

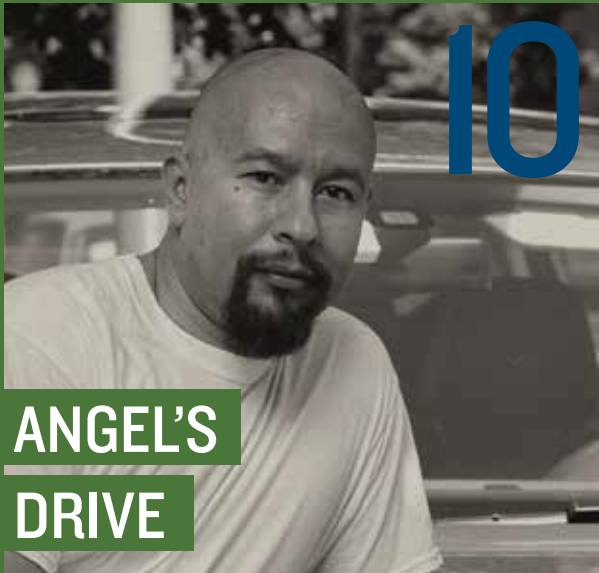
BENJAMIN N. CARDOZO SCHOOL OF LAW, YESHIVA UNIVERSITY
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THE INNOCENCE PROJECT

IN PRINT



INNOCENCE PROJECT



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ON THE COVER:
Angel Gonzalez
captured in a photo in
the summer of 2015
outside of his home
in Chicago, Illinois.

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INNOCENCE PROJECT

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TELLING THE UNTOLD STORIES



Over the years, the *Innocence Project in Print* has told the stories of many courageous individuals who have come out on the other side of wrongful convictions, illustrating the victory as well as the aftermath that can come with life post-exoneration. In this issue of the *Innocence*

Project in Print, we go one step further in exploring the effects of wrongful convictions, this time through the lense of those whose stories sometimes go untold: immigrants, women and innocent people who are not fully exonerated. These individuals brave extraordinary circumstances that extend beyond the already tough obstacles that wrongfully convicted people encounter. Their stories offer new insight into how complex life can become when you're blamed for a crime you didn't commit.

In "Angel's Drive," we have the story of a man whose prospects of becoming a U.S. citizen have been nearly ruined as a result of being wrongfully convicted of rape and his fight to regain legal immigration status. In "High Price of Freedom," we learn how three Innocence Project clients had no choice but to take desperate measures to regain their freedom. And in this issue's "In Their Own Words," we get a glimpse into the experiences of exonerated women—through the research of Dr. Zieva Konvisser—and the ongoing struggles that they face even after being proven innocent.

As you read this season's issue of the *Innocence Project in Print*, you may notice that the publication has a new look. The redesign is part of the Innocence Project's aim to continue strengthening its public education and awareness efforts. To learn more about the Innocence Project clients featured in this issue and other exonerees, please check out our website at innocenceproject.org.

