

2012 CWC EXONERATIONS

JANUARY 11, 2013

It was a fabulous year for the CWC and its clients—beginning with the exoneration of Juan Rivera in Lake County, Illinois, only six days into 2012 and ending with the exoneration of Kristine Bunch in Decatur County, Indiana, eight days before Christmas.

The Rivera exoneration was quickly followed with that of Terrill Swift, in Cook County, on January 17. Then came the exoneration of Michael Winston, also in Cook County, on July 2 and Andre Davis, in Champaign County, on July 6.

Here, in alphabetical order, are accounts of the exoneration:

KRISTINE BUNCH

*Convicted of murder by arson—
but the fire was accidental*



Kristine Bunch, a client of the Center on Wrongful Convictions, languished behind bars for more than 17 years after she was arrested and charged with setting a fire that claimed the life of her three-year-old son, Anthony, on June 30, 1995, in a trailer home they shared in Decatur County, Indiana.

Shortly after the fire, Brian Frank, a state arson investigator, concluded that it had started in two places and that a liquid accelerant, such as kerosene or charcoal lighter fluid, had been used to start it at both locations. Six days later, based largely on Frank's findings, Kristine was charged with arson and felony murder. At her trial, which opened on February 26, 1996, Frank told the jury: "There were two separate fires. One was in the south bedroom, along the south wall. That was caused by the liquid accelerant being present. The second fire originated at the doorway, the area of the doorway of the south bedroom into the living room. And there was a liquid accelerant poured across the floor of the living room that went to the front door of the mobile home."

Frank's testimony regarding the accelerant was corroborated by William Kinard, a forensic analyst with U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF), who testified that he had identified "a heavy petroleum distillate" in flooring samples taken from both the living room where the fire was believed to have started and from the bedroom in which Anthony died. Tom Hulse, an independent arson investigator, testified for the defense that the cause of the fire should have been "classified as undetermined" because there was "a probability" that it had been accidental.

Jurors evidently believed the prosecution witnesses and, on March 4, 1996, found Kristine, then 22 and pregnant, guilty of murder and arson. The following April 1, Decatur County Circuit Court Judge John A. Westhafer sentenced her to concurrent prison terms of 60 years for murder and 50 years for arson.

On June 9, 1998, the Indiana Supreme Court affirmed the murder conviction—citing the presence of a heavy petroleum distillate in several locations—but vacated the arson conviction on double jeopardy grounds.

Kristine's family retained an Indianapolis attorney, Hilary Bowe Ricks, who filed a petition for post-conviction relief with Judge Westhafer in 2006. A few months later, Betsy Marks, a supporter of Kristine's, wrote the Center on Wrongful Convictions requesting assistance. Dan Tran, a CWC volunteer from Suffolk University Law School, read Betsy's letter, saw immediately that Kristine's innocence claim might have merit, and referred the request to CWC staff attorney Jane Raley.

After discussing the case with Hilary Ricks and reading the trial transcript, Jane approached three fire forensic experts—Jamie McAllister, John DeHaan, and John Malooly—who concurred in the view that the arson testimony presented by the prosecution at Kristine's trial in all likelihood had been wrong. Jane and CWC staff counsel Karen Daniel agreed to join Hilary in representing Kristine.

One of the first things they did was subpoena ATF files on the original investigation. In response, the ATF surrendered previously undisclosed documents showing that — contrary to the trial testimony of William Kinard, the ATF analyst—no heavy petroleum distillate had been found in the bedroom.

No HPD, as it was known in ATF shorthand, was found anywhere in the trailer. Kerosene had been found only in the living room, where there was an innocent explanation for its presence: The family had used a kerosene heater in the living room during winter months, and when filling it sometimes spilled kerosene on the floor. The critical sample in Tony's bedroom was completely negative.

Because Kinard's trial testimony that a liquid accelerant had been found in both the bedroom and living room left an inescapable impression that the fire had been set, the ATF documents were highly exculpatory. Yet they had been withheld from Kristine's trial counsel in violation of the U.S. Supreme Court's 1963 decision in *Brady v. Maryland* requiring prosecutors to turn over exculpatory materials to defense lawyers prior to trial.

In 2008, Jane, Karen, and Hilary filed an amended petition for post-conviction relief, appending affidavits from McAllister, DeHaan, Malooly, and Richard Hansen, an electrical engineer, in support of Kristine's claim of innocence. The petition argued that she was entitled to a new trial because developments in fire science since her conviction constituted new evidence of her innocence and because her rights had been violated by the withholding of the ATF documents.

