parents."

She continues to hope that she and Austin will be re-united and that he will know the truth and have the opportunity of meeting his little sister Madison, who was born in 2005 and his new little sister, Paige who graced the world with her presence on March 30, 2010.

No parent wants to face the death of a child but to be accused of causing the child's death is for most parents unimaginable. Sherry Sherrett-Robinson has survived the unimaginable.



SHERRY SHERRETT-ROBINSON



ROMEO PHILLION

ROMEO PHILLION JUDGE APOLOGIZES 38 YEAR BATTLE ENDS

Romeo Phillion was convicted in 1972 of the 1967 murder of Leopold Roy in Ottawa. Decades later, new evidence was identified including a police report not shown to the defence at the original trial that supported Mr. Phillion's alibi that he was at a service station in Trenton, Ontario, 200 kilometres from Ottawa, when the crime took place. There was also evidence that four Crown witnesses all changed their testimony about when they saw Mr. Phillion in Ottawa. An application was prepared and submitted to the Federal Minister of Justice by AIDWYC and the Osgoode Hall Innocence Project. After serving almost 32 years in prison, Mr. Phillion was released on bail in July 2003. Mr. Phillion was the first person ever granted bail pending a ministerial review of his wrongful conviction.

On March 5, 2009 the Ontario Court of Appeal granted Mr. Phillion a new trial.

Ontario Attorney General, Chris Bentley, advised Mr. Phillion that his office would not proceed with a second trial given the passage of time and the death of so many of the witnesses. AIDWYC lawyers James Lockyer and Phil Campbell met with Attorney General Bentley shortly after the Ontario Court of Appeal decision to urge him to instruct his counsel to agree to have Mr. Phillion arraigned at his re-trial, so that Mr. Phillion could plead not guilty and be acquitted. However, in August, 2009, the Attorney General advised AIDWYC lawyers that he would instead be instructing the prosecutor

to withdraw the indictment which charges Mr. Phillion with the murder.

In response to the Attorney General's decision, AIDWYC lawyers filed an application with the Superior Court of Justice seeking to have Mr. Phillion arraigned on the murder charge in order to create the opportunity for him to be acquitted and have his name cleared.

On February 1, 2010 Romeo Phillion appeared for four days in Ottawa Superior Court in front of Madam Justice Lynn Ratushny. AIDWYC lawyers, James Lockyer, Philip Campbell and Joanne McLean represented Mr. Phillion. Hilary McCormack represented the Crown's office.

On the first day of the hearing Mr. Phillion was greeted by media sources anxious to get his reaction to the never ending fight to lift the cloud that has hung so ominously and relentlessly over his head for decades. He told the media;

"I did not kill Mr. Roy and I deserve to be acquitted. I want my name cleared."

Mr. Phillion was supported in court by his sister Frances and her husband César, whom he had not seen in 40 years. It was an emotional reunion. Also there to support Mr. Phillion was long-time friend Howard Gelfand and Win Wahrer, AIDWYC Director of Client Services. During the second part of the hearing Mr. Phillion's sister Rea, her daughter

and grandson travelled from Burlington to add their support.

Lawyers for Mr. Phillion argued that it is in Madam Justice Ratushny's jurisdiction to order that Mr. Phillion be arraigned on the charge of murder so that he would be afforded a fair trial, which he was denied by the prosecutor, Mac Lindsay, when he failed to disclose alibi evidence to Mr. Phillion's defence lawyer, Arthur Cogan, at trial and in the ensuing years. Phil Campbell argued that this became a violation of Mr. Phillion's constitutional rights when the Canadian Charter of Rights and Freedoms was enacted in April 1982 and that directing an arraignment was an appropriate constitutional remedy for the non-disclosure and for the Crown's failure to correct misleading evidence from police officers that prevented Mr Cogan from learning the truth about the verified alibi in 1972.

AIDWYC lawyers argued that Mr. Phillion should be given the opportunity to enter a not guilty plea on the murder charge. It would then be up to the Crown to determine whether to call any evidence. If the Crown were to choose not to call evidence then Mr. Phillion would receive the verdict he so greatly deserves - an acquittal.

The Crown was asked by Madam Justice Ratushny why the Attorney General chose to withdraw charges instead of choosing another remedy available to him. Ms. McCormack re-

sponded that the Crown's office was within its right and discretion not to disclose reasons for the decision and claimed that Mr Phillion was requesting a retrospective application of the Charter—a point which his lawyers forcefully disputed.

Mr. Phillion has repeatedly claimed his innocence, and said that he would not give up the fight until his name is cleared and that no remedy other than an acquittal was acceptable. He feels that the remedy chosen by the Attorney General would leave a cloud of suspicion over his head and that members of the public would wrongly continue to believe that he had committed the murder.

In a passionate plea on behalf of Mr. Phillion, James Lockyer eloquently spoke of the human toll that years of incarceration and a wrongful conviction has extracted from Romeo Phillion, who is now 70 years old and in poor health. Mr. Lockyer asked this question:

“A man who spent 32 years in prison for a crime even the Crown acknowledges it can never prove – is he to be dumped in the no man's land of ambiguity, or can he live the remainder of his life with his head held high and in dignity? Mr. Phillion has little left but his reputation to salvage from the wreckage of his life. An arraignment, an acquittal, will give him and the Canadian public some solace in the last chapter of this sad tale.”

The hearing concluded on February 9th. On March 18, 2010 Madam Justice Ratushny released her 35-page decision which regrettably denied Romeo Phillion the right to be arraigned. In her written reasons for her decision Madam Justice Ratushny writes:

“In my view, to be able to award the additional

requested remedy, to make an Order that there be an arraignment, would amount to judicial supervision of a decision that is solidly within a core area of prosecutorial discretion. I have concluded, therefore, that this is a situation where the “better” remedy for the applicant of a retrial has to give way ‘to the principles of separation of powers and Crown independence. As in Khadr, where the Court deferred to the government's foreign affairs prerogative, I defer to the Crown's prosecutorial discretion as to how to end this case. The result is that while there are grounds upon which to disagree with the way in which the Crown has chosen to end this case, the very essence of the principles of independence that underwrite prosecutorial discretion preclude me, and correctly so in my view, from interfering with the way in which the Crown has chosen to exercise its discretion. I decline, therefore, to make the requested Order.

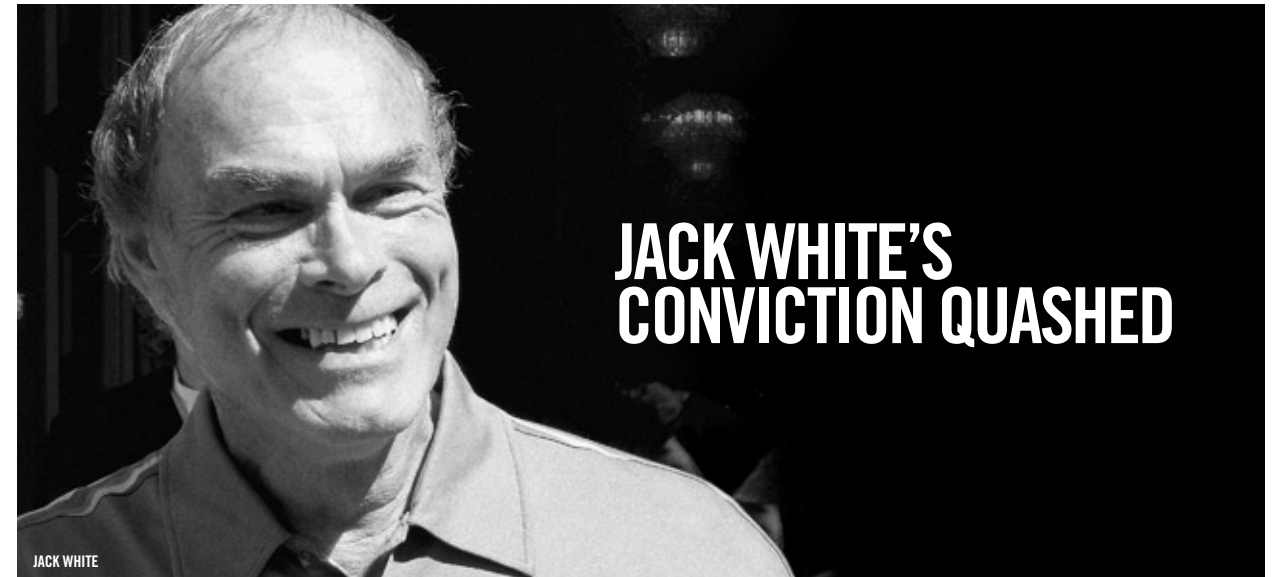
Madam Justice Ratushny goes on to say that she thinks it very important that the Crown makes its reasons public for its decision to withdraw the charges. “It is in the public interest and the maintenance of the public's confidence in the proper administration of justice that there be transparency of decision-making by the Crown when ‘exercising its prosecutorial discretion’. This is even more so in a special situation such as this.”

On his 71st birthday (April 29th 2010) Romeo Phillion travelled to Ottawa to have the charges formally withdrawn. James Lockyer advised Madam Justice Ratushny that he, on behalf of Mr. Phillion, had once again asked the Attorney General to reconsider his decision in this case; he further advised that Mr. Bentley had declined to do so. Mr. Lockyer then asked the Court to apologize on behalf of the administration of justice to Romeo Phillion for

all that he has suffered over the many years of incarceration and subsequent time trying to clear his name. Justice Ratushny turned to an emotional and teary Romeo Phillion and apologized on behalf of the administration of justice for the wrong that had been done to him. The apology was accepted. Romeo Phillion later told the media that he wasn't expecting the apology but it made his birthday very special.

Mr. Phillion's dream of being formally acquitted will not be realized. He has always denied killing Mr. Roy and he deserves to be compensated for the decades his freedom was taken from him in a process where the “wrongs” are evident and have been acknowledged by courts looking at the case.

Mr. Phillion deserves to live out the remainder of his years without the stigma and the heartache of being labelled a murderer for a crime he did not commit. AIDWYC hopes the rest of his life will be lived in comfort and that he will enjoy many happy and cherished moments with family and good friends.



After a 17- year ordeal following his conviction Jack White is one step closer to having his name cleared.

Mr. White was convicted of the sexual assault of a female resident at the Huronia Regional Centre in Orillia, Ontario in 1995. He was given a suspended sentence and as a consequence of his conviction was fired from a job that he loved and had held for 25 years. The Huronia Regional Centre is a home for people with developmental disabilities where Mr. White was employed as a counsellor. The accusation occurred after Mr. White, who had been a resident of the Centre for 12 years from the age of nine, assisted police in their investigation into the death of a resident 40 years earlier and past abuses that occurred at the Centre by non-qualified staff who had been hired as counsellors.

In 1993, a colleague at the Centre came forward and alleged he observed Mr. White fondling the breast of a resident whom he was helping to shower in 1989. Mr. White has always denied that such an incident occurred. In May 1999, Mr. White won a sizable victory when an arbitration board heard his co-worker's sto-

ry and did not believe it. The Board ordered Mr. White reinstated with back pay. Unfortunately, that decision was successfully appealed by the Province and Jack White was left unemployed but continued his quest to clear his name.

The Association in Defence of the Wrongly Convicted (AIDWYC) adopted Jack White's case after being approached by his supporters. Since adopting Mr. White's case in May 2009, AIDWYC lawyers filed documents with the Supreme Court of Canada and requested that Mr. White's case be sent back to the Court of Appeal for Ontario for reconsideration.

On December 3, 2009 the Supreme Court of Canada released their decision and ordered Mr. White's case back to the Court of Appeal for Ontario and on June 30, 2010 Mr. White appeared in the Court of Appeal for Ontario represented by AIDWYC lawyers James Lockyer and Joanne McLean. Jack White was overcome with emotion as James Lockyer told the three judge panel what Mr. White had endured most of his life and how despite all the tragedy, challenges, false accusations and negativity he remains a remarkable and extraordinary man. His judge at his trial said that Mr. White's life sounded

“like something out of a Dickens novel.”

Mr. White's conviction was largely due to the accusation and testimony of a co-worker who waited four years before reporting that he saw Jack White commit a sexual assault on a female patient. Mr. White's trial lawyer failed to use evidence available to him to undermine the co-worker's claims.

The Crown's office joined AIDWYC in asking that Mr. White's conviction be overturned and a new trial ordered. After a short recess Justice Marc Rosenberg rendered the court's decision stating in part the following:

“The appellant has demonstrated that the verdict is unreliable since if counsel had performed in a competent fashion, there is a reasonable possibility that the verdict could have been different. The Crown's case depended upon Mr. Wither's testimony. The fresh evidence, used effectively, could have so undermined his credibility as to leave the jury with a reasonable doubt that the alleged assault ever occurred.

Accordingly, the fresh evidence is admitted,

the appeal is allowed, the conviction quashed and a new trial ordered.”

It will now be up to the Crown to decide whether they will proceed with a second trial.

The show of support for Jack White from residents of Orillia and Owen Sound, Ontario has been quite overwhelming. Many of his supporters drove three hours to be at the Court of Appeal for Ontario to stand by their friend, whom some have known for many years.

Jack White told reporters outside the courtroom that he is elated with the Court’s decision, “I’ve been saying it for 17 years. This sexual assault did not occur.”

In 2006, Mr. White received a pardon from the National Parole Board, but the stain on his character remained.

Mr. White has suffered much in his 65 years, beginning with being raised in foster care until he was nine years old at which time he was sent to the Huronia Regional Centre because it was believed that he had a learning disability. After 12 years as a resident he was released when it was discovered that he did not have a learning disability. A self-motivated and goal oriented man, he earned a grade 12 equivalency and then studied and received a diploma in what was then called Mental Retardation Services.

Prior to his conviction, Mr. White had won many awards for his charitable and community service work.

Mr. White has managed to survive with the financial help and moral support of friends. He is now working a variety of odd jobs and as a custodian at a mall.

MP for Simcoe North, Bruce Stanton knows Mr. White and says of him:

“The guy is just salt of the earth. He is an up-standing citizen. He would never hurt anybody. That’s not just my opinion; it is attested to in the bulk of the evidence.”



JACK WHITE WITH LAWYERS AND SUPPORTERS.

WE ARE PROUD TO SUPPORT AIDWYC

Greenspan Humphrey Lavine

BARRISTERS

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CANADIAN CASE UPDATES

ERIN WALSH NEW BRUNSWICK COMPENSATES DYING MAN

Erin Walsh was convicted in October 1975 of the murder of Melvin (Chi Chi) Peters in Saint John, New Brunswick. It wasn't until 2005 that, upon his request through a Freedom of Information Act application to the New Brunswick archives, he received evidence that had not been disclosed to his trial lawyer of a jail cell conversation between two of the men who had been in the car where Mr. Peters was shot. The one individual according to this information had asked the other why he had shot Peters. Both testified against Erin Walsh at trial. This newly discovered evidence, with other significant exculpatory evidence, led to Erin Walsh's acquittal in March 2008.