Warm regards,

Maddy deLone

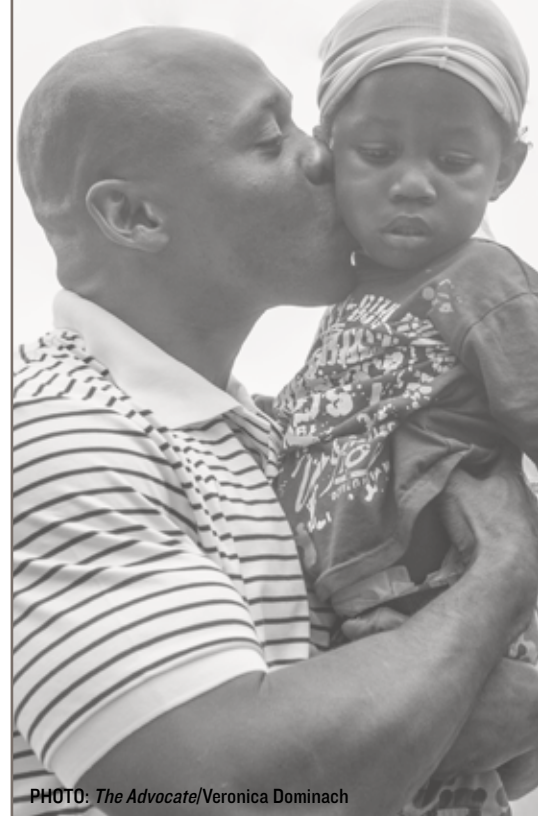


PHOTO: *The Advocate*/Veronica Dominach

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SEVEN REASONS

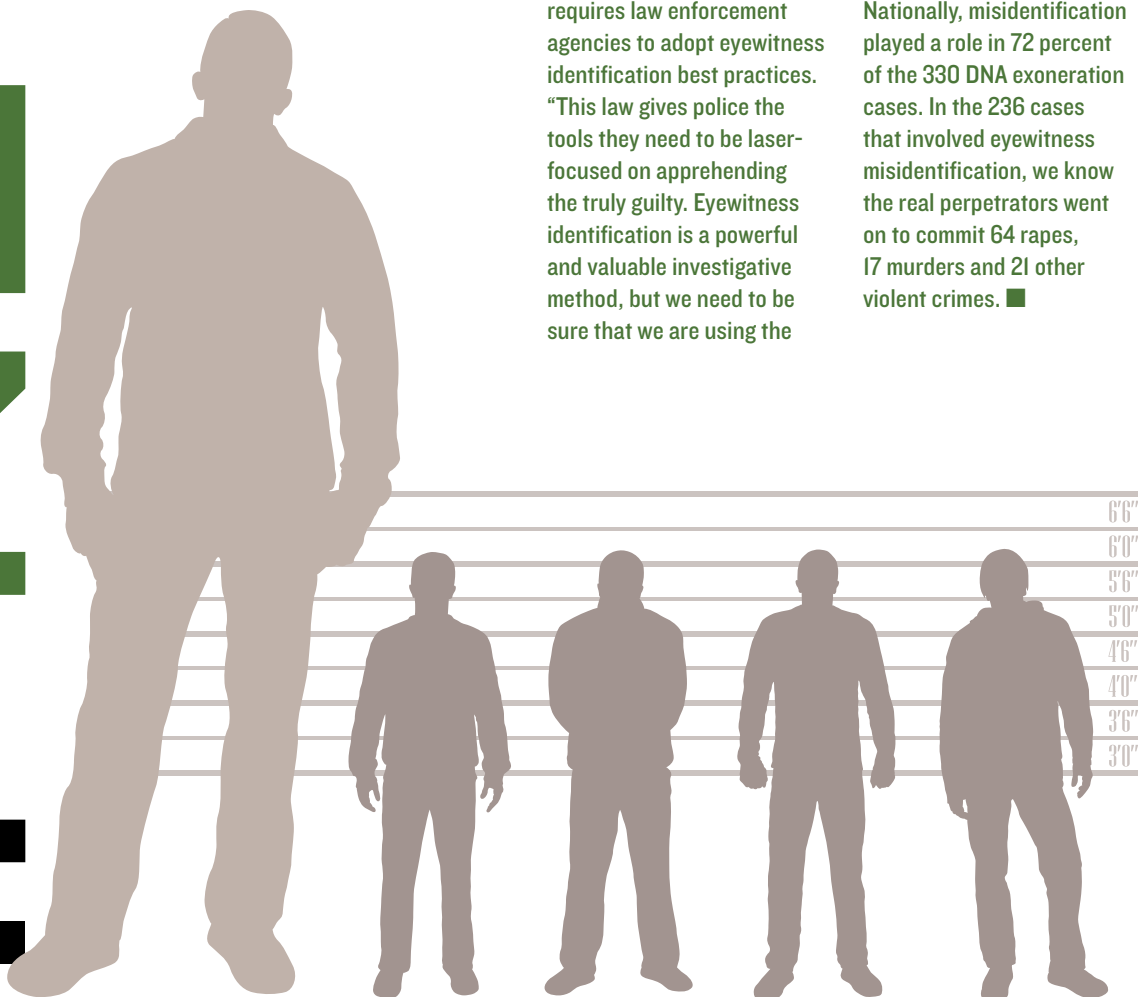
GEORGIA AND COLORADO LAW ENFORCEMENT WILL USE SMARTER EYEWITNESS IDENTIFICATION PRACTICES


In April, Colorado passed legislation that will now require all Colorado law enforcement agencies to implement eyewitness identification policies that have been scientifically proven to reduce the chances of misidentification. "Protecting the innocent is essential to a sound criminal justice system. This bill helps ensure that mistaken identifications do not lead to innocent people going to prison," said Representative Daniel Kagan.

One month later, Georgia also passed a law that requires law enforcement agencies to adopt eyewitness identification best practices. "This law gives police the tools they need to be laser-focused on apprehending the truly guilty. Eyewitness identification is a powerful and valuable investigative method, but we need to be sure that we are using the

most scientifically advanced practices, which this law will ensure," said Frank V. Rotondo, executive director of the Georgia Association of Chiefs of Police.