After Judge Westhafer agreed to hold an evidentiary hearing, Ronald S. Safer, managing partner of the Chicago law firm of Schiff Hardin LLP and member of the CWC Advisory Board, joined Kristine's legal team, along with Kelly M. Warner, also of Schiff Hardin.

After the evidentiary hearing in October 2009, Westhafer took the case under advisement for eight months before denying relief on June 8, 2010. "While [Bunch] had new resources available to her at the post-conviction hearing, new experts do not create new evidence," he wrote. "The issues raised and the conclusions reached—while packaged differently—remain basically the same as they were at trial in 1996." He added that he did not believe the ATF documents would have changed the outcome of the trial.

The defense appealed, and Jon Laramore of Faegre Baker Daniels LLP, a leading Indianapolis law firm, joined the legal team. Ron Safer argued the case before a three-member panel of the Court of Appeals of Indiana on July 13, 2011. Eight months later, on March 21, 2012, the court reversed the conviction, holding two-to-one that Kristine was entitled to a new trial both because the evolving fire science met the legal criteria for new evidence and because the undisclosed ATF evidence "directly contradict[ed] Kinard's trial testimony supporting fires originating in two places."

On August 8, 2012, the Indiana Supreme Court unanimously declined to disturb the Court of Appeals decision. Kristine, who had earned undergraduate degrees in English and anthropology from Ball State University in prison, was released on her own recognizance 24 days later — 17 years, one month, and 16 days after her wrongful arrest. She walked out of the Decatur County Jail, where she had been sent to await retrial, and into the arms of her family who had steadfastly supported her throughout her ordeal.

Eight days before Christmas 2012, the prosecution dropped the charges.

ANDRE DAVIS

*Nearly 32 years behind bars
—and innocent*



Andre Davis was exonerated based on DNA test results on July 6, 2012, after nearly 32 behind bars for the rape and murder of a three-year-old girl in Champaign County.

DNA also identified the apparent actual perpetrator of the crime—Maurice Tucker, who had testified against Davis at two trials in the early 1980s. Tucker reportedly is living in the Minneapolis area. As of July 8, it was not known if Champaign County authorities had taken steps to arrest or question him.

At Davis's first trial in 1981, the prosecution sought the death penalty, but jurors did not unanimously agree and he was sentenced to natural life in prison. That conviction was reversed because a bailiff had failed to tell the judge that the jury had requested a transcript during its deliberations. At Davis's 1983 retrial, he again was convicted, but sentenced to 80 years in prison rather than natural life.

Davis, an African American, was the 42nd Illinois defendant exonerated by DNA since the dawning of the DNA forensic age in 1989. There were 64 Illinois exonerations based on evidence other than DNA in that period, bringing the total number to 106. Of those, Davis served the longest—31 years, 10 months, and 29 days, to be precise. He was 19 when arrested and 50 when released.

The crime for which he was wrongfully convicted occurred on August 8, 1980. Shortly after 6:30 p.m., the three-year-old victim, Brianna Stickle, who was white, disappeared from the

front yard of her home at 1110 Eastview Drive in Rantoul, where she lived with her mother and stepfather, Rand Spragg.

Spragg promptly began going house-to house throughout the neighborhood in search of Brianna. He found no trace of her, but there was no answer at one house he visited—the house next door where Maurice Tucker lived with his brother, Lutellis Tucker. Spragg was still searching a few hours later when a neighbor, Donald Douroux, pulled up in a car and stopped in front of the Tucker home. Spragg watched as Douroux briefly entered the Tucker house through the back door and come back out again. Spragg then asked Douroux if he and his wife could search the empty house for Brianna. Douroux agreed and followed the Spraggs inside.

They found nothing initially, but Douroux went back inside to lock the back door. He emerged moments later in what Spragg described as “a semi-hysterical state” and said he had found something. Spragg then went back inside and found Brianna dead on a bed in a utility room covered with bed clothing. On the bedding, Spragg and other witnesses saw several wet stains, some blood and others clear and sticky.

When police arrived, Douroux told them that they should speak to Andre Davis who could be found at 1056 Eastview, which was where Douroux lived. Police found Davis there and immediately placed him under arrest. He was later charged with rape, murder, and aggravated kidnapping.