Erin Walsh on appeal was represented by AID-WYC lawyers Sean MacDonald, Philip Campbell and James Lockyer.

Erin Walsh filed a civil suit in 2007 against former prosecutor William McCarroll, the City of Saint John, all Saint John police chiefs in power since 1975, the province of New Brunswick and the RCMP for their deliberate attempts to suppress evidence.

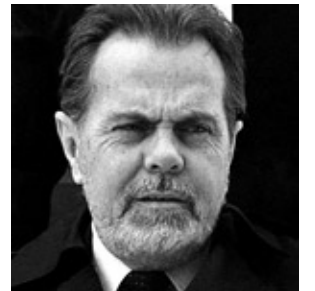
Erin Walsh is in the final stages of terminal cancer and found the prolonged refusal of the Attorney General to acknowledge the wrong done to him taxing and stressful, not only on himself but his devoted wife Angela and their children.

On the eve of the hearing which was scheduled to begin on October 15, 2009 New Brunswick's Attorney General Mike Murphy announced that

the civil suit had been resolved. However no details of the settlement would be forthcoming since a confidentiality agreement was part of the deal.

Attorney General Murphy acknowledged that a miscarriage of justice may have occurred in Erin Walsh's 1975 conviction because of the processes and procedures of the day. There was no acknowledgement of wrongdoing on behalf of the government or the criminal justice system. This angered members of the New Brunswick legislature's opposition party and members of the public who found it a hard pill to swallow that the government would award compensation while claiming to have done nothing wrong.

Erin Walsh instead of spending what precious time he has left in a court of law will be able to spend his remaining days with his family. A well deserved victory.



ERIN WALSH

WILBERT COFFIN THE SEARCH FOR THE TRUTH CONTINUES



WILBERT COFFIN

AIDWYC continues its efforts to uncover the evidence that will clear Wilbert Coffin's name. Lida Nouraie, AIDWYC Board member and Montreal lawyer, with the help of Université du Québec à Montréal (UQAM) law students, Guillaume Binette and Marie-Ève Tourigny, are reviewing thousands of pages of documents, hoping to unlock the truth into the murders of three Pennsylvania hunters for which Wilbert Coffin was convicted and hung on February 10, 1956. Next year new students will come aboard to assist Me Nouraie.

Wilbert Coffin's son, Jim, is planning on a walk across Canada in Spring 2011 to draw attention to his father's case and to raise awareness of wrongful convictions in general. Jim Coffin hopes that others will join him in his efforts to raise awareness and encourage change and action.

Wilbert Coffin's sister, Marie Coffin Stewart, his son Jimmy Coffin and other family members and supporters remain confident that this 53-year-old miscarriage of justice can be rectified and that Wilbert Coffin will have his good name restored posthumously. For more information, visit <http://humberviewss.peelschools.org/WilbertCoffin/>

MICHEL DUMONT COMPENSATION DENIED



MICHEL DUMONT

The Quebec Superior Court has ruled against Michel Dumont's \$2.5 million civil suit for compensation for his wrongful conviction of a sexual assault. He was later acquitted in 2001.

Michel Dumont fought for eight years to receive compensation. In a 35-page judgement, released in July 2009, Justice Benoit Emery found that the Quebec government had not erred in its duty to disclose pertinent information to Michel Dumont and his lawyer, the late Paul Gélinas who passed away in 2005. Mr. Dumont alleged that the Crown did not divulge that the victim recanted her story prior to his sentencing. The Crown claimed that Mr. Gélinas was notified of the recantation, but there was no evidence to support the Crown's statement and Mr. Gélinas had always denied that he was advised of the recantation.

In February 2009 Michel Dumont had reached an out-of-court agreement with the City of Boisbriand (where the sexual assault occurred) and its police department. The details of that agreement are confidential.

AIDWYC has supported Michel Dumont, his wife Solange Tremblay and their children in their long battle for validation and compensation.

ANTHONY HANEMAAYER AND ROBERT BALTOVICH DENIED COMPENSATION

In January 2010 Ontario Attorney General Chris Bentley announced that the Ontario government would not compensate Robert Baltovich or Anthony Hanemaayer for their imprisonment for crimes they did not commit.

Attorney General Bentley said that both men would not be compensated for their pain and suffering because, "They have both been found not guilty as a result of the steps that the justice system has taken." "This attorney general is completely indifferent to the wrongly convicted and what they go through," said AIDWYC lawyer James Lockyer.

Although both men were disappointed by the Attorney General's decision, they were not surprised.

Anthony Hanemaayer was 19 years old in 1987 when he was charged with the assault of a young Scarborough woman. Although Mr. Hanemaayer had been offered plea deals by the Crown prior to trial and refused, he pled guilty to secure a reduced sentence on the second day of his trial on the advice of his lawyer after he was positively identified by the victim's mother. He received a two-year sentence. In 2006, Paul Bernardo confessed to the crime and Anthony Hanemaayer was acquitted in the Ontario Court of Appeal in 2008.

Robert Baltovich spent nine years in prison for the 1990 murder of his girlfriend, Elizabeth Bain. He was acquitted in 2008.

Attorney General Bentley explained that a criminal defendant requires more than being acquitted to qualify for compensation.

Anthony Hanemaayer is currently unemployed, having recently suffered



ANTHONY HANEMAAYER & ROBERT BALTOVICH

a heart attack. Rob Baltovich has not been able to secure employment since his acquittal.

The government's decision leaves both Mr. Hanemaayer and Mr. Baltovich with no recourse except to launch civil law suits in an attempt to receive financial compensation for their wrongful convictions. On April 21st 2010, Mr. Baltovich filed a \$13-million lawsuit for damages he suffered due to his wrongful conviction. The defendants named in the action are the Attorney General for Ontario, investigating police officers, the Toronto Police Services and the defence lawyers who represented Mr. Baltovich at his first trial. Mr. Baltovich in his statement of claim alleges that his wrongful conviction was as a result of the reckless, bad faith, negligent and intentional acts and omissions of the defendants." Mr. Baltovich is being represented by Harvey T. Strosberg Q.C.

Update:

On July 7, 2010 it was learnt that Anthony Hanemaayer is suing for \$1.1 million in damages against the Toronto Police, the Ontario Attorney General and his former lawyer.

AIDWYC'S RELENTLESS BATTLE TO OBTAIN EXONERATION FOR DR. CHARLES SMITH'S VICTIMS

SEVEN APPEALS EXPECTED TO BE HEARD IN 2010

BY HAROLD LEVY



Eighteen months after the October 1, 2009 release of the Goudge report into the havoc caused by Dr. Charles Randal Smith, AIDWYC is still immersed in the battle to vindicate his many victims.

As James Lockyer puts it; "We're playing our usual role of seeking to establish that people were prosecuted and convicted of crimes they did not commit – that people were committed of crimes that never happened."

Lockyer points out that to some degree there has already been expert reviews of individual cases with opinions expressed that challenge the original opinions of Smith.

He notes, however, that some of these opinions don't go into as much depth as the cases require and that AIDWYC has had to under-go the time-consuming process of retaining experts to get more in-depth views and opinions on the causes of death in the different cases.

AIDWYC has managed to secure funding - through either the Ontario Legal Aid Plan or through an order of the Ontario Court of Appeal - for the majority of the Association's clients.

Lockyer notes that to date, AIDWYC has secured

the acquittals of William Mullins-Johnson and Sherry Sherrett-Robinson by the Ontario Court of Appeal, on September 21, 2005, and December 7, 2009, respectively.

But 2010 will be a busy year for AIDWYC as the following seven cases, in which extended time to file the appeal has been granted, are expected to be heard before the year-end. (Some names are covered by a publication ban):

- Tammy Marquardt, who was convicted in 1995 of first-degree murder in the death of her son, Kenneth Wynne, 2 1/2.
- Richard Brant, who was charged with manslaughter but later, pleaded guilty to aggravated assault in the 1992 death of his 2-month-old son Dustin.
- Maria Shepherd, who was convicted in 1992 of manslaughter in the death of her three-year-old stepdaughter Kasandra.
- A Scarborough father who was charged with second-degree murder in the 1992 death of his 5-week-old son, Gaurov.
- The father of a 13-month-old Scarborough girl who died Feb. 8, 1999.

- The 18-year-old mother of a baby who died in 1996.
- A 21-year-old mother charged with second-degree murder in the 1992 death of her newborn.

The sheer blandness of a "list" of cases conceals the reality of innocent parents and caregivers wrongly branded as criminals for killing their children, who have borne the pain of grief, loss, imprisonment, stigma, and destruction of their lives – and who have been waiting for as long as eighteen years for exoneration by the justice system that was supposed to protect them.

Lockyer says he is "saddened" by the fact that Dr. Smith's many victims are also waiting for compensation for their ordeals they have suffered. (Although Premier Dalton McGuinty promised in May, 2010, that the government would make its long awaited announcement about compensation soon, it is still forthcoming.)

Indeed, the Committee that was asked a year ago to propose a framework for compensation has yet to issue its report to the Ontario government.

On other fronts:

- The review of shaken-baby syndrome cases by a panel of independent examiners is still under way.
- A review of Dr. Smith's forensic cases between 1981 and 1991 is not yet completed.
- No date has been set for the Dr. Smith's professional misconduct hearing which was ordered by the Ontario College of Physicians and Surgeons.
- The College of Physicians and Surgeons of Ontario has dropped its investigation of former Chief Coroner Dr. James Young on the condition that he will not re-apply for a licence to practice medicine. The former Deputy Chief Coroner, Dr. James Cairns has entered into a similar agreement with the College. As Theresa Boyle reported in the Toronto Star, on May 1, 2010, "The college revealed it was investigating Young in 2008 following a public inquiry during which he came under harsh criticism for 'lax' oversight of pediatric pathologist Charles Smith, whose litany of errors led to a series of wrongful murder charges and convictions. The college has said little about the investigation, never even confirming it was related to the Smith debacle. It normally never even reveals it has launched investigations, but back in 2008 it told the Star about the Young probe because of "compelling public interest." The news of the dropped investigation has come as a blow to the victims of the Smith debacle."
- None of the law-suits launched against Dr. Smith and related parties by some of Dr. Smith's victims have been resolved.
- No criminal charges have been laid against Dr. Smith.
- Brenda Waudby is appealing a rejection of her claim for compensation for emotional suffering by Ontario's Victims of Crime Compensation Board.
- The Ontario Government has yet to implement one of the core proposals of the Goudge report – a Coroner's Oversight Council which would act as a watchdog against the abuses within Ontario's Coroners' system that allowed

Dr. Smith to cause so much harm to his innocent victims over the years with impunity.

Lockyer is quick to point out Dr. Smith's victims must be exonerated and generously compensated by the government and its institutions because, "When a person is prosecuted and convicted of a crime he or she did not commit, we all have to share a responsibility in that having happened, because it happens in our name."

"It happens as a result of a law and order environment that all too often we support and vote for blindly," Lockyer adds.

"It happens as a result of a system that really doesn't adequately acknowledge the presumption of innocence but all too often operates on an assumption of guilt."

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INTERNATIONAL CASES

JEFF BOPPRE THE DYING DECLARATION... OR WAS IT?

AIDWYC after a thorough and exhaustive review and assessment of Mr. Bopppe's case unanimously endorsed it on May 21, 2009.

AIDWYC's International Review Committee has been involved in Jeff Bopppe's case since 2004 when the late Denny Whelan, a highly respected private investigator, and his son, attorney Mick Whelan, flew to Toronto from Nebraska to seek AIDWYC's help on behalf of their client, Jeff Bopppe. Bopppe had been convicted for the 1988 shooting deaths of Richard Valdez and Sharon Condon and received two life sentences. The murders had occurred at a remotely located house just outside of Scotts Bluff, Nebraska, late in the evening of September 18th or in the early morning hours of September 19th.

Bopppe had been to Richard Valdez's home several times during the evening of September 18th, 2008 to purchase drugs in the company of his friends Alan Niemann and Ken Wasmer. Bopppe, Niemann and Wasmer were in Arizona to sell drugs on September 19th when Bopppe called home, learned of the murders and that he was wanted in connection with them. The three men promptly returned to Scotts Bluff where Bopppe was arrested.

At the scene the letters "JFF BOPE" were found written in white grease on the floor next to Valdez's body. White grease was found on two fingers of Valdez's right hand and a tube of grease was found near his body. "JEFF" was



in what appears to be blood on the doorframe near Valdez's head. These writings were introduced in evidence as "dying declarations" against Bopppe. A pair of pants with blood and grease on them was found at the trailer home belonging to Niemann and Wasmer.

Niemann and Wasmer testified against Bopppe at trial. Bopppe testified that he knew nothing about the crime and arrived home at midnight the night of the murders, spoke to his father, got some money and returned to Niemann and Wasmer's trailer, where he noticed that Niemann's car had been moved. Niemann and Wasmer immediately emerged from the trailer, ready to leave for their trip to Arizona.

Niemann was charged with robbery and given a five to seven year sentence after he agreed to testify against Jeff Bopppe. Wasmer was never charged.

Shortly after Bopppe was convicted, Niemann contacted Dennis Whelan, recanted his testimony and advised Dennis Whelan that Bopppe was not at the scene of the murders. He provided a sworn statement recanting his testimony and advised that he had been pressured by the State to incriminate Bopppe. In a subsequent interview with a State Patrol investigator, Niemann acknowledged his recantation but then recanted his recantation advising that he just recanted so that the Whelans would "quit bothering him". This is even though Dennis Whelan could not visit Niemann in prison with-

out Niemann's permission. Furthermore, it has come to light that there was an eyewitness who was in the house at the time of the murders and was hiding under a bed. It appears that the State likely knew about this witness prior to Bopppe's trial. The witness was never called to testify and her existence was never divulged to Bopppe's trial attorney.