Colorado and Georgia join 12 other states that have adopted uniform, statewide eyewitness identification procedures that aim to protect against misidentification and wrongful convictions, which result not only in innocent people being imprisoned, but the chilling likelihood of real perpetrators remaining free to commit additional crimes. Nationally, misidentification played a role in 72 percent of the 330 DNA exoneration cases. In the 236 cases that involved eyewitness misidentification, we know the real perpetrators went on to commit 64 rapes, 17 murders and 21 other violent crimes. ■





FBI FINDS ERRORS IN HAIR ANALYSIS IN MAJORITY OF CASES

In April, after an in-depth investigation into criminal cases in which the United States Federal Bureau of Investigation (FBI) conducted microscopic hair analysis of crime scene evidence, the agency concluded that examiners provided erroneous testimony in at least 90 percent of the trial transcripts that have been reviewed so far in an ongoing review, and that 26 out of 28 FBI agents/analysts provided either testimony with erroneous statements or submitted laboratory reports with erroneous statements. The news was released in a joint announcement with the United States Department of Justice (DOJ), the Innocence Project and the National Association of Criminal Defense Lawyers (NACDL).

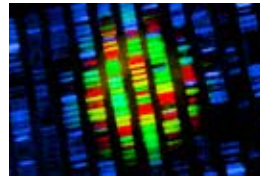
In 2013, the DOJ and the FBI, in collaboration with the Innocence Project and NACDL, announced that they would conduct a comprehensive review of cases in which FBI laboratory reports and testimony included statements that were scientifically invalid. The agencies agreed to undertake the review after three men who had served lengthy prison sentences were exonerated by DNA testing in cases in which three different FBI hair examiners provided testimony which exceeded the limits of science and contributed to their wrongful convictions.

Focused on cases worked prior to 2000, when mitochondrial DNA testing on hair became routine at the FBI, the government identified nearly 3,000 cases in which FBI examiners may have submitted reports or testified in trials using microscopic hair analysis. As of April, the FBI had reviewed over 500 of those cases. The majority of these cases were trials and the transcript of examiner testimony was reviewed. Some of these cases ended in guilty pleas, limiting the review to the original lab report. Out of the 268 cases where examiners provided testimony used to inculcate a defendant at trial, erroneous statements were made in 257 of them—or 96% of the cases.

Advances in science and technology have demonstrated that some forensic sciences previously accepted as valid and reliable were shown through DNA testing to be flawed. While other forensic disciplines have experienced technological advancements, microscopic hair comparison analysis remains largely unchanged in its methodology and has been proven inaccurate and unreliable for positive identification. To date, 74 people have been exonerated by DNA in cases where microscopic hair comparison testimony was a factor. ■



TEXAS, MARYLAND, RHODE ISLAND AND OREGON SIGN MEASURES TO FIX DNA TESTING LAWS



Despite all 50 states having laws mandating access to post-conviction DNA testing, not all of those laws are created equal. Some states place insurmountable hurdles on the men and women seeking access. Fortunately, states all across the country are amending their DNA laws for the better.

In May, Governor Greg Abbott of Texas signed into law legislation that clarifies that courts may grant testing of key evidence that has “a reasonable likelihood of containing biological material”—such as skin, saliva or sweat. The measure clarifies to the Texas Criminal Court of Appeals that the state’s post-conviction DNA testing statute is intended to provide broad access to testing where DNA evidence may be able to prove innocence.

“This is a law and order measure; when an innocent person is behind bars, the real perpetrator can be out harming others. DNA testing has exonerated 52 innocent Texans and real criminals were later identified in 21 of those cases. This law will help identify and address other wrongful convictions,” said Senator Rodney Ellis, a lead sponsor of the bill.

Also in May, Maryland strengthened its previous post-conviction DNA testing statute, which previously provided such testing only to defendants who were wrongfully convicted of murder, manslaughter and sexual assault. Prior to the enactment of this law, only five states—Alabama, Iowa, Kansas, Maryland and Tennessee—had DNA testing laws that were as restrictive.

And in June, Rhode Island removed a requirement that individuals seeking testing be incarcerated, a notable change given that 23 of the 330 DNA exonerations involved people whose testing occurred when they were no longer incarcerated.

Oregon also eliminated its incarceration requirement and adopted a fairer standard for accessing testing. “This legislation vastly improves the existing law, which has only helped one Oregonian access post-conviction DNA testing that we are aware of,” said Aliza Kaplan, co-founder of the Oregon Innocence Project. “The state legislature and governor should be commended for taking this step to better enable the innocent to get the justice they deserve.” ■

EXONERATION

TOTAL YEARS
OF WRONGFUL
IMPRISONMENT
ENDURED BY
ALL 330 DNA-BASED
EXONEREES:

4,510

DONYA DAVIS

In November 2014, Donya Davis was exonerated of an armed rape and robbery that he did not commit. He spent seven years in a Michigan prison for the crime.