Maurice Tucker testified at both trials that he had spent the day of the crime drinking with Davis, and that he and Davis parted company sometime between 5:30 and 6 p.m. According to Tucker, Davis was wearing jeans when he left the Tucker house. Tucker later identified a pair of jeans found at the crime scene as belonging to Davis. Davis was wearing red pants when police found him at Douroux’s house.

Douroux testified that Davis had told him that he had killed a white woman which explained why he went to the Tucker house on the night of the crime. Douroux, who grew up with the Tucker brothers in Gary, Indiana, was himself a suspect and hair samples had been taken from him at the time.

The prosecution presented expert testimony that blood and semen had been found on the bedding and that the semen had come from a non-secretor—a man who does not secrete his blood group substances into his other bodily fluids. Davis was a non-secretor, as is about 20 percent of the population.

A physician testified that he examined Davis shortly after the crime and found neither blood nor semen on Davis’s legs or genitals, but claimed to have found fecal matter under the foreskin of his penis. The prosecution argued that the purported fecal matter had been deposited during the rape. The defense challenged the claim that the substance in question was fecal matter; no bacteria consistent with fecal matter grew in a laboratory culture that was taken.

An investigator for the Illinois Department of Law Enforcement (later renamed the Department of State Police) testified that he questioned Davis and that, when asked if he had killed the child, Davis replied, "It's possible." The investigator also testified, however, that Davis repeatedly denied any knowledge of or involvement in the crime. The interrogation was not recorded, and the investigator acknowledged that he might have taken the "it's possible" remark out of context.

Other evidence pointed guilt away from Davis. An eyewitness did not identify Davis as the person leaving the back door of the Tucker house at about 7 p.m. on the night of the crime. Hairs removed from the victim's vaginal and anal area did not match Davis. And, other witnesses, who had been at the Tucker house when Davis left, said that Davis was wearing burgundy pants at the time.

The jury found Davis guilty. The next day, Davis's lawyers filed a motion for a mistrial, alleging that during deliberations the jury had requested a transcript, but that, without telling the judge, the bailiff said one might be available by mid-summer.

The motion was denied, and when the jury could not unanimously agree on the death penalty, Davis was sentenced to life in prison.

In 1982, the Illinois Court of Appeals set aside the conviction and sentence because of the bailiff's failure to notify the judge of the jury's request.

Davis went to trial again and in June 1983, was again convicted of all charges. That conviction was affirmed by the Appellate Court in April 1984.

On February 17, 2004, Davis, represented by Jane Raley, of the Center on Wrongful Convictions, filed a motion for DNA testing of the biological evidence in the case. Two male profiles were identified, neither of which was Davis's, but one of which was Maurice Tucker's. Raley filed a petition in the Champaign County Circuit Court to vacate Davis's conviction based on the DNA test results and new evidence showing that what had been characterized as fecal matter was in fact smegma, a secretion sometimes found under the foreskin of uncircumcised males.

The prosecution contended that the DNA was irrelevant because Maurice Tucker's semen might have been unrelated to the crime. However, forensic scientist Edward T. Blake determined that the semen was mixed in and on top of the victim's blood and, therefore, had to have been deposited at the time of the crime. Nonetheless, Champaign County Circuit Court Judge Charles M. Leonhard denied the petition in February 2011, ruling that the new evidence "did not undermine confidence in the outcome" of the trial.

Raley appealed. The State argued that Davis had failed to pursue his claim of innocence diligently because DNA testing was available as early as 1996 and that the motion to obtain testing had not been filed until 2004. Raley pointed out that Davis had been incarcerated at Tamms Correctional Center, the state's most secure prison, and had no lawyer because he was indigent.

On March 5, 2012, the Illinois Appeals Court overturned the denial of the petition and ordered a new trial based on the DNA test results. On July 6, the prosecution dismissed the charges and Davis was released from Tamms.

JUAN RIVERA

19 years behind bars for a crime it had long been obvious he hadn't committed



Juan Rivera walked out of Stateville Correctional Center on Friday, January 6, 2012, after Lake County State’s Attorney Michael Waller announced that the state would not appeal a unanimous Illinois Appellate Court decision throwing out Rivera’s conviction for the 1992 murder of 11-year-old Holly Staker in Waukegan.