When reviewing the case AIDWYC was encouraged that proper scientific testing of the physical evidence in the case, if it still existed, could provide evidence undermining the State's case and could perhaps be used to prove the guilt of another person or persons. In particular it was believed that the pants found in the trailer, the grease on the floor and the blood on the doorframe could all potentially provide evidence of Jeff Bopppe's innocence and someone else's guilt. At that point it was not known what items, if any, remained in the possession of the State. AIDWYC contacted the Director of the Innocence Project in New York City who advised that the Innocence Project would be willing to look into the case with regard to any DNA issues that may assist Jeff. After several months of investigation it was determined that in fact several items had been preserved by the State, including the pants, part of the floor that had the "dying declaration" written on it in grease. As a result of the efforts of the Whelan's and the New York Innocence Project, Jeff Bopppe's case was brought before the District Court of Scotts Bluff County, Nebraska. The Court ordered that a number of items be sent to a lab for forensic testing. The items tested did not contain Bopppe's DNA but the blood on the door frame was identified as belonging to John Yellowboy, Ms. Condon's cousin. DNA testing has also confirmed that hairs found next to the "dying declaration," and the body of Richard Valdez, were consistent with John Yellowboy's DNA.

AIDWYC's Director of Client Services was able

to locate Melissa Moreno (the witness hiding under the bed) in a Colorado prison. Melissa was 16 years old at the time of the murders and was shocked to learn that Boppre was still in prison. Mick Whelan and Dan Curnyn interviewed Ms. Moreno who provided them with a sworn affidavit in which she clearly states that Jeff Boppre was not in the Valdez home at the time of the murders.

There have been numerous motions, appeals and petitions made on behalf of Jeff Boppre over the past several years. Figuring prominently in the proceedings have been Niemann's recantations, the existence of eye-

witness Melissa Moreno, allegations that the State knowingly elicited perjured statements from Niemann and Wasmer, the lack of sufficient scientific testing and competency of trial counsel. Boppre's attorneys filed a motion for a new trial based on DNA results along with three other motions in April 2009. On August 19, 2009 Scotts Bluff County District Judge Randy Lippstreu dismissed all four motions which Lippstreu said added "nothing new" that would entitle Jeff to a new trial. Jeff's attorneys have filed an appeal which begins with the following opening paragraph: *"Misdirection. Mischaracterization. Misinterpretation. That is what the ingredients*

of the Plaintiff's formula for the prosecution of the case of State of Nebraska v. Jeff Boppre have been from the outset. The brief recently filed by the Plaintiff [State] shows that the same formula is still being used to keep Jeff Boppre wrongfully incarcerated; while at the same time allowing the true killers to escape justice."

Jeff Boppre remains optimistic that the truth will be revealed and that his long and arduous fight to clear his name and secure his freedom will happen.

HOPE FOR RAYMOND GRAY'S RELEASE, 37 YEARS LATER

AIDWYC after a thorough and exhaustive review and assessment of Ray Gray's case unanimously endorsed it on May 21, 2009.

In 1973, Raymond Gray's life and career could not have been brighter. A talented young artist, Ray enrolled in a fine arts program and was preparing to take his career to the next level. He never made it to his first class. Detroit in 1973 was a city overwhelmed by crime and one of the highest homicide rates in the USA, where investigation of felonies was often more about closing the books than solving the crime. Raymond Gray believes he was a victim of this approach.

On February 6, 1973 two men burst into the home of Ruben Bryant. The men believed Bryant was a drug dealer and were looking to rob Bryant of his money and drugs. During the attempted robbery, Bryant was shot and killed. Raymond Gray was accused of this crime. His girlfriend had gone to Bryant's home in the

minutes before the robbery to purchase drugs. Ray was at home when Bryant was killed - an alibi that was confirmed by four witnesses at his trial.

However, Ray was identified by the two surviving adult occupants who were in Bryant's home at the time of robbery. These same witnesses had claimed they could not identify either of the intruders on the night of the murder. The trial judge rejected Ray's alibi after only 15 minutes of deliberation.

After 37 years, there is at last good news to report in this case: as a result of changes to the parole system in Michigan, Ray may be eligible for parole in the very near future. Part of the team assembled by AIDWYC's International Review Committee (IRC), which includes Michigan supporters and longtime associate Doug Tjapkes, founder of Humanity For Prisoners and a leading expert in the Michigan parole and commutation process. Doug has



spearheaded the parole process for Ray and is very optimistic that Ray will be released. The IRC eagerly awaits the parole hearing, which is scheduled for June 15, 2010, and will be present to make submissions on Ray's behalf. The IRC is also actively working on gathering evidence to mount an application to review his conviction in State Court.

Accused, charged, tried and wrongly convicted of this crime, Ray has not tasted freedom since the day of his arrest - over 37 years ago. Although he has been held physically captive, his spirit, passion for life and art have not been muted. Ray's art speaks the message of a man not embittered, a man with faith that the truth will one day be revealed. Go to www.freeraygray.com to view a sampling of his outstanding work.

KIRSTIN BLAISE LOBATO: UNREASONABLE CONVICTION



AIDWYC unanimously endorsed Ms. Lobato's case on March 24, 2010 after an exhaustive review and assessment of her case.

By Hans Sherrer and Michelle Ravell

Kirstin Blaise Lobato graduated in the spring of 2000 from Lincoln County High School in Panaca, Nevada. Family and friends call her Blaise. A number of times during the next year she travelled the 170 miles south to Las Vegas, where she stayed with friends.

In late May 2001 Blaise was staying on Las Vegas' eastside with a woman friend at a Budget Suites Hotel. She was in the hotel's parking lot around midnight when she was "bum rushed" by a huge black man who threw her to the ground and attempted to rape her. Blaise was able to get a butterfly knife from a pocket in her dress and she attempted once to cut her assailant's exposed penis. While he was bent over and "crying" she escaped in her car.

During the next six weeks Blaise told more than a dozen people in Las Vegas and Panaca about the assault.

Eighteen-year-old Blaise started using methamphetamine while in Las Vegas. Wanting to get away from that lifestyle, on July 2, 2001, she returned to Panaca to live at her parents' house. She talked on the telephone daily with a male friend in Las Vegas and she agreed to return there. Her car was having mechanical trouble so he left Las Vegas on the evening of July 8 to drive to Panaca and pick her up at her parents' house. Shortly after he arrived about 1 am on the 9th the two of them headed to Las Vegas. Blaise soon realized she made a mistake, and her father drove her back to Panaca four days later.

DURAN BAILEY'S MURDER

At about 10 pm on July 8, 2001, a body was discovered in a trash enclosure at a Nevada State Bank on West Flamingo Blvd in Las Vegas. The man had been severely beaten about the face and he had cutting wounds to his face, neck, abdomen, his penis had been amputated and his rectum sliced. The medical examiner determined his primary cause of death was "Blunt Head Trauma." He was identified from the FBI's fingerprint database as Duran Bailey.

One of the people Blaise told about the Las Vegas rape attempt was her former high school teacher Dixie Tienken. Tienken mentioned the rape attack on July 18 to a friend, Laura Johnson. Two days later Johnson called the Las Vegas Metro Police Department and was transferred to detective Thomas Thowsen. Thowsen immediately decided Blaise murdered Bailey based on Johnson's information that Blaise tried to cut her would-be rapist's penis.

After Johnson's call Thowsen, his partner, and

a crime scene analyst drove to Panaca to arrest Blaise and impound her car for examination by the crime lab.

After the detectives arrived at the home of Blaise's parents she gave a 26-minute audio-taped statement. She didn't know a single specific detail of Bailey's murder, and didn't recognize him when shown his picture. Although the detective's Arrest Report doesn't allege Blaise confessed or provided any details of Bailey's murder, she was charged with first-degree murder and sexual penetration of a dead body (cutting Bailey's rectum after his death). The District Attorney reserved the right to seek the death penalty.

Blaise was convicted of both charges in May 2002 and sentenced to a minimum of 45 years in prison. In October 2004 the Nevada Supreme Court overturned her convictions and ordered a retrial.

Blaise's retrial began in September 2006. The prosecution's "theory" was Blaise drove to Las Vegas sometime on the weekend of July 6-8, that she went to the trash enclosure where Bailey lived "sometime before sun-up" on the 8th to obtain methamphetamine from him, she snapped and stabbed and beat him to death, cut his rectum and amputated his penis, and then raced back to Panaca where she was seen that morning.

The prosecution did not introduce any physical, forensic, documentary, eyewitness, surveillance or confession evidence that Blaise had been in Las Vegas at anytime on July 6, 7 or 8. Likewise no evidence was introduced that Blaise had ever met Bailey or knew where the homeless Bailey lived. Crime lab technicians testified Blaise was excluded as the source of crime scene fingerprints, DNA, and shoeprints imprinted in blood leading away from Bailey's

body, and her car was excluded as the source of fresh tire tracks outside the trash enclosure.

Consistent with the prosecution's absence of evidence, Blaise's attorneys introduced almost a dozen eyewitnesses, phone records, and medical records establishing that from the afternoon of July 2 to the early morning of July 9 she was in Panaca. However, the judge barred as hearsay testimony by alibi witnesses Blaise told prior to July 8 that she used her knife to thwart a rape attempt.

Since the prosecution neither introduced evidence Blaise had been in Las Vegas on the day of Bailey's murder, nor evidence linking her to the crime, the prosecutor's tactic was to convince the jury of her guilt by using their closing and rebuttal arguments as the phantom "evidence" of her guilt. Their key argument was Blaise's admission she fought off a rapist with her knife constitutes a confession to beating and stabbing Bailey to death and cutting his rectum after he died.

The jury bought the prosecution's arguments. Blaise was convicted on October 6, 2006, of voluntary manslaughter and sexual penetration of a dead body. She was sentenced to 13 to 35 years in prison, with no hope of parole without admitting guilt.

Blaise's convictions were affirmed by the Nevada Supreme Court in May 2009. Since she is indigent Blaise filed a pro se state habeas corpus petition on May 5, 2010. Her 758-page petition includes 79 grounds and 101 exhibits supporting her factual innocence of Bailey's murder, and that her convictions violate her constitutional rights to due process and a fair trial. Some of the petition's key grounds are:

- New evidence by three of North America's leading forensic entomologists that Bailey

died after sunset (at 8:01 pm). The prosecution conceded to the jury that credible witnesses in Panaca establish Blaise could not have been in Las Vegas after 9:30 am on July 8 – which was 10-1/2 hours before the new evidence establishes when Bailey died.

- New alibi witnesses establish Blaise was in Panaca the entire weekend of July 6 to 8.
- Nine new alibi witnesses were told by Blaise up to six weeks prior to Bailey's murder that she fought off a rape attempt in Las Vegas with her knife.
- New evidence by a psychologist expert at analyzing a suspect's statement that Blaise's statement describes her attempted rape at a Budget Suites Hotel, and it is not a confession to Bailey's murder.
- New third-party culprit evidence that Bailey's death was a revenge killing by "Mexican" friends of a woman Bailey brutally beat and raped a week before his murder.

Blaise's habeas petition is now pending in the Clark County District Court. It is available online with links to the exhibits at, www.justicedenied.org/lobato_habeas.pdf. The campaign to exonerate Blaise has garnered the support of The Justice Institute (Articles in Justice:Denied magazine and publishing the book, *Kirstin Blaise Lobato's Unreasonable Conviction* (2008).); The Innocence Project (Accepted case to pursue DNA testing.); and AIDWYC.

ABOUT HANS SHERRER

Hans Sherrer is editor and publisher of Justice: Denied -- the magazine for the wrongly convicted, and he created and maintains the world's largest database of wrongful convictions. In 2008 he wrote a book about Ms. Loba-

to's case, *Kirstin Blaise Lobato's Unreasonable Conviction*. He lives in Seattle, Washington. And his website is www.justicedenied.org.

ABOUT MICHELLE RAVELL

In July 2001, my then 22-year-old son met Blaise when he went on a four-wheeling trip to Panaca with a co-worker. He came home and excitedly told me "he had just met the girl he wanted to marry". I was very surprised because he had not said that about any girl, ever before. This was the weekend just before she was arrested.

After the arrest, he kept calling her family to find out what happened, all the while trying to convince me that she "didn't do it, really Mom". I was very hard to convince. At that time I believed that people didn't get arrested for crimes they could not have committed, and if it were true they would release her once they figured it out. I could not have been more wrong.

During the time between then, and the conclusion of her first trial, the more I learned the more I was convinced she really was innocent. The jury didn't agree with me, and convicted her. This is what started me on the unfamiliar path of "advocate" for a wrongfully convicted person.



FRIEND AND ADVOCATE
MICHELLE RAVELL

AUTHOR HANS SHERRER

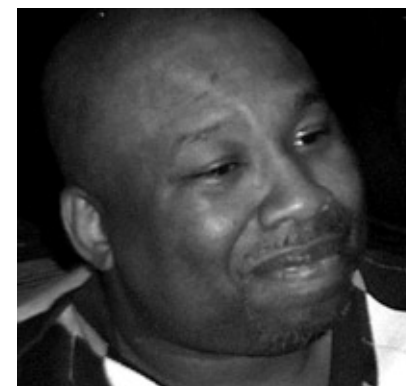
JOHNNIE LEE SAVORY CONTINUES TO REQUEST DNA TESTING

At the age of 14, Johnnie Lee Savory was convicted for the 1977 Peoria, Illinois murders of his friend and his friend's sister, murders he did not commit but for which he spent 30 years in prison.

Since 1999, Johnnie has been asking for DNA testing of fingernail scrapings and hairs recovered from the victims' hands. The Center on Wrongful Convictions at Northwestern University School of Law, a long-time advocate, has offered to pay for the testing.

A petition is circulating to help Johnnie Lee Savory clear his name. The petition will be given to Illinois Governor Pat Quinn once an adequate number of signatures have been gathered. To support this effort, visit: <http://www.ipetitions.com/petition/dnaforsavory/> to add your name to this cause.

AIDWYC endorsed Johnnie Lee Savory's case in 2005 and has petitioned the Illinois governor on his behalf.



JOHNNIE LEE SAVORY

KEVIN COOPER WAITING ON DEATH ROW



KEVIN COOPER

On November 30, 2009 the U.S. Supreme Court refused to review Kevin Cooper's conviction. Time is running out for Mr. Cooper who narrowly missed being put to death in 2004 when the US 9th Circuit Court of Appeal intervened and ordered a new hearing on his claims of evidence tampering and prosecutorial misconduct.

Judge M. Margaret McKeown of that Court noted that important evidence in Mr. Cooper's case was "lost, destroyed or left unpursued." This evidence included bloody overalls that a detective threw away and a missing bloody T-shirt.

"The forensic evidence in this case is critical and yet was compromised," she wrote. "These facts are all the more troubling because Cooper's life is at stake."

Kevin Cooper was convicted of the 1985 murders of four people in Chino Hills, California.

Death penalty appeals in federal courts severely restrict additional appeals unless significant new evidence is found. Mr. Cooper's attorneys are urging witnesses with information to come forward.