In April 2006, a 23-year-old woman was confronted by a man outside of her Detroit home. He held her at gunpoint, robbed her and then raped her inside her home. Several days later, Davis was implicated in the crime and the victim misidentified Davis in a lineup. Davis was excluded from DNA tests collected from the victim's skin, while results from the rape kit showed that no sperm was present.

In 2007, a judge convicted Davis of rape, armed robbery, carjacking and use of a firearm by a convicted felon based on the victim's identification. Davis was sentenced to 22 years in prison.

In March 2013, the Western Michigan University Thomas M. Cooley Law School Innocence Project filed a petition on behalf of Davis for DNA testing. The motion was granted and new testing identified sperm from the rape kit. Davis was excluded as the contributor of the male DNA. In light of the new evidence, Davis was granted a new trial. He was released on June 20, 2014, and on November 6, 2014, the prosecution dismissed the charges against him. ■



Donya Davis
with his mother
Denise Larry

PHOTO: Western Michigan University Thomas M. Cooley Law School

RICKEY DALE WYATT

In December 2014, a Dallas County judge entered a court order finding Rickey Dale Wyatt innocent of a rape for which he spent nearly 31 years in prison. Wyatt is the 325th person in the United States to be exonerated by DNA evidence.

Wyatt was arrested in January 1981 as a suspect in three different sexual assault cases that happened from November 1980 to January 1981 in a South Dallas neighborhood. Although there are many unanswered questions about the reliability of the identification procedures used, eventually all three victims identified Wyatt as their attacker through a photo array. Despite large inconsistencies between Wyatt and the victim's original description, Wyatt was convicted of one of the rapes and was sentenced to 99 years in prison. He was never tried for the other two crimes.

Working closely with the Dallas District Attorney's Conviction Integrity Unit, the Innocence Project secured Wyatt's release on January 4, 2012 based on DNA evidence and the prosecution's failure to turn over exculpatory evidence. The district attorney's office reinvestigated the case, which included analysis of the DNA. In May 2012, Wyatt's conviction was officially vacated. And finally, in December of last year, the district attorney's office moved to have the court enter an order finding Wyatt actually innocent of the crime, entitling Wyatt to compensation from the state. Wyatt was represented by the Innocence Project and the Innocence Project of Texas. ■



Ricky Dale Wyatt

PHOTO: Ben Torres

JOSEPH SLEDGE

A panel of judges exonerated and released Joseph Sledge in January of this year. Sledge, 70, spent 36 years in prison for a double-murder which DNA evidence proves he did not commit. He is the longest-serving wrongfully convicted person in North Carolina history.

Sledge always denied involvement in the 1976 murders of a 74-year-old woman and her 57-year-old daughter of Elizabethtown, North Carolina. The primary evidence against Sledge was the testimonies of two inmates, who both claimed that Sledge had confessed to them. Sledge was sentenced to two consecutive life terms in prison.

The North Carolina Innocence Inquiry Commission (NCIIC) examined Sledge's case after a 10-year investigation by the Center on Actual Innocence revealed that DNA testing of hairs on one of the victim's bodies could prove his innocence. The reinvestigation found that both informants had been offered benefits in exchange for their testimonies against Sledge.

In December 2014, the NCIIC voted unanimously that there was sufficient evidence to merit judicial review of Sledge's case. He was exonerated the following month. ■



Joseph Sledge

PHOTO: Ethan Hyman/Raleigh News & Observer/MCT

CHRISTOPHER ABERNATHY

Christopher Abernathy served nearly 30 years of a life sentence for a rape and murder that he did not commit. In February 2015, he walked out of prison a free man.

In 1984, a 15-year-old girl's body was found behind a shopping plaza in Park Forest, Illinois. She had been sexually assaulted and murdered. Although no physical evidence linked Abernathy to the crime, he was convicted due to a false confession he gave police and the false testimony of a jail house informant. Since Abernathy was 17 at the time of the crime, and ineligible for the death penalty, he was sentenced to life in prison without parole.

Students at Northwestern University began investigating Abernathy's case 15 years after Abernathy was convicted, and the acquaintance who implicated Abernathy recanted his claim that Abernathy had confessed to the murder. In August 2014, at the urging of the Illinois Innocence Project, the Cook County State's Attorney's Conviction Integrity Unit ordered DNA testing of the related crime scene evidence. Results excluded Abernathy, proving his innocence. ■

ANGEL GONZALEZ

In March 2015, Angel Gonzalez was exonerated after serving over 20 years in prison for a rape that he did not commit.

