

Wrongfully Convicted

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By Gary Beeman

In 1976, I was indicted, charged and tried in less than three months for a murder I did not commit.

As shocking and traumatizing as the accusation was, hearing the guilty verdict and death sentence was far more so. I had previously thought that only the guilty were convicted, except perhaps in relatively minor cases where the consequences were hardly death by electrocution - then the more "humane" method - or life imprisonment.

The guilty verdict hit me like something I'd never come close to experiencing. It was unreal. Now I think I better understand why deer just don't jump out of the way when a car with headlights is bearing down on them. They are paralyzed with fear. It was like a nightmare in which I couldn't move.

Guilty. Impossible words were said. I wasn't there to see it happen, but my mother collapsed shortly afterward, either in the courthouse or just outside. The guilty verdict meant death.

I had read the statutes and knew that if I was convicted, a death sentence would be mandatory as long as I maintained my innocence. I had refused a plea bargain to a reduced charge of manslaughter prior to trial - I had told the lawyer I would refuse all deals - and I knew I wouldn't compromise the truth here either. Death it was, by electrocution.

During my trial we learned that the actual murderer - who was the state's chief witness and had been an escapee from prison at the time of the murder - had told at least one other person that he had "killed this guy" and was setting me up in a deal to gain his freedom.

The judge, a cynical and extremely biased former prosecutor, ruled that this evidence was irrelevant - I was on trial, not the state's chief witness - so the jury never heard it.

After the state and defense rested, the judge charged the jury. The jury then picked a foreman, ate dinner, "examined" all of the exhibits and convicted me in three hours. The real killer was released the day after my trial despite the fact that the prosecution's witnesses swore this would not be the case.

Today I know that it takes very little to convict, sometimes nothing. But back then I continued to think that my innocence would prevail. There is nothing stronger than the truth.

I thought we had the best criminal justice system in the world. Yes, mistakes were made, but not when someone's very life was at stake. I was white, fairly intelligent and even knew something about the law. They wouldn't - or couldn't - take advantage of me. I was not rich, though. In fact, I was relatively poor. But what did that matter when it came to actual innocence?

As I tragically realized later, not having money, or affluence, had a lot to do with everything, especially in the criminal justice system.

Wrongful convictions occur far more frequently than most of us realize, than most of us can even imagine. There is no doubt in my mind that those Duke lacrosse boys would be in prison right now if their families had not had the means to challenge those allegations.

I have little doubt that the prosecutor would be addressed as Judge Mike Nifong today if the system had brought its awesome power to bear on those who did not have the means to fight back, which is happening very frequently.

The Duke Law School also has a "Wrongful Convictions" class, and there's little doubt in my mind that that class was seeing the earmarks of a wrongful conviction very early on. Nifong made a thoughtless blunder, but he revealed a phenomenon that is commonplace in our country.

There have been 124 exonerations from death row. You would think it would be hard to end up on death row; imagine how hard it would be to get off death row. You practically have to prove you're innocent, and incredibly, sometimes even that is not enough.

When a crime incites the public's passion, it is easy for the public to assume that someone with little status in society is guilty. There is no doubt in my mind that the killing of a police officer sets up circumstances where the possibility of wrongful conviction increases. The public assumes guilt once someone has been charged. Sadly, I catch myself assuming it often enough. The media assume it in a big way and they play up on it. It sells. The police and prosecutors of course know, and too often judges and even defense attorneys assume guilt. It is an interwoven fact of our legal system.

Recently, my next-door neighbor stunned me with a question she blurted out. After having known me for more than two years, and then just learning that I had once been on death row, she said, "But how could you have been on death row and not killed someone?!"

What happened to me was that the police were so intent on convicting me that they used the testimony of a man who turned out to be the real killer. That man was an escaped prisoner, who sold me out in a deal with prosecutors that sent me to death row.

It was only during my second trial that the real killer was arrested again, and bragged to fellow inmates that he had set me up to take the fall for a murder he committed.

Five of those inmates testified in my behalf, and that is the only reason that I am free today - and not among the wrongfully executed.

I made it out because I had the ability to represent myself, and luckily got a judge who cared to look at the facts. As in the case of Roy Brown, recently released from prison here in New York, it was not the system that worked but his own efforts. He solved the murder in his case from jail, and fortunately there was DNA evidence to exonerate him.

With Texas, New York leads the country in the number of wrongful convictions. Most of these came to light years after legal appeals were exhausted. If New York had an active death penalty, some of these men may not be here today.

It boggles my mind that the New York State Senate would vote for a new death penalty bill without enacting the many reforms needed to lessen the possibility of wrongful convictions.

Before that recent vote, Sen. Eric Schneiderman, D-Manhattan, proposed that some changes to protect the innocent be added to the bill. The proposed amendment would have required improved preservation and access to DNA evidence, videotaping of interrogations and revised eyewitness identification procedures. These are the minimal reforms suggested by the Innocence Project to prevent wrongful convictions.

I know that the system can never be fail-proof, but it can be better. Sen. Dale M. Volker, R-Depew, and 36 others voted against these protections, and then for the bill without any changes whatsoever.

There is no place for a death penalty when human beings make mistakes. Life without parole is the worst punishment and allows mistakes to come to light, no matter how long it takes.