If Mr. Cooper's attorneys are not able

to block proceedings with a new habeas corpus petition, his case will go to a judge in San Diego County Superior Court to set an execution date.

Mr. Cooper has consistently maintained his innocence and his attorneys have argued that evidence destroyed or lost by San Bernardino County sheriff's deputies pointed to three white men, including a convicted contract killer, as the perpetrators.

Executions in California have been on hold since 2006.

MAX SOFFAR THIRTY YEARS ON DEATH ROW

Max Soffar's appeal to the Texas Court of Appeals was denied on November 18, 2009 on all issues raised.

"This case presents a textbook example of a miscarriage of justice. From a false confession to two unfair trials and death sentences, the problems with Max Soffar's case show the grave failures of the criminal justice system. With the court's ruling today Texas comes closer to executing another innocent man. Max Soffar intends to appeal his conviction and death sentence to the U.S. Supreme Court as well as to pursue all other and additional appeals," said David Dow of the Texas Innocence Network (TIN).

Mr. Soffar was convicted in 1981 of three Houston, Texas murders that he did not commit. Mr. Soffar's conviction was overturned by a federal court; he was retried but reconvicted and sentenced to death a second time in 2006.


On March 30, 2009 the American Civil Liberties Union (ACLU) and the Texas Innocence Network (TIN) petitioned the U.S. Supreme Court to review Max Soffar's wrongful conviction. The Supreme Court's review is discretionary and the court has recently taken only 1 of 100 cases. If the Court grants the writ of certiorari, it means the Supreme Court will receive full briefing and argument on the case and then decide it on the merits. If the Supreme Court decides not to grant the writ of

certiorari, Max Soffar will go back to the trial court for additional appeals (state habeas).

Brian Stull, a staff attorney with the ACLU said in a press release announcing the petitioning of the Supreme Court: "The death penalty system in our country is impossible to trust when innocent people sit for decades on death row without ever being afforded a fair trial or the opportunity to present all existing evidence. The Supreme Court should take up this case and establish, once and for all, that when available defences are hidden from the jury the verdict cannot stand."

On June 28, 2010 the United States Supreme Court upheld Max Soffar's death sentence.

AIDWYC will continue to support Mr. Soffar and his attorneys in their valiant battle to save the life of an innocent man.



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TIM FONSECA WILL SOMEONE LISTEN?

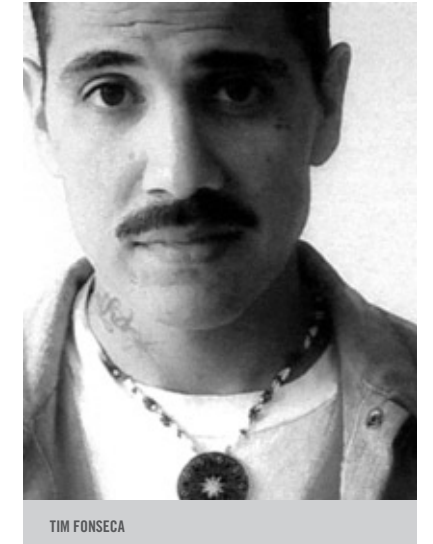
On March 24, 2010, Timothy's Fonseca's mother, family members and friends rallied outside Salinas Valley prison to protest the lack of medical attention for his deteriorating health. Mr. Fonseca has lost 45 pounds in the last six months. The protest generated a front-page story in the the local newspaper, Soledad Bee. As a result, Mr. Fonseca has finally, after requesting medical attention since

September 2009, received numerous medical appointments. He informed AIDWYC Director of Client Services, Win Wahrer that he is confident that "actual treatment is around the corner." Also as a result of the protest Mr. Fonseca was asked to write an article on the medical situation in prison. The article is scheduled to be published in a couple of papers as well as being followed up by a local T.V. channel. Currently another rally is being organized to draw attention to Mr. Fonseca's wrongful conviction.

Mr. Fonseca was convicted in May 1996 of the first-degree murder of Arthur Mayo in Los

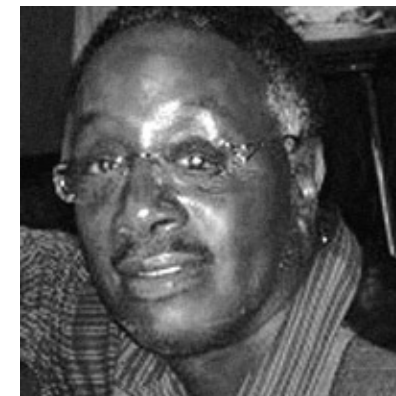
Angeles, California. Mr. Fonseca was largely convicted on flawed eyewitness testimony. AIDWYC thoroughly reviewed Mr. Fonseca's and as a result endorsed it.

Anyone having any information regarding this case please contact the AIDWYC office at 1-800-249-1329 x 227 or win@aidwyc.org.



TIM FONSECA

CY GREENE CIVIL SUIT



CY GREENE

AIDWYC endorsed Cy Greene's case on April 19, 2004.

Cy Greene has found housing at long last, but continues to wait for his \$22.5-million lawsuit to be settled. The law suit was filed in February 2008 against the two original detectives, who were in charge of the investigation, one of the assistant district attorneys and the City of New York.

Cy spent 22 years in prison for a 1983 robbery and murder in Brooklyn, N.Y. He was finally released in February 2006 largely due

to the pro bono work of well-known New York attorney Myron Beldock, who continues to represent him in his civil suit.

Cy was one of 86 exonerees who attended the Atlanta Innocence Network Conference in April. Cy has become a mentor and friend to many of the exonerees.

AIDWYC ON THE MOVE

MICHIGAN STATE UNIVERSITY COLLEGE OF LAW

NEW MICHIGAN STUDENT GROUP – DEFENSE OF THE WRONGLY CONVICTED

Michigan State University College of Law in East Lansing, Michigan has amongst its body of student organizations a group dedicated to reviewing criminal cases for claims of actual innocence. The group – Defense of the Wrongly Convicted (DWC) – works in collaboration with AIDWYC to prevent and rectify wrongful convictions. AIDWYC handles numerous cases in Michigan, and the DWC is a welcome new partner.

The newly formed student organization is a culmination of the strong desire on the Law College's campus to incorporate more opportunities for practical experience in criminal law and the previous effort to create an independent innocence clinic. In the pursuit of creating an innocence clinic, the Law College sent two second-year students – David Meyer and Zachary Risk – to the Innocence Network conference in March of 2009 to gather valuable information about starting such a clinic from the ground up. After careful deliberation and exploration of other alternatives, however, the Law College eventually settled on creating the Plea & Sentencing Clinic that works in collaboration with the Michigan State Appellate Defender Office.

Nevertheless, there still existed a strong desire to give students the opportunity to work on innocence cases. Later in 2009, one of the contacts made at the Innocence Network conference, AIDWYC International Review Committee member Jim Bell, got in touch with Mr. Risk to encourage the formation of a student group. Throughout the remainder of 2009, the

two discussed the parameters of the group's role within AIDWYC, while students on campus solicited interest and completed the necessary logistical requirements of forming a new group. With a great deal of help from DWC's advisors, Professors Catherine Grosso and Michele Halloran, the group achieved official status in January 2010.

geared towards helping the wrongfully convicted."

These views summarize the essence of the group's work and the value that it will provide to Michigan residents. Moreover, it shows the tremendous passion with which the students will approach their work while being members



BACK ROW – ZACHARY RISK (2L), KATHRYN AUSTIN (3L), ANDREW MOORE (1L), DAN MARTINDALE (2L)
FRONT ROW – CHRISTIANA SCHMITZ (1L), SUSAN ASAM (3L), BRETT MEYER (2L)

One of the important steps in the process was to create a statement of interest for submission to AIDWYC. Many insightful comments were received after requesting student input, two of which include:

"I have a vested interest in making sure that everyone, regardless of resources, has adequate legal representation."

"I subscribe to the belief that it is far worse to send an innocent man to jail than to let a guilty man go free. I feel as though I can help make a difference in this regard by working with a group at MSU Law which is

of DWC.

DWC began reviewing cases after hosting an inaugural event for AIDWYC's Win Wahrer, Sal Caramanna, and Jim Bell as they introduced students to the case review process. The group is now fully underway in its endeavors and looks forward to many productive years working with AIDWYC towards the common goal of preventing and rectifying wrongful convictions.

For further information about DWC, please submit questions to riskzach@msu.edu.

PRESUMED GUILTY (Presunto culpable)

In September 2009, the Toronto International Film Festival presented a film about the chilling and troubling case of Jose Antonio (Toño) Zuniga Rodriguez, a man who was wrongly convicted of murder in 2005, a murder he knew nothing about, and was sentenced to 20 years in a Mexican prison.



Attending the festival screening were AIDWYC clients Romeo Phillion and Gary Comeau, along with AIDWYC Board members, staff and volunteers. The AIDWYC contingent was introduced to the viewing audience during the question and answer period that followed the presentation of the film, and met with Roberto Hernández, Geoffrey Smith and other members of their hard working and sacrificial production team.

Two young lawyers, Roberto Hernández and Layda Negrete, became involved in Rodriguez's case and were shocked to discover as they read the case file that the lawyer representing him at trial was working illegally with a forged licence. They were able to convince the court to grant Rodriguez a new trial, which they decided to film on the heels of a successful short documentary which helped to achieve the release of another innocent man. The film was shot over a three-year period with unprecedented camera access to the Mexican court and prison system.

In March 2010, 'Presumed Guilty' won the prize for best documentary at the Guadalajara International Film Festival. A theatrical release in Mexico is expected in the fall.

For more information, visit www.presumedguiltythemovie.com.

Roberto Hernández partnered with director/filmmaker Geoffrey Smith (The English Patient) to produce what can only be described as a passionate, eye-opening and heart wrenching view of the struggle of one innocent young man to gain his freedom despite a judicial system ripe with corruption and a mindless disregard for the truth, fairness and justice.

Mr Rodriguez was one of the lucky ones – even though he was retried in front of the same judge from his first trial and reconvicted; he and his lawyers persevered and his conviction was overturned on appeal.

AGM 2010 A GATHERING OF FRIENDS AND SUPPORTERS



JIM MCCLOSKEY

On May 1, 2010, AIDWYC held its Annual General Meeting (AGM) at Friends House in Toronto.

AIDWYC was honoured to welcome keynote speaker Mr. Jim McCloskey of Centurion Ministries. Jim awed and inspired the attendees with the history of Centurion Ministries and its humble beginnings, as well as its trials and triumphs.

In Princeton, New Jersey in 1983, Jim McCloskey founded the first advocacy group to look into claims of wrongful convictions. AIDWYC has been fortunate to have Jim McCloskey as a friend and mentor since his involvement in the David Milgaard case. Jim's efforts and those of his private investigator Paul Henderson led to David's release from prison and ultimately his exoneration after DNA evidence cleared him and identified the actual killer.

At the AGM, Jim McCloskey had the honour of presenting an award on behalf of AIDWYC to Joyce Milgaard for her many "years of dedica-

tion and invaluable contributions to justice, fairness and the presumption of innocence."

Romeo Phillion, Gary Comeau, Rob Baltovich and Réjean Hinse represented the wrongly convicted at this year's AGM. Each addressed the meeting and thanked everyone for their support.

For the fourth consecutive year, singer/songwriter Dave Moran and his wife Trish came in from Quebec to attend the AGM. Dave led everyone in singing a very special happy birthday to Romeo Phillion who turned 71 years old

on April 29th, which also was the day that his charges were officially withdrawn and he was apologized to by Madam Justice Ratushny of the Superior Court on behalf of the administration of justice for the wrong done to him. Always an inspiring voice, Dave paid tribute to Wilbert Coffin by singing Ship of Souls, his haunting ballad about his late father's cousin.

People came as far away as Dawson Creek, Edmonton, Montreal, Ottawa, and Detroit, as well as London, England, to be part of this annual recognition of AIDWYC's continuing work on behalf of the wrongly convicted.

After the meeting, everyone was treated to a delectable lunch provided by Jennifer Barratt, Carmel Prince, Melissa Orsi and Archie Dias.

AIDWYC is grateful to all its members and supporters for making this year's AGM a resounding success.



ROMEO PHILLION

ATLANTA INNOCENCE NETWORK CONFERENCE

The Innocence Network Conference was held in Atlanta, Georgia from April 16-April 18th. AIDWYC's Director of Client Services, Win Wahrer, and Jim Bell, member of the International Review Committee, attended the conference.

Over 450 people, 86 of whom were exonerees from across the United States and Australia, were in attendance making it the largest Innocence Network Conference yet.

One of the pivotal and most moving moments of the conference was when during the opening ceremonies the 86 exonerees were introduced and gathered at the front of the conference room where they received thunderous applause. Amongst the exonerees was AIDWYC client Cy Greene from New York. Also present was Kirk Bloodsworth – the first person to be exonerated as a result of DNA evidence – who participated at one of AIDWYC's past conferences. Kirk has fought tirelessly to have the death penalty abolished in Maryland, and his work with the Justice Project contributed to the passing of the Innocence Protection Act in 2004. The Innocence Protection Act includes the Kirk Bloodsworth Post-Conviction DNA Testing Program which has provided over 17 million dollars in funding to U.S. Innocence Projects.

Member organizations of the Innocence Network had a very productive year. Co-founders Barry Scheck and Peter Neufeld identified 30 cases that were resolved in the past year, including AIDWYC cases Kyle Unger, Sherry Sherrett-Robinson, and Romeo Phillion.

The conference covered a wide variety of topics and the sharing of ideas and best practises. Some of this year's seminars included: Recantation as the Basis for Exoneration; Introductory and Advanced DNA; Investigation Tools; Screening and Case Evaluation; and Ethics and the Media.

Win Wahrer and Jim Bell had the opportunity to establish new relationships with member organizations and reaffirm existing relationships. It was ultra important to be able to discuss cases with various Innocence Projects and garner their help and support in order to move some of our international cases forward. It is always humbling to learn that AIDWYC is held in such high esteem by the Innocence Network for its body of work at home and abroad.

The 2011 Innocence Network conference will be held in Ohio with an increased focus on wrongful convictions in the international arena.



86 EXONEREES

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STUDENT CONTRIBUTIONS

UNIVERSITY OF OTTAWA

BANDAIDWYC FUNDRAISER RAISES \$1,300

On February 18, 2010, the Criminal Law Students Association (CLSA) of the University of Ottawa held its annual and most highly anticipated event: BANDAIDWYC. This charity concert event takes place every year with the goal to raise money for the Association in Defence of the Wrongly Convicted (AIDWYC). As in past years, this year's event was a success.