In 1994, a woman was abducted by two men from her apartment building in Waukegan, Illinois, forced into a car and raped by both men in a backyard several blocks away.

Gonzalez was misidentified by the victim in a highly suggestive identification procedure—called a show-up—and arrested. A Mexican national who had only been in the United States for a short time and spoke very limited English, Gonzalez was never told why he had been arrested. Following a 26-hour interrogation, Gonzalez was misled by police into signing a false confession. Gonzalez was convicted based on the victim's identification and his own signed confession. He was sentenced to 40 years in prison.

In August 2012, the Innocence Project opened Gonzalez's case to conduct additional DNA testing and enlisted the help of the Illinois Innocence Project as local counsel. Testing revealed two distinct male DNA profiles, both of which excluded Gonzalez.

On March 10, 2015, Gonzalez's conviction was vacated. He received his certificate of innocence from the state of Illinois in June 2015. ■



Q & A IN THEIR OWN WORDS

Photo courtesy of Dr. Konvisser

Dr. Zieva Dauber Konvisser is a Michigan-based researcher, author and lecturer who has done prolific research into what she describes as the human impact of traumatic events. Specifically, she examines what is called posttraumatic growth, the theory that alongside the struggle of living through a devastating event, people's lives can improve. Much of Dr. Konvisser's studies focus on survivors of the Holocaust, terrorist attacks and genocide, but more recently, she has expanded her research to encompass women who have lived through being convicted and exonerated of crimes they didn't commit. This past April, at the 2015 Innocence Network Conference, she presented some of her findings at a session entitled, "What Happened to Me Could Happen to You," and she facilitated a panel at which exonerated women spoke about the unique needs that they have both during their wrongful imprisonments and post-release.

A Fellow of the Institute for Social Innovation at Fielding Graduate University and an Adjunct Assistant Professor of Criminal Justice at Wayne State University, Dr. Konvisser is releasing a paper later this fall that presents comprehensive interviews with 21 exonerated women from around the United States. This is one of the first research projects to focus specifically on exonerated women. For this edition of "In Their Own Words," the *Innocence Project in Print* spoke with Dr. Konvisser about her findings.

Q How were you introduced to the innocence movement?

A I attended my first Innocence Network Conference in 2008. Marvin Zalman (professor at Wayne State University and criminal justice expert) invited me to attend because he was familiar with my work and he saw that exonerates were facing issues similar to other survivors of trauma. He was interested in having me investigate the possibility of post-traumatic growth alongside post-traumatic distress/trauma with people who had been wrongfully convicted.

Q Your research is the first to focus specifically on female exonerees. What motivated you to do this work?

A In 2010, I attended the Woman and Innocence Conference, which was the first organized conference for exonerated women. At that time, the innocence movement was focused on men; it was focused on DNA. At the conference, I met Julie Rae and some of the other exonerated women. The project took off from there. I wanted to give these women a voice.

Q Your work entails researching how some people experience posttraumatic growth, the ability to leverage difficult experiences in ways that make them stronger and better people. What are the qualities that enable someone to grow stronger out of trauma? Can you explain how this theory applies to wrongfully convicted women?

The people who grow have core beliefs. They're resilient; people who can bounce back and move forward.

“These are remarkable people. They’ve all done something with their lives. As one woman told me, ‘I’ve been through the darkest and made it out.’”

Not to belittle the posttraumatic stress disorder, the financial implication or the depression that can come with wrongful convictions; those consequences are very real. But, there is also the possibility to move forward. I entitled my paper the *Psychological Consequences of Wrongful Convictions in Women and the Possibility of Positive Change* because I want to bring awareness to the strength of the exonerees.

Some of the women I spoke with come from dysfunctional backgrounds. There may have been pieces of core values, but through the struggle [of being wrongfully convicted] they changed. They found something through the experience. Some found God. Some found meaning and purpose in their lives that they weren’t aware of before.

These are remarkable people. They’ve all done something with their lives. As one woman told me, “I’ve been through the darkest and made it out.” Now they talk about the need to fix the system, when it comes to police, prosecutors, DAs and judges. They are pushing for change in those areas.

Q How did the women maintain relationships with family, specifically their children? And after exoneration, did they re-establish or find new meaningful relationships?

A One of the women I interviewed said to me, “When you go to a male prison, you see family. You see children with their mothers. When you go to a woman’s prison, you don’t see any children. And [that’s because] the system doesn’t do anything to maintain relationships between mothers and their children.”