In what the *Chicago Tribune* deemed “a withering condemnation of the Lake County criminal justice system,” the Appellate Court reversed Rivera’s conviction outright on December 9, 2011 and barred a retrial—holding that the evidence, when viewed in the light most favorable to the prosecution, had been insufficient for any “rational trier of fact [to] have found the essential elements of the crime beyond a reasonable doubt.”

Rivera had been convicted of the crime three times, by three juries, even though no physical evidence from the scene—including fingerprints, skin fragments, blood, and hair — linked him to the crime, and even though law enforcement records indicated that he was on electronic monitoring at his home more than two miles from the scene when the crime occurred.

Before his third trial, in 2009, DNA testing positively eliminated him as the source of semen recovered from the victim, whom the prosecution alleged Rivera had raped. All three

convictions rested primarily on two uncorroborated confessions that Rivera made following hours of grueling interrogation by members of the Lake County Major Crimes Task Force.

The crime occurred on August 17, 1992, while the victim was babysitting for two neighbor children in Waukegan. Ten weeks later, as a result of a tip from an informant, investigators began focusing on Rivera, a 19-year-old former special education student, who had been convicted of a burglary—which is why he was on electronic home monitoring. During four days of questioning, Rivera denied knowledge of the crime. But at the end of the fourth day, around midnight, after the interrogation became accusatory, he broke down crying and purportedly nodded when asked if he had raped and killed Holly Staker.

The interrogation continued until 3:00 A.M. when investigators left to type a confession for Rivera to sign. Minutes later, jail personnel saw Rivera beating his head against the wall of his cell. They then took him to a padded cell where, about an hour later, a nurse again found him beating his head against the wall, speaking incoherently, and seemingly unaware of where he was.

A little later, the nurse looked in on him and found him lying on the floor in a fetal position. He had pulled tufts of hair from his scalp, with skin attached, and the nurse concluded that he was suffering a psychotic episode.

Shortly after 8:00 A.M., investigators took the typed confession they had prepared to the padded cell, where Rivera signed it. The document—a narrative account of what the investigators claimed Rivera told them—was so riddled with incorrect and implausible information that Lake County State’s Attorney Michael Waller instructed investigators to resume the interrogation in an effort to clear up the “inconsistencies.”

Despite Rivera’s obvious fragile mental condition, the interrogation resumed at 11:30 A.M. About 90 minutes later, Rivera signed the second confession, which contained a plausible account of the crime.

State’s Attorney Waller promptly called a press conference at which he told reporters that Rivera had been arrested and had made incriminating statements. Reporters quoted investigators as saying that Rivera knew details of the crime that had not been made public. Neither interrogation session was recorded, although recording equipment was available.

Based primarily on the second confession, a jury found Rivera guilty at his first trial in 1993. Prosecutors asked for a death sentence, but the jury rejected it. Judge Christopher C. Starck sentenced Rivera to life in prison without parole. In 1996, the Illinois Appellate Court reversed that conviction based on a series of improper rulings by Starck that had crippled Rivera’s right to defend himself at trial.

Two years later, Rivera again was tried, convicted, and sentenced to life in prison by Starck. That conviction was vacated by Starck himself after the Center on Wrongful Convictions obtained DNA testing evidence that eliminated Rivera as the source of seminal evidence.

Despite the DNA exclusion, Waller chose to retry the case. On May 8, 2009, a third jury found him guilty. Six weeks later, Starck sentenced him to life in prison for the third time.

Rivera was represented at the third trial by a team of lawyers from the Center on Wrongful Convictions and Jenner & Block LLP, including Thomas P. Sullivan, former U.S. Attorney for the Northern District of Illinois.

Over defense objections, Judge Starck allowed the prosecution to advance two dubious explanations for why the DNA exclusion did not prove Rivera's innocence—either the semen sample had been contaminated or the semen recovered from Holly's body was unrelated to the crime.

The first explanation made little sense because the DNA was from sperm cells. The forensic witnesses testified that contamination would have been detected and that only one male DNA profile was present. Although the second explanation was possible, by some stretch of the imagination, there was no evidence that Holly Staker had ever had sexual intercourse before she was raped and murdered. Her male neighbors, relatives, and acquaintances had been tested and DNA results excluded them all.

Also over defense objections, Starck allowed the prosecution to suggest that the electronic home monitoring ankle bracelet Rivera was wearing might have malfunctioned, or that Rivera might somehow have slipped out of it to commit the crime. There was no evidence to support either theory. Rivera's electronic ankle bracelet had functioned properly shortly before and shortly after the crime.