Thanks to the efforts of the CLSA Executive, the bands that kindly offered their talents, and the sponsors that generously donated raffle prizes, \$1,300 was raised for AIDWYC.

The display of musical talent was exemplary. Ottawa's The Panama opened the show and

Hearts in Stereo closed it. Toronto's Make Your Exit performed second, making this their 3rd appearance at BANDAIDWYC in a row. Their committed support of this event is greatly appreciated.

Part of the CLSA's mandate is to spread knowledge and build awareness of the multifarious socio-legal issues in criminal law practice, policy and academia. The occurrence of wrongful convictions is an alarming truth that deserves the attention not only of our current judges and lawyers, but of the current student body that may be able to take part prevention and rectification of such injustices in future.

Holding BANDAIDWYC is the CLSA's opportunity

to inform the public of the reality of wrongful convictions in Canada, and assist the commendable efforts of AIDWYC.



LEFT TO RIGHT:
ARI LINDS - 1ST YEAR REP (ENGLISH)
SAM HUMPHREY - TREASURER
KEVIN LUDGATE - CO-PRESIDENT
ALIKI YORGIADIS - CO-PRESIDENT
NICOLE VIGNEAULT - VICE PRESIDENT
MASIEL MATUS - 1ST YEAR REP (ENGLISH)
ANDREW HARAPA - COMMUNICATIONS/MEDIA REP

YORK UNIVERSITY

WRONGFUL CONVICTION ADVOCACY AT YORK UNIVERSITY

Wrongful Conviction Advocacy at York University (WCAY) is a not-for-profit, student-run organization. WCAY was founded in 2009 with the mandate to achieve the following three objectives:

1. To raise campus awareness of wrongful convictions
2. To establish volunteer placements for students on current projects related to wrongful conviction advocacy
3. To influence undergraduate students about the root causes of wrongful convictions in the hope that as they pursue their legal

careers, the knowledge of the existence of wrongful convictions can influence their decision making.



ULIE PAGLIARO AND AMANDA BHUTTO

In November of 2009, WCAY members Michael Edwards, Michelle Bae, Meagan Klonowski, Saba Shamsipur, Anna Matys and Christina Popa joined forces with other student groups

from different universities to help AIDWYC raise funds to go towards services used to help free and exonerate Raymond Gray, an innocent man who has been locked behind bars within the walls of various Michigan state prisons for over 37 years.

"AIDWYC is an incredible organization made up of extraordinary individuals. We look forward to working together to raise awareness and to raise funds for projects alike, to help AIDWYC in their efforts to free innocent people."

— Julie Pagliaro, President of Wrongful Conviction Advocacy at York University.

UNIVERSITY OF TOLEDO COLLEGE OF LAW

AIDWYC INITIATIVE AT UNIVERSITY OF TOLEDO COLLEGE OF LAW

BY MARK ABRAMOWITZ



The University Of Toledo College of Law Defense of the Wrongly Convicted (UT DWC) project began its second year with high hopes. During the year, the group saw its number of supporters almost double. Its presence on campus also grew. With the blessing of the administration, UTDWC and its supporters reviewed three cases this year.

Throughout the case review process, UTDWC reviewers were able to lean on faculty and AIDWYC to help complete the review of the three cases. The group is looking forward to continuing this success into the next school year.

In 2008, Canadian Mark Abramowitz, second year law student at University of Toronto, established the first AIDWYC Student Initiative. AIDWYC is grateful to Mark and Rob Solt, April Miller, Tara Buck, Betty Collins, Lindsay Gwozdz, Sarah Driftmyer, Sammy Usmani, Tara Stennett, Nick Seger and Dale Bricker, the University of Toledo College of Law students who have contributed their time and energy to reviewing cases. Thank you as well to the faculty for their continued support of the students' efforts.



HUMBERVIEW SECONDARY SCHOOL CREATIVE TALENT AND ADVOCACY MAKING A DIFFERENCE



George Allain and his law students at Humberview Secondary School in Bolton, Ontario have been volunteering their time and creative talent in the design and production of websites that have proven to be instrumental in educating the public at large and garnering their support for a number of AIDWYC cases. The Jeff Boppre website is the fourth such website they have designed and produced; others being that of Steven Truscott, Wilbert Coffin and Erin Walsh.

AIDWYC and its clients are indebted to George Allain and his students for their significant contribution to the defence of those who are wrongly convicted. They are clearly becoming

masters at web design and advocacy.

Please support their tremendous efforts by visiting the Jeff Boppre case website at <http://jeffboppre.com/support/> to learn more about his case.

Please visit the website of Wilbert Coffin's case at <http://humberviewss.peelschools.org/WilbertCoffin/>

These two cases are both adopted/endorsed AIDWYC cases, and are in great need of your interest and support.

UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY CRIMINOLOGY STUDENTS

AIDWYC is grateful for the continued significant contribution of criminology students from the University of Ontario Institute of Technology (UOIT) in research work and the review of international cases.

The most recent group of students to volunteer from UOIT are Kamal Awwadah, Isabella Blandisi, Mona Bisharat and Ian Perry who shares below what his volunteer time with AIDWYC has meant to him and the other students.



IAN PERRY, ISABELLA BLANDISI, MONA BISHARAT, AND KAMAL AWWADAH.

THE ESSENCE OF VOLUNTEERING

By: Ian Perry

At the start of my commitment to volunteering with AIDWYC, I was more curious than anything. Curious about what type of work I would be doing and how I would be able to assist this internationally recognized organization. Needless to say, the work was both challenging and demanding and sometimes it all seemed very overwhelming. Yet, as the weeks went on, my understanding of my role in the organization became clearer and the work became more en-

joyable each day. Even at the very earliest point of my experience with AIDWYC, I was beginning to grasp the importance of this work. Not only was the significance becoming apparent but I was also beginning to see why so many excellent people have committed themselves to AIDWYC. Whether it was reading a letter from an applicant or going through documents pertaining to a relevant case, I always had the image of those affected by the case in mind. I found out early on that it is nearly impossible to not become immersed in a review and I was beginning to feel as though I knew the applicants personally. Naturally, this fueled my motivation to work even harder and it was not long until I was completely attached to the case I was reviewing.

I was not alone in my interest in volunteering with AIDWYC and was assigned to a group of likeminded students from my area of study. Working with a group such as this provided a significant benefit for reviewing cases. It was clear from the start that we were all serious

about our involvement with AIDWYC and this allowed for efficiency and effective teamwork. Although the members of the group were fellow students, I did not know them all that well prior to volunteering. Yet it only took a matter of days before I felt as though I had known them for years. They are all remarkable people and we have since become close friends. Working with them has made my experience with AIDWYC all the more enjoyable.

As a fourth year student of Criminology and

Justice Studies at the University of Ontario Institute of Technology (UOIT), my experience with AIDWYC has also allowed me to see the justice system from a completely different perspective. Throughout the last four years, my studies have focused primarily on how the justice system can be improved. However, I now believe that many of these courses are overlooking a significant issue. Most, if not all, of the focus has been on alternative methods of incarceration and I have yet to have a class that examines wrongful conviction. I now bring up this topic more often inside the classroom and discussion on the importance of this issue is increasing within the University. What is interesting about volunteering with AIDWYC is that the learning process never stops. This experience has furthered my ability to think critically and I now look at situations with a unique perspective. I still continue to be shocked by some of the injustices that take place in Canada.

One of the highlights of my and other students' involvement with AIDWYC was having Win Wahrer and Romeo Phillion speak at our school and then having the honour of having dinner with them afterwards. It gave us an opportunity to ask questions and to further understand the personal consequences of being wrongly convicted as well as the significance of AIDWYC's important work.

For me, AIDWYC represents the truest essence of volunteering; lending a hand to those who have nowhere else to turn. From the moment I began volunteering with AIDWYC I felt welcome and a part of something great. I have had the privilege of getting to know some outstanding people, such as Win Wahrer and teacher Jim Bell whose commitment and passion for this organization has been nothing short of inspirational. I am excited to continue my involvement with such an outstanding organization.

FUNDRAISING, PUBLIC AWARENESS, AND FREEING RAYMOND GRAY

Six weeks before Christmas 2008, a group of University of Ontario Institute of Technology (UOIT) students were asked if they would be willing to raise funds to help exonerate Raymond Gray, a man convicted of felony murder in 1973 based on the very questionable testimony of two eyewitnesses. This was a case recently endorsed by AIDWYC's Board of Directors. Yet, like most cases, investigative work had, and still needs, to be done to gather the fresh evidence needed to exonerate Ray. Money had to be raised to pay for private investigators to interview Ray and begin work.

The answer came from the client himself. Ray is a gifted artist whose work hangs in almost every prison visiting room in Michigan. His art graces the offices of several Michigan state officials. Ray was asked to paint a few pieces that conveyed the spirit of Christmas, Hanukah, and the holiday season in general so greeting cards could be created and sold to raise money to help with investigative costs associated with his case. He agreed, and although they had only about three weeks before Christmas to sell the cards, the UOIT students raised almost \$600.

Leading up to Christmas 2009, student representatives from six universities met at the AID-

WYC office to launch what is now known as the Free Ray Gray Greeting Card Fundraiser. With a little more planning and lessons learned from the previous year, students used a variety of strategies to sell the cards. Tables were set up in the hallways of most universities, and students sold cards to their professors, neighbours, friends, family, coworkers, and strangers. They told Ray's story and in doing so raised \$1600 to help free him.

The significance of student fundraising is vast. Far beyond raising much needed money, fundraising initiatives like the University of Ottawa's Band-AIDWYC Concert and the Free Ray Gray Greeting Card Fundraiser raise public awareness about wrongful conviction and miscarriages of justice. Imagine the conversations that these students have with their friends, family, and fellow students about wrongful conviction and AIDWYC's work when asking them to buy tickets or greeting cards. Students educate thousands of people about wrongful conviction while fundraising and they garner public support for policy that will help rectify and prevent wrongful convictions too.

Many of the students involved in AIDWYC fundraisers are criminology or law students – our future criminal justice professionals. Student involvement in fundraising initiatives for AIDWYC, coupled with the stories about wrongful convictions that motivated their involvement in the first place, are likely to instil a particular sensitivity to the factors and circumstances that contribute to wrongful conviction. Therefore, just as student fundraising initiatives create public awareness about wrongful conviction and garner support for criminal justice reform, so too do they generate discourse about the frailties of the criminal justice system amongst future criminal justice professionals.

Participating universities in the Free Ray Gray Greeting Card Fundraiser include.

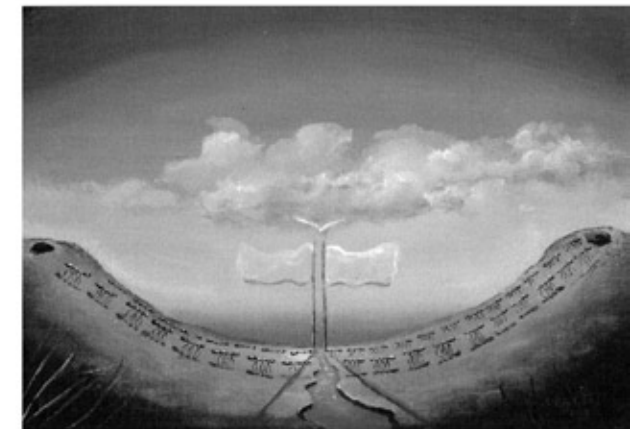
- Ryerson University
- University of Guelph at Humber
- York University
- University of Toronto
- Michigan State University College of Law
- University of Ontario Institute of Technology

Robert Rudd generously created the Free Ray Gray greeting card website and Rob Pellegrino from the Artist Den at Durham College printed the cards at a significantly reduced rate, ensuring even more of the proceeds went to the cause.

On June 15, 2010, members of the International Review Committee will testify at a public hearing in Michigan in an attempt to have Ray Gray's natural life sentence commuted to time served. The Free Ray Gray Fund has made this and ongoing efforts to exonerate Ray possible.

In a letter of thanks from Ray to the students, he wrote: "I cannot tell you how grateful I am for your support. Knowing we have never met, and that you help because you believe in my innocence is very inspiring. You lift my heart with your generosity of spirit.... The world needs more of you to lead the way. Thank you so very much."

If you are interested in assisting with the 2010 Free Ray Gray Greeting Card Fundraiser, want to be notified when the greeting cards will be available for purchase or if you have a business or practice and would like to order holiday greeting cards to send to your clients this coming holiday season, please contact Win Wahrer at AIDWYC. A sample of last year's greeting cards may be viewed at the following link: www.freeraygray.com.



PAINTINGS BY RAYMOND GRAY

EXPERT'S CORNER

THE LINEUP REFORM MOVEMENT

BY ANDREW M. SMITH & BRIAN L. CUTLER
 FACULTY OF CRIMINOLOGY, JUSTICE & POLICY STUDIES
 UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY



ANDREW M. SMITH

BRIAN L. CUTLER

Eyewitnesses often play critical roles in the investigation and adjudication of criminal cases; however, high-profile exonerations and scientific research have demonstrated the pitfalls of eyewitness identifications. Mistaken eyewitness identifications are the most prevalent of all phenomena associated with wrongful convictions. For example, in 2009, the U.S.-based Innocence Project released a report in which they analyzed the factors associated with wrongful conviction in their first 239 exonerations. Of the first 239 wrongful convictions identified by the Innocence Project, 179, more than 70%, included mistaken eyewitness identifications.

The role of mistaken identification in wrongful conviction is not unique to the U.S. Mistaken identification contributed to wrongful convictions

in the following Canadian exoneration cases of Donald Marshall, Thomas Sophonow, Anthony Hanemaayer, and Robert Baltovich. Although the identification and correction of wrongful convictions has been growing in rampant proportions in the last 20 years (since the development of polymerase chain-reaction DNA testing), eyewitness science has existed for over a century. Hugo Munsterberg, a Harvard psychology professor, authored a collection of essays in 1908 entitled 'On the Witness Stand'. Alongside several essays on phenomena today known with certainty to be associated with wrongful convictions was an essay dedicated to 'The Memory of the Witness'.

Munsterberg, through his experience as a witness in a criminal trial, recognized the malleability of his own memory. He had stated several facts on the witness stand, which he found out within days, were all false (Munsterberg, 1908). It was to this avail that he had a revelation.