Most of the women I spoke with didn’t lose their kids fully, but there are cases when the children were fostered out. For the women to reconnect with their children in those cases depends on what the children heard about their mothers while growing up; how long the women were incarcerated and how they were portrayed in the media. But nothing is like it was before with their children. It’s all about rebuilding the relationships.

Upon exoneration, the women date and have relationships with varying degrees of success. Some are concerned about what potential partners may think of them. In today’s world of Google, nothing is secret. But some have found partners who are special. These partners get it. They know—they understand—the real person.

For the women, life after exoneration is about relationships. The Innocence Network conferences are so important to exonerees for that reason. To see the change in an exoneree after they meet other exonerees—the change is palpable. . . .The difference between the first day of the conference and the last day—it’s like a burden has been lifted from their shoulders. For the women to have an opportunity to talk to one another and to other exonerees—it’s important.

Q What do your findings show about life post-exoneration for women?

A Many of the women have become strong advocates for changing the system through education and awareness efforts. But, they’re doing it out of true passion and commitment, not because they get paid for it.

They have a difficult time finding jobs and they get paid very little. Only a few of them have gotten compensation. They have a very difficult time getting their needs met. Some of them are still having a hard time getting health insurance.

Q What is the most surprising thing you’ve learned through your research?

A I can’t say that there’s something surprising. I can say that through this work I have a remarkable admiration for the strength and perseverance of these women and of their passion and commitment to help others. The interviews show strength and wisdom alongside torture. These women have truly been through hell. ■



ANGEL'S

DRIVE



ANGEL GONZALEZ was exonerated in 2015 after he spent 20 years in an Illinois prison for a rape he didn't commit. He was convicted based on eyewitness misidentification. Photo: Zoran Orlic

For most of Angel Gonzalez's life, he's loved cars.


"I learned to drive in Mexico when I was 13," says Angel.

"It was awesome, to drive around, to go anywhere. It made me more responsible," he says.

It's ironic, then, that on the mid-summer afternoon that Angel speaks with the *Innocence Project in Print*, he's traveling down what sounds like a high-traffic parkway—on foot.

"I can't drive right now," explains Angel. "It's very frustrating. When I get frustrated," he says, "I walk around."





ANGEL, a Mexican national, has been waiting six months to get an Illinois driver's license because of his complicated immigration status. Almost 25 years ago, Angel was on a trajectory towards American citizenship with all its privileges when he was wrongfully convicted for a rape and kidnapping, and his family-based immigrant visa expired while he was in prison. Earlier this year, Angel was exonerated after the Innocence Project and the Illinois Innocence Project secured DNA testing that proved his innocence. But Angel's visa was not reinstated.

Now he is forced to deal with the aftermath.

A time that should be defined by Angel reclaiming his life—the one he envisioned as a young man new to the United States—has morphed into a vexing bureaucratic ordeal that will determine whether Angel is able to remain in the United States legally with the rest of his family.

In the meantime, Angel cannot move on with his life.

“Angel's situation is justice compounded,” says Vanessa Potkin, senior staff attorney at the Innocence Project and one of Angel's lawyers. “If not for being wrongfully convicted by the state, there's no doubt that Angel would be a naturalized citizen in this country,” says Potkin. “While his wrongful conviction has been addressed—his conviction has been vacated and the state issued him a certificate of innocence—the collateral damage of his wrongful conviction persists.”

In the early 1990s, Angel left the small state of Guanajuato—three hours northwest of Mexico City—where he was raised, and immigrated to the United States with his mother, his brother and his two sisters. His path had been caringly paved by his father, Angel Gonzalez, Sr., who had moved to the United States several years earlier and laid the groundwork so that, collectively, the family could take root and flourish in its new home.

By 1994, Angel had settled with his family in the town of Waukegan, a suburb about 40 minutes north of Chicago. His vision for his life in the United States was beginning to take shape.

He had lived in the United States for a year and a half. Within that time he built a social network of friends. And he had a girlfriend, Karina, whom he loved. They planned to marry and start their own family.

For work, Angel wanted to pick up a trade. He liked working with his hands. Cars were one of his main interests.

“My dream always had been to be an auto mechanic,” he says. “I always liked to work with cars. I used to help my friends with theirs. I did basic things—tune-ups and things. And had plans to learn more.”

And because of the application that his father was putting into motion, Angel knew he would, eventually, become an American citizen.

But one early morning in July of that year, Angel's vision was derailed.

At around 1:00 a.m. on July 11, 1994, Angel was driving his car, a 1979 Cadillac. He had just dropped off Karina at her house. They'd had a mellow night out at her sister Myrna's apartment and he was en route home when police pulled him over. Right away, it was clear that this was not going to be a routine traffic stop.