Another factor in Rivera's third conviction was a false claim by the prosecution that his confession contained "things that only the killer would know—and things that were even unknown to the investigators themselves."

On the witness stand, Lucian S. Tessmann, a retired Waukegan Police Sergeant and one of Rivera's principal interrogators, testified that some facts in the confession were not known to him until Rivera revealed them. The defense had evidence proving that every accurate fact in the confession was known to the police—most of the information in fact had been reported by the news media—but Starck refused to let the jury hear that evidence.

Starck also refused to allow the defense to call expert witnesses to explain how interrogation techniques used in the Rivera case have led scores of suspects in other cases to confess to crimes they didn't commit. The thrust of the expert testimony would have been that suspects of below-normal intelligence tend to be susceptible to suggestion and manipulation, deferential to authority, and prone to confabulation—a combination that renders statements they make under stress unreliable.

Another factor in Rivera's conviction was Starck's decision, again over defense objections, to allow the prosecution to present the testimony of three jailhouse informants. One of the informants was Ed Martin, whose tip had made Rivera a suspect in the first place. Initially, Martin had said only that, when he and Rivera were together in the Lake County Jail shortly

after Holly's murder, Rivera had indicated that he had information about the crime and might know who had committed it. On the witness stand, however, Martin claimed—although he had not mentioned it initially—that Rivera had called Holly “a little bitch” and “a tease” and said she deserved “everything she got.”

The testimony of the other informants was not live—both were deceased—but Starck allowed their testimony from prior trials to be read to the jury. Both claimed that Rivera confessed to the murder, but both had incentives to lie. One of them had tried to sell the story to the *Chicago Tribune*. The other had come forward months after Rivera's supposed revelation—and only when facing sentencing in Lake County for a parole violation.

At Rivera's sentencing, Thomas Sullivan proclaimed that Rivera did not have a trial but only “the trappings and semblance” of one. In his 57 years as a prosecutor and a defense lawyer, said Sullivan, “I do not recall a case in which so many rulings, in my opinion, were wrong.”

A ruling favorable to the defense on any one of the evidentiary issues might well have changed the outcome of the trial, in view of the fact that jurors deliberated almost 35 hours and had informed Starck that they were deadlocked at one point before returning the guilty verdict.

Stanford University Law Professor Lawrence C. Marshall, who was co-founder of the Center on Wrongful Convictions in 1999 when he was a professor at Northwestern, was the lead lawyer for the appeal of Rivera's third conviction. Marshall was joined by co-counsel from the Jenner & Block LLP and the Center.

Among the issues raised on appeal were whether the evidence had been sufficient to prove guilt beyond a reasonable doubt, whether Rivera had been denied his right to present a defense when Starck refused to allow the defense to present evidence rebutting the false claim of the police that Rivera knew facts only the perpetrator would have known, and whether Rivera's confessions should have been suppressed on the ground that they were involuntary.

The Appellate Court opinion—written by Justice Susan F. Hutchinson, with Justices John J. Bowman and Robert D. McLaren concurring—chastised the prosecution for advancing “highly improbable” theories that distorted the evidence “to an absurd degree” at the trial. Rivera, Hutchinson wrote, had “suffered the nightmare of wrongful incarceration.” Finding the evidence insufficient as a matter of law, the Appellate Court did not reach other issues raised in the appeal.

The decision barred trying Rivera again. The state could have appealed, although it was unlikely that the Illinois Supreme Court would agree to hear the case. Thus, in all likelihood, the appeal would only have delayed Rivera's release.

The deadline for filing an appeal was 35 days after the Appellate Court decision.

Eleven days short of the deadline—January 11—State’s Attorney Waller announced that he was abandoning the case and within hours Rivera was released from prison.

TERRILL SWIFT

*Half a lifetime behind bars after
a series of coerced false confessions*



On the morning of November 7, 1994, the naked body of Nina Glover was discovered in a dumpster in the Englewood neighborhood of Chicago’s south side. Glover had been brutally raped and murdered, and an autopsy concluded that she had been killed by strangulation. She lived a high-risk lifestyle that included drug use and prostitution. Glover was one of at least three dozen South Side women sexually assaulted and murdered in the 1990s.