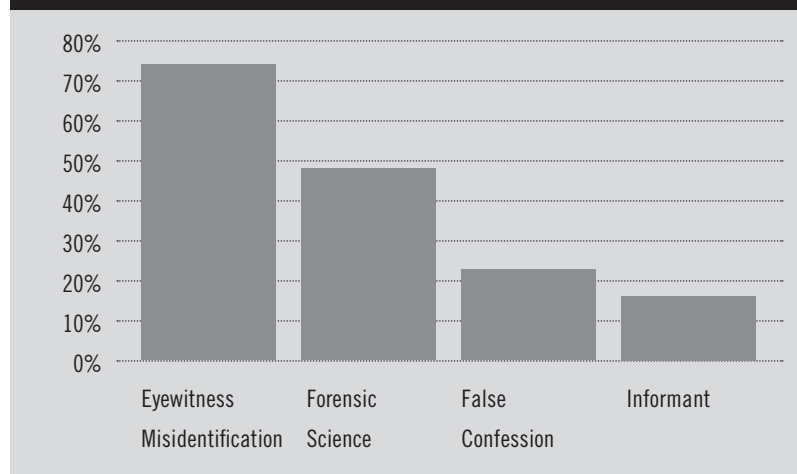
"The public in the main suspects that the witness lies, while taking for granted that if he is normal and conscious of responsibility he may

forget a thing, but it would not believe that he could remember the wrong thing...All this is a possible illusion against which modern psychology must seriously protest. Justice would less often miscarry if all who are to weigh the evidence were more conscious of the treachery of human memory" (Munsterberg, 1908).

To date, hundreds of published research articles and books have been dedicated to the science of eyewitness misidentification. It has been well established by the researchers in this field that the human brain does not record memories like a video player and store them as complete and accurate reproductions for retrieval at a later date. Rather, the science has confirmed that individuals are prone to memory error at the acquisition, encoding and retrieval stages of memory. Simply put, there is reason to be skeptical of the memories of eyewitnesses given the circumstances under which crimes typically occur. Many of the factors that influence eyewitness identification, such as the amount of stress experienced by the witness, "weapon focus," cross-race recognition, and alcohol intoxication, are outside the control of law enforcement, so all we can hope to do is understand how these factors influence memory and take them into account when evaluating the accuracy of eyewitness identifications. By contrast, other factors, such as the manner in which photo arrays are conducted, are under the control of law enforcement, so investigation procedures can be modified in the service of reducing the risk of mistaken identification.

In October of 1999, due to the reoccurring identification of wrongful convictions caused at least in part by mistaken eyewitness identification, the U.S. Department of Justice published *Eyewitness Evidence: A Guide for Law Enforcement*. Subsequently, the Working Group on the Prevention of Miscarriages of Justice Canada,

Eyewitness misidentification as the leading cause of wrongful conviction compared to other causes (based on the first 239 DNA exonerations)



published Report of the Working Group on the Prevention of Miscarriages of Justice. These reports focus on mistaken identification and other causes and articulate “best practices” for identification procedures that are designed to minimize the risk of false identification.

An eyewitness identification test is a forensic test of the hypothesis that the suspect is the perpetrator. A valid identification test is one in which the outcome is unambiguously attributed to the eyewitness’ memory for the perpetrator. An invalid test is one in which the outcome, such as a positive identification, can be attributed to other factors that are not the product of the eyewitness’ memory for the perpetrator. For example, an identification test should be thought of as invalid if the eyewitness, who has a weak memory – or no memory – of the perpetrator, can nevertheless identify the perpetrator by guessing, by deduction (e.g., process of elimination), or through social influence by investigators. A valid identification test rules out guessing, deduction, and investigator influence as explanations for the eyewitness’ positive identification and highlights the role of the eyewitness’ memory for the perpetrator as the most likely explanation for the identification. With this framework in mind, consider the importance of the recommendations put forth in the Report of the Working Group on the Prevention of Miscarriages of Justice.

USE SINGLE SUSPECT PHOTO ARRAYS

Photo arrays should contain only one suspect. Others in the photo array should be “fillers” – people who are not suspects. The use of fillers reduces the risk that the eyewitness can simply guess which photo is that of the suspect. A photo array that contains all suspects and no fillers is like a multiple-choice question with no wrong answer. An eyewitness with no memory for the perpetrator but who is motivated to cooperate with investigators can

easily make a positive identification of a suspect. Fillers provide a legal protection for the suspect, reducing the ability of the eyewitness to make a good guess or deduce the identity of the suspect, and increase the diagnostic value of the identification test. When an eyewitness mistakenly identifies a filler as the perpetrator, there is no consequence to the filler (he is not a suspect), and the results of the test suggest that the suspect, whose photo was also in the photo array, was not the perpetrator. The same rules apply to live line ups.

SELECT FILLERS THAT MATCH THE PERPETRATOR’S DESCRIPTION

When possible, the fillers should be selected for the photo array because they match the description of the perpetrator as given by the eyewitness. Accordingly, when an eyewitness attempts to identify the perpetrator from a photo array, she is likely to recall her description of the perpetrator and use it to look for the perpetrator’s features among the photos in the photo array.

If the suspect’s photo is the only one in the photo array that matches the eyewitness’ description of the perpetrator, the eyewitness can identify the suspect merely by deduction. Indeed, an eyewitness who has a weak memory for the perpetrator but who remembers her description of the perpetrator would be able to identify the suspect. Thus, selecting fillers who match the eyewitness’ description of the perpetrator reduces the likelihood that the eyewitness will be able to identify the suspect by deduction.

The less preferred but commonly used method of composing photo arrays is to select fillers based on their match to the suspect. There are at least three problems with this method. First, there is no guarantee that the fillers will match the eyewitness’ description of the perpetrator, and if they do not, the eyewitness can

identify the suspect from guessing. Second, in cases in which the suspect is not the perpetrator, selecting fillers because they resemble the suspect will likely create a photo array in which the suspect looks more like the perpetrator than any other member of the photo array, thus increasing the likelihood of false identification. Third, without limits on the extent to which fillers should match the suspect, it is possible to create a photo array in which the match between the fillers and suspect is so good that even an eyewitness with a clear memory for the perpetrator cannot pick him out of the photo array. This situation is unlikely to result if fillers are selected based on their match to the perpetrator’s description because descriptions are naturally incomplete. Fillers should match on the characteristics mentioned by the eyewitness but can vary on characteristics not mentioned by the eyewitness, thus creating natural variability among members of the photo array. This variability makes it easier to differentiate among photo array members but difficult to simply deduce which member is the suspect.

INSTRUCT THE EYEWITNESS THAT THE PERPETRATOR MIGHT NOT BE IN THE PHOTO ARRAY.

The investigator conducting the identification test should explicitly state that the perpetrator might not be in the photo array and that the witness should not feel that she must make an identification. Instructions that do not contain this admonition increase the likelihood that the eyewitness with a weak memory for the perpetrator will attempt to guess or deduce which lineup member is the suspect. Thus, when the suspect is not the perpetrator, instructions that encourage guessing or deduction increase the risk of false identification.

PHOTO ARRAYS SHOULD BE PRESENTED SEQUENTIALLY

Considerable research has now shown that

presenting photos one at a time rather than all at once reduces the likelihood that the eyewitness will make a positive identification by guessing or deduction and thereby reduces the risk of false identification. Some have theorized that the simultaneous presentation of photos encourages the eyewitness to make a “relative” judgment –to decide which photo best resembles the perpetrator – and to identify that photo as the perpetrator. When the suspect is not the perpetrator, therefore, the relative judgment strategy induced by simultaneous presentation increases the risk of false identification. By contrast, sequential presentation encourages the eyewitness to make an “absolute” judgment – to compare each photo in the array with her memory for the perpetrator and to only make an identification if there is a match. Sequential presentation makes it difficult to compare photos with one another and to make relative comparisons reducing the likelihood that the eyewitness will attempt to guess or deduce which photo array member is the suspect and thereby reduce the risk of false identification.

THE INVESTIGATOR SHOULD NOT KNOW WHICH PHOTO ARRAY MEMBER IS THE SUSPECT.

The report recommends the use of an independent investigator to conduct the photo array, one who does not know the suspect’s identity. The use of an independent investigator ensures that the officer does not advertently or inadvertently influence the witness’s identification. The situation is analogous to the use of a double-blind clinical trial for a new drug treatment. In a double-blind trial, the physician administering the treatment does not know whether what she is giving a specific patient is the new drug therapy or a placebo. Having the physician blind to the patient’s treatment condition rules out the possibility that any change in the patient’s condition is the result of differential care apart from the

drug treatment – deliberate or otherwise – by the physician. There is a long history of research on investigator’s inadvertent effects on the behavior of those being tested. The use of an independent investigator to conduct the photo array procedure acknowledges these effects and attempts to eliminate them.

The report includes other sensible recommendations by incorporating the scientific research on eyewitness identification and developing a set of best practices from them. Reliable use of these recommendations should decrease the risk of false identification. In addition, the publication of these recommendations should put the onus on the prosecution to explain why procedures used in a given case deviate from these recommendations. Ultimately, the recommendations provide investigators with a useful tool for increasing confidence in eyewitness identifications and criminal defense lawyers with a useful tool for protecting their clients from the consequences of false identification.

To learn more about the science of eyewitness identification, recommended reading includes: the Encyclopedia of Psychology and Law (2008, Sage Publications) edited by Brian Cutler, and the two-volume Handbook of Eyewitness Psychology (2007, Lawrence Erlbaum and Associates), edited by Rod Lindsay of Queens University and his colleagues. Readers can find articles reporting original research about eyewitness identification in the journals Applied Cognitive Psychology, Journal of Experimental Psychology: Applied, Law and Human Behavior, and Psychology, Crime & Law.

ABOUT THE AUTHORS

Brian Cutler earned his doctoral degree at the University of Wisconsin-Madison in 1987 and is currently Professor of Criminology, Justice and Policy Studies at the University of Ontario Institute of Technology. He has previously held

faculty positions at two U.S. universities and has conducted research on eyewitness identification for 25 years. He is currently the editor of Law and Human Behavior, the journal of the American Psychology-Law Society and has authored more than 60 books, book chapters and research articles about eyewitness identification and wrongful conviction. Cutler can be reached at brian.cutler@uoit.ca.

Andrew Smith earned his Honours degree in Criminology and Justice at the University of Ontario Institute of Technology and is currently a master’s student in UOIT’s Criminology degree program. Smith’s master’s thesis examines factors affecting the accuracy of identifications from one-person “show-ups,” and he recently received a grant from the American Psychology-Law Society to conduct research on the post-conviction review process. Smith worked as a case reviewer for AIDWYC for two years. Smith can be reached at andrew.smith@uoit.ca.

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LAWYER'S CORNER PUBLIC DEFENDERS IN ONTARIO

BY HEATHER PRINGLE, L.L.B. AND KATE OJA, L.L.B.

THE CREATION OF THE PUBLIC DEFENDER OFFICE IN ONTARIO

A strong, independent criminal defence bar exists in the province of Ontario, grounded in its separation from the provincial government. Over the past decade, however, that separation has come under periodic attack. More recently, when the inequity between government funding of the prosecution and the defence was repeatedly and publically raised, the government met it with the threat to create a public defenders' office.

In December, 2009, this threat was actualized in the creation of a "Major Case Management Office"¹. In essence, salaried public defenders will soon be paid to try cases, including homicide trials. It is clear the new public defender offence is far from a cost-saving measure. Indeed, the only discernable objectives will be to quell independent dissent, close the gap between defence lawyer and the prosecuting government, and infringe upon an accused person's constitutional right to counsel of choice.

THE CURRENT JUDICARE SYSTEM

Legal representation of the indigent accused in Ontario is based upon the judicare system. In Ontario, a lawyer from the private bar receives a certificate to deliver legal services to an accused who cannot afford a lawyer. As long as that lawyer accepts the discounted rate of a Legal Aid certificate, the accused person has the right to select a lawyer of their choice. The Ontario government does not foist their choice of lawyer upon the accused, and the defence lawyer conducting the trial was not (at least not until recently), a government employee.

Indeed, the latter model was explicitly rejected by the Joint Committee on Legal Aid in 1965. As Professor Trebilcock recently noted:

The Joint Committee rejected a "public defender" model, stating that "[it is] wrong in principle that both prosecutor and defender are employed by the same master". The Joint Committee also concluded that the impersonal nature of the public-defender model and its bureaucratic nature "prevented the public defender from exercising the zeal and vigour which should be characteristic of defence counsel in every case."²

The public defender model was thus rejected due to the concern that its very nature would occasion miscarriages of justice in this province. Sadly, the creation of a public defenders office marks a shift away from that principled position.

PLAGUED BY UNDERFUNDING

Any suggestion that a public defenders' office will save taxpayer money is belied by comparison to both practical experience and academic studies. In the U.S., where public defenders offices can indeed "save money", it is only because the government chronically underfunds them.³ This underfunding has an obvious correlation to the risk of wrongful convictions.

The current judicare system in Ontario is already, as numerous government reports have concluded, seriously underfunded. It is ludicrous to suggest the government will somehow save money by replacing its inadequately-funded Legal Aid system with an inadequate-

ly-funded public defenders' office, the latter which has to be built from the ground up. The simple answer to both financial and constitutional concerns? Adequately fund the system Ontario already has in place.

Indeed, the experience in Ontario with smaller criminal staff law offices is that they are more costly than the current judicare system. A study assessing the cost of three Criminal Law Offices (CLOs) in the jurisdictions of Barrie, Ottawa, and Brampton, concluded that those three staff offices cost the taxpayer up to 85% more than using the services of the private defence bar through the current certificate system.⁴

This is largely due to the fact that the administrative and overhead costs of these Criminal Law Offices are added to the cost of lawyer fees. Unlike the current system, where the private lawyer pays these overhead costs as part of running their office, the CLO office staff is paid by the taxpayer; the CLO office rent is paid by the taxpayer; the CLO office expenses like phones and fax machines is paid by the taxpayer; and so forth.⁵ The Major Case Management Office will be no different.

More problematically from the perspective of an accused person is that public defenders are not just underpaid, they are overworked. As observed by Scheck, Neufeld, and Dwyer in *Actual Innocence*:

The number of capable public defenders is astonishingly high, but so is their burn-out rate. No wonder. Start with the overwhelming caseload. The prosecution is backed

1. Legal Aid Ontario Press Release, December 30, 2009, www.legalaid.on.ca/en/news/newsarchive/0912-30_mcmo.asp

2. Report of the Legal Aid Review, Prof. M. Trebilcock, www.attorneygeneral.jus.gov.on.ca/english/about/pubs/trebilcock/legal_aid_report_2008_EN.pdf

3. See, for example, the 2006 Florida Public Defender Association Position Paper on Conflict and Dependency Representation at page 1; "Citing Workload, Public Lawyers Reject New Cases", *The New York Times*, November 9, 2008

4. Legal Aid Ontario, Evaluation of Criminal Law Offices, Third Year Report, April 7, 2008, online: http://www.legalaid.on.ca/en/publications/downloads/clo_evaluation_08apr.pdf. See also: "Legal aid costs in Brampton, Barrie, Ottawa too high: report," *CBC News*, February 19, 2009, online: <http://www.cbc.ca/canada/toronto/story/2009/02/19/legal-aid.html>

5. *Ibid.*, above.

with far more resources and enjoys a base of public support for its cases. The typical indigent defendant is seen as a pariah and the defense lawyer as close kin. With an infusion of financial support that would put their salaries on a par with local prosecutors, continuing legal education, and a more flexible work plan, cynicism and pessimism could be defeated.⁶

The combination of underfunding and overwork can, and has in some American studies, led to the conclusion that a public defender's job "is seldom geared to securing acquittals for (the client)".⁷ Underfunding combined with the overwhelming caseload of a public defender's office is, simply put, a recipe for wrongful convictions.