A Lake County police officer approached the driver's side of Angel's car; his gun was drawn and he was shining a spotlight into Angel's car.

The officer told Angel that his car matched the description of a sedan that had been used in a crime earlier in the evening. A 35-year-old woman, who lived only a few doors down from Karina's sister, had been violently assaulted. Two men had entered the building, forced her into their car, and drove her to a nearby backyard where they both raped her and left her to find her way home naked.

The victim reported that the perpetrators were two Hispanic men in their mid-twenties. They drove a four-door, dark-colored sedan with tinted windows and a red velour interior.

The victim's boyfriend, who had been at her apartment speaking with police several hours after the crime, saw Angel's car leaving the parking lot of the apartment building and told police that he thought that it looked unfamiliar. The police wrote down the license plate number and used it to track down Angel in his car.

“While [Angel’s] wrongful conviction has been addressed—his conviction has been vacated and the state issued him a certificate of innocence—the collateral damage of his wrongful conviction persists,” says Vanessa Potkin, Angel’s attorney at the Innocence Project.

Angel explained to the officer that he’d been with Karina and her sister for the entirety of the evening, but the lieutenant showed little interest in Angel’s alibi.

Angel was instructed to get out of his car. He was placed in handcuffs and made to stand in front of the headlights of the patrol car where the victim was seated. She identified Angel as one of the assailants. He was arrested and taken to the station.

Police put Angel in a holding cell, where he waited for more than nine hours, barefoot and stripped of his clothes. He was given a paper jumpsuit to wear. He was confused and frightened, especially given that his knowledge of English was limited.

Two detectives interrogated Angel for several hours, first in English and then in Spanish. The entire time, Angel maintained his innocence. Again, he detailed his evening with Karina and Myrna, but the detectives failed to meaningfully investigate his whereabouts that evening and neglected to prepare a report summarizing Angel’s alibi.

As would later come out in trial, the detectives had already made up their minds regarding Angel’s guilt. There was nothing—no witnesses, no alibi—that was going to convince them that Angel was not guilty.





Angel Gonzalez, right, when he was a teenager in Guanajuato, a small state in Mexico located three hours northwest of Mexico City.

In fact, after hours of interrogation, the detectives lied to Angel and said they had evidence that his alibi was untrue. According to the police, this was a “turning point” in the interrogation. They told Angel to write out a statement, which he did in Spanish. When the officers saw that the statement didn’t correlate with the details of the crime, they typed out a statement in English for him to sign. The statement said that Angel confessed to the crime.

According to Potkin, “Officers jumped to the conclusion that Mr. Gonzalez was the perpetrator based entirely on the victim’s vague description of the car used in her attack. It was a tremendous stretch to think that someone who had just committed such a brutal crime would return to the scene just hours after it occurred.”

At trial, Angel maintained his innocence. The defense presented four witnesses who confirmed his alibi, but the victim again identified Angel as her assailant although there were clear discrepancies between her physical description of the men who attacked her and Angel. Angel was convicted of sexual assault and aggravated kidnapping. He was sentenced to 40 years in prison.

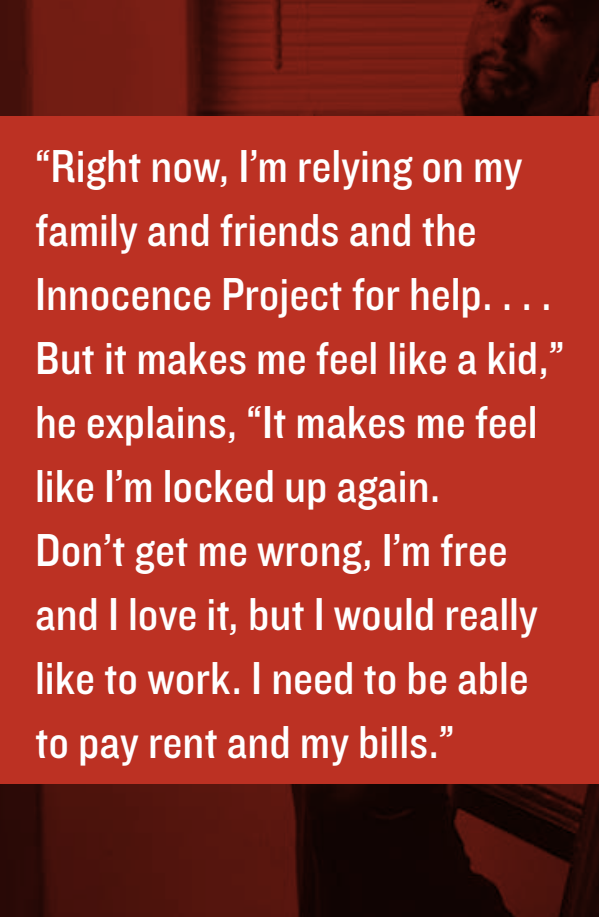
Over the course of the next 20 years, life carried on, at least for everyone that Angel knew and loved.