No arrests were made in the case for four months. Then, on March 7, 1995, 18-year-old Jerry Fincher walked into a police station and voluntarily came forward with information about Glover’s murder. He was hoping to gain “some consideration” for a friend of his who was in custody. Over the next two days, while in police custody, Fincher gave an evolving series of statements indicating that he participated with others in the abduction, rape and murder of Glover in the basement of the house of Vincent Thames, 18. He also implicated Terrill Swift, 17, Harold Richardson, 16, and Michael Saunders, 15, as well as a teenager known as “Big Shorty,” who was never charged.

Over the next few days—March 9 through 11—Thames, Swift, Richardson, and Saunders were all arrested, and each of them eventually signed a confession that they participated in the rape and murder of Glover around 9 p.m. on November 6, 1994. Although each statement contained factual inconsistencies, each teenager essentially confessed to participating in luring Glover to the basement, taking turns having vaginal sex with her, beating her over the

head with a shovel, strangling her, carrying her dead body one-and-a-half blocks, and dumping the body in a dumpster.

Not a trace of physical evidence that connected any of the five teenagers to the rape and murder was found at any relevant site—not in Thames’s basement, not near the dumpster, and not on any of the boys’ clothing.

More important, a vaginal swab collected during Glover’s autopsy tested positive for semen. At the request of some of the defendants, pre-trial DNA testing was done and that testing excluded all five of the charged teenagers as the source of the semen.

At a pre-trial hearing, Jerry Fincher’s statement was determined to have been coerced and was suppressed as evidence. Charges against him were dismissed, after he had spent three-and-a-half years in custody.

In May 1998, Swift, Richardson, and Saunders all proceeded to separate trials before Judge Thomas Sumner, sitting without a jury. The only significant evidence presented against each defendant was his own confession. During the Swift trial, the Judge Sumner summed up his view of the cases: “Well this case is relatively simple. It’s all confession. Without the confession there is no case. There is no physical evidence that links the defendant to the case. There is no other testimony that links him to the case. It’s the confession. What we have is 22 pages of detail that I either believe the defendant was told to say, or that he said because he was there and he knows and he knew what to say and he told the court reporter what happened. We have a 22-page confession, and that is enough for me. There will be a finding of guilty.

Judge Sumner convicted all three defendants who went to trial. He sentenced Swift to 30 years, Saunders to 40 years, and Richardson to 40 years. After seeing the sentences of the other defendants, Thames pled guilty in exchange for a sentence of 30 years.

On December 3, 2010, Swift and Saunders filed a motion for an order to conduct a more advanced form of DNA testing than was done before trial – STR testing – and to upload the results into the state DNA database to try and identify the person who left the semen in Glover’s body.

The prosecutors initially objected to this request, but agreed to it once Richardson joined in the motion with the other two defendants who had been convicted after trials. On April 22, 2011, a DNA profile that could be loaded into the database was developed from the semen. On May 13, 2011, the Illinois State Police reported a “hit” to an offender in the state DNA database. The offender was Johnny Douglas, by then deceased, who was one of the first people that police interviewed about the Glover murder in 1994.

On November 16, 2011, based on the DNA evidence, Judge Paul Biebel Jr. vacated the convictions of Swift, Saunders, Richardson, and Thames. Judge Biebel quoted a statement by Judge Sumner when he convicted the defendants in 1998: “If there is a DNA match, then we are talking about another case altogether.”

At a brief hearing on January 17, 2012, Cook County prosecutors stated that they would not retry the four men and all charges were dismissed.

MICHAEL WINSTON

*His brother did the crime—
but he did the time*



Michael Winston was exonerated and released on July 2, 2012, after serving more than six years behind bars for a murder that his older brother, Robert Winston, admitted that he, not Michael, had committed.

On February 12, 2005, when Michael was 21 and Robert was 28, they were in a filling station convenience store at 103rd Street and Cottage Grove Avenue in Chicago where they got into an altercation with three members of the a street gang known as the Four Corners Hustlers—Victor Parson, 21, Petre Washington, 27, and Lamont Donegan, 21.

Shots were fired, leaving Parson dead.

The next day, a Chicago police detective received an anonymous telephone tip that the Winston brothers had been involved in the shooting. According to police, Washington and Donegan identified Michael Winston from a photo spread, saying that although they hadn't seen him fire shots, they'd seen him in the store with a pistol. No weapon was recovered, however, and Michael wasn't arrested.