ASSEMBLY LINE JUSTICE:

The fastest, easiest way to get through a courtroom docket is, unfortunately, through guilty pleas. Every person charged with a criminal offence is subjected to pressure to plead guilty – facing a trial is a frightening and bewildering experience, and the system in Ontario is geared towards "resolution" of cases. Pleading to a lesser charge and for a lesser penalty than would be imposed after trial can be tempting to even the absolutely innocent: see, for example, the tragic circumstances of R. v. Hanemaayer, where an innocent man pled guilty to a crime committed by notorious serial rapist Paul Bernardo.⁸

There is, coupled with the pressure upon an accused to plead guilty, the added pressure upon counsel to move the docket forward as quickly as possible. Says one former Ontario

duty counsel, with respect to that pressure:

When you work in the same courthouse, with the same judges, clerks and court officers every day, you become a part of the system. When everyone else's priority is to get through the dockets, you feel a certain pressure not to "rock the boat" and to just play along by moving things along quickly. Otherwise, you upset a lot of people you have to work with every day. Also, you're often overwhelmed by the amount of matters you're dealing with, and because your own time is limited you can't possibly give each client the attention their matter needs.⁹

This is perhaps one reason why Canadian studies show public defender offices tend to plead their clients guilty more frequently than the private bar.¹⁰ While independently-retained counsel may be perceived as obstreperous by the courts, they incur no professional risk if, by taking too long to present their case, they displease the court or the prosecutor. Indeed, it is the ethical role of defence counsel, in Ontario, to advance all meritorious defences without any such fear.¹¹

ERADICATING THE RIGHT TO COUNSEL OF CHOICE:

What would be lost, moreover, is the enshrined right that an accused person, in Ontario, has to their counsel of choice. Significantly, and perhaps unsurprisingly, the right to counsel of choice in the U.S. has been interpreted not so much as giving indigent defendants the right to prefer one lawyer over another, but as ensuring that representation is effective.¹² By contrast, courts in Ontario have come to understand the

right to counsel of choice to literally mean the right to choose one's own lawyer. Implementing public defenders in Ontario would interfere with this deeply-enshrined right.

As Justice Dubin noted in R. v. Speid:

The right of an accused to retain counsel of his choice has long been recognized at common law as a fundamental right. It has been carried forth as a singular feature of the Legal Aid Plan in this province and has been inferentially entrenched in the Charter of Rights which guarantees everyone upon arrest or detention the right to retain and instruct counsel without delay.¹³

Our Court of Appeal in Ontario has recognized the right to counsel of choice as foundational to ensuring effective representation. The rationale is that effective representation relies on the strength of the solicitor-client relationship. According to the Court, the level of trust that is essential to that relationship is better achieved when a client can actually choose one's own lawyer:

There should be no room for doubt about counsel's loyalty and dedication to the client's case. It is human nature that the trust and confidence that are essential for the relationship to be effective will be promoted and more readily realized if clients have not only the right to retain counsel but to retain counsel of their choice. [...] The very nature of the right is that the subjective choice of the client must be respected and protected. Absent compelling reasons involving the public interest, the government and the courts need not be involved in decisions

about which counsel clients may choose to act on their behalf.¹⁴
[emphasis added]

Moreover, the right to counsel of choice is important for the repute of the judicial system and the objective appearance of fairness:

Including with this fundamental right to counsel, the additional right to choose one's own counsel enhances the objective perception of fairness because it avoids the spectre of state or court interference in a decision that quite properly should be the personal decision of the individual whose interests are at stake and whose interests the counsel will represent.¹⁵

The strength of the solicitor-client relation-

ship, and therefore the strength of the right to counsel, requires that a lawyer be ultimately, and exclusively, accountable to one person: their client. A system that would force staff lawyers – no matter how efficient – to divide their loyalties between their clients and their employer – would infringe on constitutionally protected rights and diminish the quality of representation provided by counsel to indigent accused.

CONCLUSION

The debate surrounding legal aid delivery models is certainly not new to Ontario. Proponents of a staff lawyer system accuse those wishing to preserve an independent bar of clinging to ideologies, and of refusing to consider the 'reality' of how well public defenders could work.

We are prepared to concede that from the perspective of the government, a public defenders system could indeed make life a lot easier. What the province needs reminding of is that not only are the interests of the accused better served by a truly independent bar, but that the interests of the accused happen to also be the interests of justice. They are therefore the interests of everyone in Ontario. The current judicare system in this province is worth preserving and improving upon precisely because it protects those 'ideologies' - otherwise known as rights and principles embedded in our constitution.

6. Scheck, Barry, Neufeld, Peter, and Dwyer, Jim: Actual Innocence: When Justice Goes Wrong and How to Make it Right. (2001: New American Library), p. 248.

7. Sudnow, David. "Normal Crimes" Sociological Features of the Penal Code in a Public Defender Office", Social Problems, (1965, Vol. 12, No. 3: 255-276

8. R. v. Hanemaayer (2008) ONCA 580 (August 11, 2008)

9. In Ontario, duty counsel currently assist persons with guilty pleas, bail hearings, and remands. This is the system being described by counsel herein.

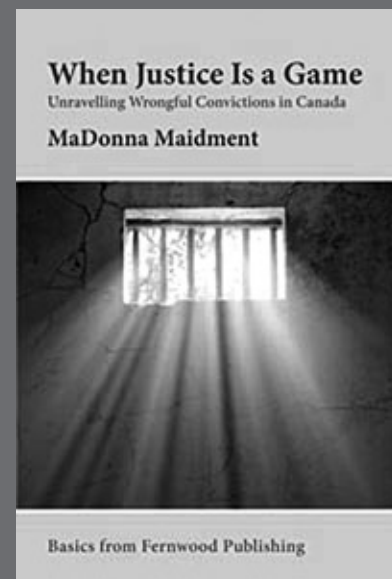
10. Currie, A. Legal Aid Delivery Models in Canada: Past Experience and Future Developments. <http://faculty.law.ubc.ca/ilac/Papers/04%20currie.html>

11. The Law Society of Upper Canada, Rules of Professional Conduct, Commentary to Rule 4.01

12. See Morris v Slappy, 461 U.S. 1 (1983), Strickland v Washington 466 U.S. 668 (1984), U.S. v Gonzales-Lopez, 548 U.S. 140 (2006)

13. R. v. Speid (1983), 8 C.C.C.(3d) 18 (Ont. C.A.) at para. 5

BOOK REVIEW



WHEN JUSTICE IS A GAME: UNRAVELLING WRONGFUL CONVICTIONS IN CANADA; MADONNA MAIDMENT

FERNWOOD PUBLISHING. (HALIFAX AND WINNIPEG)
REVIEW BY HAROLD LEVY

Madonna Maidment has the right credentials for writing about wrongful convictions: she comes from Newfoundland and is an associate professor in the department of Sociology and Anthropology at the University of Guelph.

Coming from Newfoundland gave her exposure to the rank injustices experienced by Ron Dalton, Greg Parsons and Randy Druken.

Being a social scientist gave her a unique perspective on the structural inequalities which, in her view, not only cause wrongful convictions but determine who ends up as the targets.

In a short “acknowledgment” at the beginning of the book, Maidment discloses a personal motivation for helping unravel wrongful convictions in Canada: as a young adult she learned that in 1959, when her father was 16 years old, he was wrongfully convicted of break and enter based exclusively on faulty eye-witness testimony.

“He was found guilty and sentenced to eighteen months imprisonment,” she writes. “Regrettably, he would never live to have his name cleared of this crime.”

One of the most admirable features of this 117-page volume is Maidment’s empathy to the individuals whose lives have been destroyed “by those invested with the absolute power in our

society to determine time and cause of death, rules of evidence, legal representation, length of sentence, intervention of child protection agencies, and initiation of undercover police operations, surveillance and monitoring ordinances, search warrants and so on.”

She bluntly concludes that “there can be no greater power than that held by our legal and medical institutions, who, by their very nature, deal in the business of human lives.”

To single out just a few of the gems to be found within the pages of “When Justice is a Game”, I particularly liked:

- The section on “Noble Cause Corruption”, including a damning list of “numerous examples of corruption by the police, Crown, judge and government” in the Greg Parson’s case;
- The portrayal of the fallibility of forensic science, as demonstrated in the Ron Dalton and Clayton Johnson cases;
- Her analysis of the perverse role played by “adverse moral judgments” in the Charles Smith cases – as well as her fascinating shared profile of many of his victims,
- And, the entire chapter devoted to a dangerous police tool which is still accepted by

the Canadian courts: the Mr. Big Sting;

In his preface to the book, Ron Dalton, who is a member and director of AIDWYC, notes that, “Other countries have established statutory independent commissions with public funding to take on the legitimate and independent task of catching mistakes, adding that, “Canada needs to follow suit.”

I heartily agree with this recommendation which is very much like AIDWYC’s recommendation to the Goudge Inquiry into many of Dr. Charles Smith’s cases.

I also share Mr. Dalton’s applause for, “Professor Maidment’s attempt to shine some light on the many dark corners which contribute to the atmosphere in which wrongful convictions occur.”

Her passion and enthusiasm for the important subject matter of this book serve her very well.

Harold Levy has fought against injustice both as a criminal lawyer and an editorial writer and reporter for the Toronto Star. He was AIDWYC’s first Journal editor, the founder of the Criminal Lawyer’s Association Newsletter and one of the founder’s of the Canadian Lawyer Magazine, as well as having written extensively on the death of Dudley George. Harold believes that exposing miscarriages of justice is a core responsibility of the media and one of the noblest pursuits open to journalists. Harold believes that the Goudge Inquiry was very important, and compensation cannot come soon enough. Check out Harold Levy’s “The Charles Smith Blog” at smithforensic.blogspot.com.

CONGRATULATIONS

JAMES LOCKYER CONGRATULATIONS

Congratulations to James Lockyer upon being bestowed with an Honorary Doctor of Laws Degree by the University of Victoria in British Columbia on November 9, 2009. James was presented with the University of Victoria's highest recognition for his positive contribution to his profession and activism on behalf of the wrongly convicted.

JAMES LOCKYER NATION BUILDER: JUSTICE

On January 1, 2010, The Globe and Mail newspaper awarded AIDWYC founding director James Lockyer Nation Builder 2009 in the area of Justice. In his article acknowledging James Lockyer's significant contribution to furthering the cause of the wrongly convicted, Globe and Mail journalist Kirk Makin wrote: "in a nation that has become known globally for rooting out miscarriages of justice, Mr. Lockyer's dedication, work ethic and dominant role go unquestioned."



JAMES LOCKYER

TRUSCOTT INITIATIVE AT GUELPH UNIVERSITY WILL FOCUS ON CRITICAL ISSUES IN JUSTICE STUDIES

The University of Guelph has launched a new initiative aimed at improving the criminal justice system, by examining its successes and failures through a series of ongoing research projects.

The project will be named in honour of Steven Truscott, who was wrongly convicted in 1959 at the age of 14 of the murder of classmate Lynne Harper. Mr. Truscott was sentenced to hang, although his death sentence was eventually commuted to life in prison. He was released from prison in 1969 and was finally acquitted by the Ontario Court of Appeal in 2007.

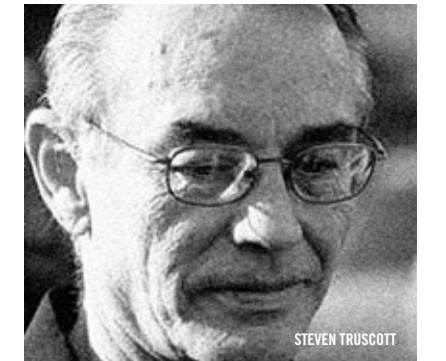
"The Truscott case is symbolic of the failings of the criminal justice system," said Professor Alun Joseph, dean of the College of Social and Applied Human Sciences. "Naming this new program in Steven Truscott's honour is symbolic of this college's commitment to programming and research that engage with fundamental questions in the field of justice studies."

The Truscott Initiative will be an ongoing fundraising effort to support public lectures, scholarships and a new Knowledge Exchange Chair.

Chair holders may include academics, legal practitioners, judges, forensic scientists or community activists who will spend four to six months at the University. The chair holder will lead a research project on a current or emerging issue in justice studies, and collaborate with faculty and students.

The initiative was formally launched with a public panel discussion last November on the causes and effects of wrongful convictions. Members of the panel were Steven and Marlene Truscott, their son Ryan Truscott, Irwin Cotler the former Minister of Justice and Attorney General of Canada; Hersh Wolch, a member of the Truscott team of lawyers, and Mac Steinberg, a former Chaplain who knew Mr. Truscott during his incarceration and has remained a mentor and close friend.

During the panel discussion, Steven and Marlene Truscott took the opportunity not to dwell on their own painful decades-old struggle but instead paid tribute to and thanked a number of people who they acknowledged as strong advocates behind their long journey to justice including Win Wahrer, AIDWYC Director of Cli-



STEVEN TRUSCOTT

ent Services, law teacher George Allain, teachers Mary and Jeff Yanchus, Julien LeBourdais, son of author Isabelle LeBourdais who brought Steven's case back into the public domain in 1966, Paul Steckle, former Liberal MPP, writer Julien Sher, and Liz Sandals, MPP Guelph. The panel discussion was moderated by David Akin, a University of Guelph graduate and national affairs correspondent for Canwest News.

Ryan Truscott explained that the family is honoured to have the Initiative named in honour of Steven. "This will transform the learning experience for thousands of students," he said. "It will also ensure that Guelph's research initiatives in law, justice and public policy make the greatest possible contribution to community well-being by focusing on our criminal justice system – where it succeeds and where it fails – so that new ideas can lead to new improvements."

CONDOLENCES

DONALD MARSHALL JR. GONE TOO SOON TO SOAR WITH THE EAGLES

Donald Marshall Jr. passed away on August 6, 2009 in Sydney, Nova Scotia, after surviving a double lung transplant operation he received in 2003.

Donald Marshall Jr. was a mere 17 years old in 1971 when he was convicted of the murder of classmate Sandy Seale. Roy Ebsary was eventually convicted of the crime. Mr. Marshall, however, endured 11 long, hard years in prison before being acquitted in 1982. His case was the first to undergo a public inquiry, which found that his wrongful conviction was, amongst other things, the result of racism and an incompetent police investigation. Mr. Marshall also was the first recognized wrongly convicted person in Canada and the first to be compensated.

Donald Marshall Jr. was a proud Mi'kmaq who never stopped fighting for the rights of aboriginal people. In 1993, after he was convicted for catching and selling eels out of season and without a licence; he challenged under native treaty rights and won. The Supreme Court of Canada affirmed that Mi'kmaq and Maliseet people had the right to earn a modest living from the land and sea. Mr. Marshall was most proud of this accomplishment, for this time his battle in the courts benefitted his people.

Mr. Marshall has been referred to as a hero, an icon, a man of few words but with quiet determination. To those who were fortunate enough to have known him he was a loyal friend, a man with an incredible sense of humour, shy, unassuming, extremely wise and who deeply cared about all people. As someone once said, he

was an "ordinary guy, to whom something out of the ordinary had happened."

Donald Marshall Jr.'s time on this earth was much too short; we had so much more to learn from him. He had a deep affect on other wrongly convicted persons. They admired his strength and perseverance. Whether he knew it or not, it was because he was able to clear his name that he gave hope to others sitting in cold, lonely cells to continue their fight.

Amongst the dignitaries and police brass, AIDWYC's Director of Client Services, Win Wahrer, and AIDWYC Board member, Ron Dalton and AIDWYC client Gary Comeau representing the wrongly convicted attended Mr. Marshall's wake and funeral. The church where Mr. Marshall's funeral service was conducted could not accommodate all of the mourners who came from throughout Canada and other countries to pay tribute to a man who meant so much to so many people.

Mr. Marshall's casket was carried out of the church by his brothers as a lone voice sang "You're not Heavy, you're my Brother" and "The Long and Winding Road."

As his casket left the St. Anthony Daniel Roman Catholic Church, an honour guard stood with fists raised and someone held a feather in the air. One couldn't help but get the sense that Donald Marshall Jr. was finally truly free and soaring with the eagles. His casket was followed to his resting place next to his father on his beloved Membertou reserve by throngs of people including judges, MPs, MPPs, Nova



Scotia Premier Darrell Dexter, Lt. Gov. Mayann Francis, the RCMP brass and by friend and stranger alike.

The only dignitary to speak at the church service, Assembly of First Nations National Chief Shawn A-in-chut Atleo, said: "I feel so inspired, like so many others, inspired by a man who knew who he was, where he came from and what he believed in."

Since his death, a memorial is being planned to recognize Donald Marshall Jr.'s significance not only to the aboriginal people but to the legal community and to all Canadians.

GREGORY T. EVANS HAIL TO THE CHIEF



GREGORY T. EVANS

Gregory T. Evans, former chief justice of Ontario and AIDWYC's Honorary President, passed away on Sunday, May 23rd at the age of 96 years.

Gregory T. Evans was born in McAdam, New Brunswick on June 13, 1913 and was called to the bar in 1939 after graduating from Osgoode Hall Law School. He began his legal career in Timmins, Ontario where he practised as a defence lawyer for 25 years. While in Timmins he was one of the founding members of O'Gorman High School, something he always remained extremely proud of. In 1953 he was created a Queen's Counsel and in 1965 he was appointed a Justice of the Court of Appeal for Ontario. Judge Evans served as the Chief Justice of the High Court of Ontario from 1976 to 1985. In 1988, he was appointed the first Integrity Commissioner of Ontario a position he held until 1997 and again for a brief time in 2001. In 1999, he was awarded the Order of Ontario and then in 2000 he was made a member of the Order of Canada.

Judge Evans was an appropriate choice to be AIDWYC's honorary president due to his involvement in the first inquiry into a wrongful conviction in Canada. Judge Evans was a commissioner on a three-judge panel that was assembled to look into the wrongful conviction of Donald Marshall Jr. in Nova Scotia. After the Commission concluded their investigation into Marshall's wrongful conviction, Gregory T. Evans con-

ducted an inquiry that led to Donald Marshall Jr. being compensated for his wrongful imprisonment.

Judge Evans worked until he was 92 years old and until his death he possessed a sharp mind and unending love and respect for God, life, family, friends and strangers. He wanted to leave the world having contributed something of significance and meaning and he did that many times over. I am sure it will be said, "well done good and faithful servant" when he meets his final destination.

Gregory T. Evans contribution to the Canadian Criminal Justice System is well documented but to those who had the privilege of calling him friend knew him for his quick wit, story telling, charm, warmth and mischievous nature.

He will be missed but never forgotten by all those that knew and loved him. AIDWYC offers their deepest condolences to his nine children, 21 grandchildren and all who cherished and loved the Chief.

DAVID LOUIS MELVILLE IN MEMORY OF AIDWYC VOLUNTEER

David Louis Melville, a longtime volunteer with AIDWYC, passed away on May 25, 2010 in Vancouver, BC. David served on AIDWYC's International Review Committee (IRC) where he was a welcome presence.

David was born on June 2, 1937. David was a writer, poet, retired Toronto school teacher, Co-founder of the Canadian Alliance of Black Educators, artist, activist, Community Legal Educator and life long learner.

He will most be remembered by those that worked with him on the IRC as a man of infinite wisdom who cared deeply and loved life, learning and contributing to making the world a better place. He was a special man who impacted the life of everyone he met in a positive and lasting way. David was a true gift and a blessing.

Our deepest and heartfelt condolences to his wife Susan, his five children, grandchildren and friends.



DAVID LOUIS MELVILLE

MAURICE CARTER'S INNOCENCE: A TRIBUTE

MAURICE SPENT 29 YEARS IN PRISON FOR A CRIME HE DID NOT COMMIT.

AIDWYC along with other advocacy organizations supported and fought for the release of Maurice Carter who sadly passed away three months after his release. But Maurice has not been forgotten by the countless people who mourn his loss and believed unequivocally and completely in his innocence. "Maurice Carter's Innocence" is dedicated to the memory of a strong, funny, spiritual, compassionate and awe-inspiring man who touched every life he came into contact with in a very special and everlasting way. Join us in celebrating his life, his struggle and his eternity in a better place.



MAURICE CARTER



ADVOCATE DOUG TJAPKES

ARBEZ DRAMA PROJECTS Presents
MAURICE CARTER'S INNOCENCE
Written by Donald Molnar & Alicia Payne
Directed by Tanisha Taitt

A 16-member gospel choir helps tell the true story of Maurice Carter's quest for freedom.

In 1973, an off-duty policeman named Thomas Schadler was shot in the head six times while Christmas shopping with his wife in Benton Harbor, Michigan. He survived and was discharged from hospital after a few days. Nearly two years later, they arrested Maurice Carter, an unemployed bus driver from Gary, Indiana, in town looking for work.

MAURICE CARTER'S INNOCENCE is based on the enduring friendship between Maurice Carter and Doug Tjapkes, a former church organ salesman and radio station owner. They worked tirelessly together for ten years fighting for Maurice's freedom. Maurice is Black. Doug is White. They became brothers.

MAURICE CARTER'S INNOCENCE
Presented by ARBEZ DRAMA PROJECTS
As part of



Toronto's Theatre Festival

Written by Donald Molnar & Alicia Payne
Directed by Tanisha Taitt

TRINITY-ST. PAUL'S CENTRE SANCTUARY
427 Bloor Street West, North East Entrance
July 2nd to July 11th
Monday to Saturday @ 7:45 pm
Sunday matinees @ 2:45 pm
All tickets \$10 at the door,
Or book in advance by calling the Fringe Hotline at 416-966-1062 or going online at www.fringetoronto.com
Fringe Passes are also available after June 5, 2010.

For more information about the play, please visit www.arbezdrama.com

Media Contact:
Arbez Drama Projects representative: arbez-drama@gmail.com, 416-322-0719
Fringe representative fringe@flip-publicity.com, 416-533-7710 x231

CAN YOU HELP AIDWYC?

Steven Truscott, James Driskell, Sherry Sherrett-Robinson, Robert Baltovich, are just some of the many wrongfully convicted men and women whom AIDWYC has helped. We could not do this important work without the support of members, volunteers and donors. Here's how you can help:

ANNUAL MEMBERSHIP

Membership in AIDWYC entitles you to receive all information distributed regarding the organization's regular activities, and any publications, including the AIDWYC Journal. If you would like to receive further journals, please use the form to send us your membership. If you are interested in back issues of the journal, or further information on a case, they are available on AIDWYC's website www.aidwyc.org or by phoning our office at 416-504-7500.

DONATIONS

You can also make donations to support our work, which are essential for us to continue. Currently AIDWYC does not have charitable status, so charitable tax receipts are not available for contributions made to AIDWYC.

VOLUNTEER

We depend on the voluntary services of lawyers and private investigators to assist in the process of determining which cases to adopt or endorse. If you can give us some of your time to investigate or review a case, please contact us.

Please return this form and your cheque payable to AIDWYC at:

AIDWYC
111 Peter Street
Suite 626, Toronto, Ontario
M5V 2H1

Yes, I would like to become a member of AIDWYC. Enclosed is my cheque for \$50. There is a sliding scale if you are under-employed or a student. Please pay what you can, and mark 'sliding scale' on the form (minimum \$10).

Yes, I would also like to make a donation to AIDWYC. Enclosed is my cheque in the amount of:

\$25. _____, \$50. _____, \$100. _____ Other \$ _____

Mail to the AIDWYC address.

In Kind donation _____

Name: _____

Organization (if any): _____

Address: _____

City: _____ Province/State: _____

Postal/Zip Code: _____

Country: _____

Telephone: _____

Fax: _____

Email: _____

CAN AIDWYC HELP YOU?

If you, or someone you know, has been wrongly convicted and think that AIDWYC can be of help, there are a number of steps to follow. Please keep in mind the following criteria before contacting us:

We can only review cases of conviction on serious offences (almost exclusively murder), where you do not have the financial resources to hire competent defence counsel. With our limited resources, we have to prioritize.

The evidence in the case must be consistent with factual innocence.

You must already have been tried and convicted and largely exhausted your possibilities for appeal.

STEP ONE

If you meet all three criteria, send the Director of Client Services, Win Wahrer, a brief outline of the facts of the case and its current status. Please include your name and address, plus the name, address, telephone number and email (if available) of a relative or friend whom we may contact on your behalf. We will also need contact information for your current or most recent lawyer.

STEP TWO

Once AIDWYC receives this information, we will send you an application form to complete that will provide us the basic information regarding your case, as well as a release form that authorizes AIDWYC access to any additional information we may need to properly review your case.

STEP THREE

When we have received your completed forms, we will contact you for any specifics required to begin the process of reviewing and assessing the merits of your case, which will be conducted by a volunteer lawyer, paralegal or law students. The volunteer is given a case referral sheet that clearly outlines the steps he/she must follow to ensure that a complete and thorough review of your case is conducted. The Director of Client Services and a Review Committee, which is made up of primarily AIDWYC senior lawyers, oversees all the volunteer's work.

STEP FOUR

Once the review of your case has been completed, the volunteer will submit to the Director of Client Services and the Review Committee

a summary of your case accompanied by his/her recommendations concerning your case. The Review Committee will ultimately determine whether a case fits AIDWYC's criteria and whether to recommend your case for adoption or, for international cases, endorsement by AIDWYC's Board of Directors. For international cases, we offer support in various ways that will be clearly outlined in a response letter to the applicant.

STEP FIVE

AIDWYC's Board of Directors adopts and endorses cases based on full investigation and recommendation of either of the Review Committees. All applicants will be advised of AIDWYC's decision by mail.

STEP SIX

If the case is in Canada, where our lawyers practice, we will then make an application for legal aid to take the case further, contacting appellate courts or the Minister of Justice under section 696.1 (formerly section 690) of the Criminal Code.

Please also be aware that we receive a great number of requests for assistance and that our work is accomplished primarily through skilled volunteers. The review process may take months or even years depending on the length of time it takes in document sourcing, completing the research, and the resources available to do the work involved. While this should not discourage anyone from applying to AIDWYC, it is important to have realistic expectations about our criteria and the amount of time required.

ACKNOWLEDGMENTS & THANK YOUS

AIDWYC is inspired by and grateful to all volunteers in their various roles and capacities who unselfishly give of their time, expertise and dedication to its important work.

We extend our thanks to the following persons who were student placements in 2009 and 2010.

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University of Ottawa (case work)

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Durham College (case work)

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AIDWYC IS DEEPLY GRATEFUL TO THE FOLLOWING PEOPLE AND ORGANIZATIONS THAT HAVE CONTRIBUTED GENEROUSLY TO ITS IMPORTANT WORK IN 2009/2010.

AIDWYC could not continue to carry out its mandate of freeing the innocent without the generous financial support of its funders, donors and members. Nor without the dedication, time and expertise of outstanding volunteers;

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VOLUNTEER APPRECIATION JENNIFER BARRATT



PETER MEIER

AIDWYC promotes itself as a volunteer organisation, and depends on a loyal band of volunteers to carry out its mandate. One such loyal volunteer is Jennifer Barratt. Since 1999 Jennifer has devoted countless hours to AIDWYC's cause. The tasks she has undertaken are numerous and varied, ranging from general office organisation to catering AIDWYC's Annual General Meetings and Board Meetings. She has helped out at benefit concerts and conferences, has transcribed documents and is responsible for answering the first letters received from international applicants. Jennifer's efficiency and organisational skills enable her to work with and instruct other volunteers. Her cheerful willingness to be of assistance to AIDWYC is also demonstrated by undertaking such mundane but vital tasks as picking up conference speakers from the airport. Most importantly, however, Jennifer provides invaluable support for her mother, Win Wahrer in carrying out her duties as AIDWYC's Director of Client Services. On a personal note I can attest to Jennifer's artistic skills – she put together an amazing photo collage, essentially of my entire adult life, as part of the AIDWYC celebration which took place in May 2003.



JENNIFER BARRATT

Thank you to everyone at AIDWYC and all of our friends and supporters who were there for us at a very difficult time in our lives.

Sincere appreciation,
*Steven, Marlene, Lesley, Ryan
and Devon Truscott*



AIDWYC