Shortly thereafter, Michael moved to Las Vegas, following up on a job opportunity.

The investigation was dormant until a year later when it was assigned to a police cold case unit and detectives obtained an arrest warrant for Michael. He was returned to Chicago on March 2, 2006, and held without bond, charged with the murder of Parson and the attempted murder of Washington and Donegan.

After waiving his right to a jury, Michael went on trial before Cook County Circuit Court Judge James M. Schreier on February 7, 2007.

Washington testified that the day before the shooting, he and Donegan had encountered Michael in a hallway at an apartment complex. Washington said he said something derogatory to Michael, who pulled out a knife, but walked away. Both Washington and Donegan testified that the following evening they entered the convenience store and saw Michael. Words were exchanged and Washington then punched Michael in the face. Both said that Michael then pulled out a pistol and they turned and ran. They said they hadn't seen the actual shooting.

Testifying on his own behalf, Michael presented a different version of the encounter at the apartment complex. He testified that Donegan had pulled a gun on him, demanding his money. Michael said he then pulled a knife and managed to escape.

The next night, Michael continued, he and Robert and two women friends went to the convenience store where he was approached by Washington, who punched him in the face. As he stumbled backward, he said, Donegan and Parson entered the store. Michael began to reach for his knife, but the three men then fled, with Robert following them. He saw Robert shoot, and then saw Parson lying on the ground holding his abdomen. Then, according to Michael, Robert shot Parson again.

As Michael headed home, Robert caught up with him and warned him not to tell anyone what he'd done. Because Robert was a member of the Gangster Disciples street gang and Michael was in jail with Gangster Disciples, Michael testified that he was fearful for his life.

One of the women who was in the store with the Winston brothers, J'Mas Hall testified that while she was still in the store after the shooting, Robert called on her cell phone and told her to keep quiet. She said she lied to police and said she did not know any of the men involved. Hall also testified that after Michael was arrested, Robert admitted to her and a friend that he had shot Parson.

Several other witnesses also testified that Robert had admitted the crime to them. Among these were Robert and Michael's sister, Patricia Winston; their mother, Raymonde Winston; their 12-year-old nephew, Wacochee Coleman; and Patricia Winston's boyfriend, Carlos Vincent.

Robert Winston was called to testify and denied both that he'd been at the store the night of the shooting and that he'd ever told anyone that he'd done the shooting.

On March 21, 2007, Judge Schreier found Michael guilty of the murder of Parson, but acquitted him of the attempted murders of Washington and Donegan.

On April 27, 2007, a motion for new trial was filed that included a handwritten statement from Robert in which he confessed to shooting Parson. At a hearing on the motion, Robert testified that he wrote the statement, and was willing to come forward at that point because he never thought it possible that his brother would be convicted of this crime. While admitting the shooting, Robert claimed that he'd acted in self-defense. He claimed that Parson had a gun, although no weapon had been recovered. He also admitted that he'd told his mother, sister, and nephew that he was the gunman.

On August 22, 2007, Judge Schreier denied the motion. He said he did not believe that the shooting appeared to have been self-defense and therefore that he did not find Robert to be a credible witness. Schreier sentenced Michael to 40 years in prison.

On July 14, 2009, the Illinois Court of Appeals reversed the conviction and remanded the case to the Cook County Circuit Court, holding that Schreier should have granted Michael's motion for new trial. Normally remanded cases go back to the original trial judge, but Schreier had retired, and the case was assigned to Judge Lawrence E. Flood. By now, Michael was represented by Jeffrey Urdangen, of the Center on Wrongful Convictions.

Michael again waived his right to a jury, and his bench trial opened on June 21, 2012.

The prosecution called Washington, who was brought in from a federal prison where he was serving a 10-year sentence for a federal gun violation. He declined to affirm his prior testimony, and prosecutors then introduced his testimony from the first trial.

Donegan was brought in from an Illinois prison where he was serving a 27-year term for a 2008 murder. He testified at the re-trial that police threatened to charge him with concealment of a homicide unless he identified Michael as the gunman.

Defense testimony was presented from those witnesses to whom Robert Winston had confessed. This time, Robert invoked his privilege against self-incrimination and declined to testify.

On July 2, 2012, Judge Flood announced his verdict of not guilty of murder and other related charges in the indictment. Michael was released from custody later that day.

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