Karina met another man; they had children together. His sisters also married and had children.

All of his siblings pursued careers. His brother became a truck driver; one of his sisters went to work at the naval base in North Chicago. Perhaps the most significant event, which truly separated Angel from the rest of his family, was that they all became naturalized citizens.

While in prison, Angel earned his GED, learned how to speak and write English, obtained an associate’s degree, and became a self-taught artist, but it was unclear how Angel would ever have the chance to put any of those skills to use.

In 2002, Angel was granted post-conviction DNA testing, but the results weren’t sufficient to get Angel’s conviction vacated. The test identified one male profile, excluding Angel, but because two men committed the rape, the prosecution reasoned that the DNA in the rape kit was simply that of the other assailant. It was not until 2013 that Angel’s case had a breakthrough. The



“Right now, I’m relying on my family and friends and the Innocence Project for help. . . . But it makes me feel like a kid,” he explains, “It makes me feel like I’m locked up again. Don’t get me wrong, I’m free and I love it, but I would really like to work. I need to be able to pay rent and my bills.”

Innocence Project got a second round of testing. This time the analyst was able to identify two male profiles, neither of them belonging Angel. The evidence proved Angel’s innocence.

Following Angel’s exoneration in March of this year, Angel faced immediate deportation back to Mexico, but the U.S. Immigration and Customs Enforcement canceled the detainer that had been placed on him after his wrongful conviction. Angel was allowed to stay in the country but his status remains in question.

Seven months following his exoneration, Angel now lives in a state of limbo. Daily, he wrestles with the ambiguity of not facing immediate deportation yet not being entitled to the benefits of citizenship.

A few days after Independence Day this year, Angel moved into his very first apartment, located in Chicago. Despite achieving this milestone, a tinge of ambivalence could be heard in his voice as he described his first days in his new home.

“I’d like to buy a bed and some furniture, but I can’t,” he says. “I don’t have credit, and I can’t get credit without a work history.”

The frustration is audible as Angel dissects the layers of his life that are affected by not having legal immigration status.

“I would like to go back to school to get my auto mechanic certificate—get some hands-on experience—that’s one of my dreams,” he says, “but I can’t as long as there’s this immigration problem.”

The Mexican Consulate in Chicago and immigration attorney Mony Ruiz-Velasco are working with Angel to help him pursue some of his more immediate goals as well as his American citizenship. One option may be applying for deferred action, which would provide Angel some protection from deportation and would allow him to legally take on a job, while he awaits news about his status. Bringing home an income would be an important step for Angel.

“Right now, I’m relying on my family and friends and the Innocence Project for help. . . . But it makes me feel like a kid,” he explains, “It makes me feel like I’m locked up again. Don’t get me wrong, I’m free and I love it, but I would really like to work. I need to be able to pay rent and my bills.”

Angel says that he feels the happiest right now when he’s in the presence of his close-knit family and his friends. During one recent weekend, he filled in for the bass player of his brother’s band. They played a local gig. Hoping to play more often, he’s been on the hunt for a bass of his own.

He’s also found joy through volunteering some of his time at a local animal rescue, walking and caring for dogs that need homes. “I love dogs,” he says, “It’s great just to spend time with them.”

In the meantime, Angel continues to take the advice of his family—to stay on his feet, to keep on walking—with the hope that it will relieve his anxiety as he awaits a temporary driver’s license.

“I’d like to be more independent, but I can’t be right now. It’s difficult, but I’m trying to stay positive.” ■

HIGH PRICE

OF

FREEDOM

Many people know about the Innocence Project because they've read about our clients on the pages of major publications or seen their faces on the evening news. Those are the stories of triumph, the cases in which the science of DNA overrides injustice. But there are some stories that don't have the perfect ending. In this issue of the *Innocence Project in Print*, we tell the stories of three of these exonerees—Ricky Lee Nelson, Chris Conover, and Darrel Edwards. And, at last, we laud these men and their resolve to do whatever it took to reclaim their freedom.

For most of this past year, exoneree Ricky Lee Nelson has been renting a room in a group home in Memphis, Tennessee. Having no income, the subsidized home offers a reprieve from Ricky's other option: homelessness. But, Ricky hopes that the situation will be temporary. Living there makes him anxious.

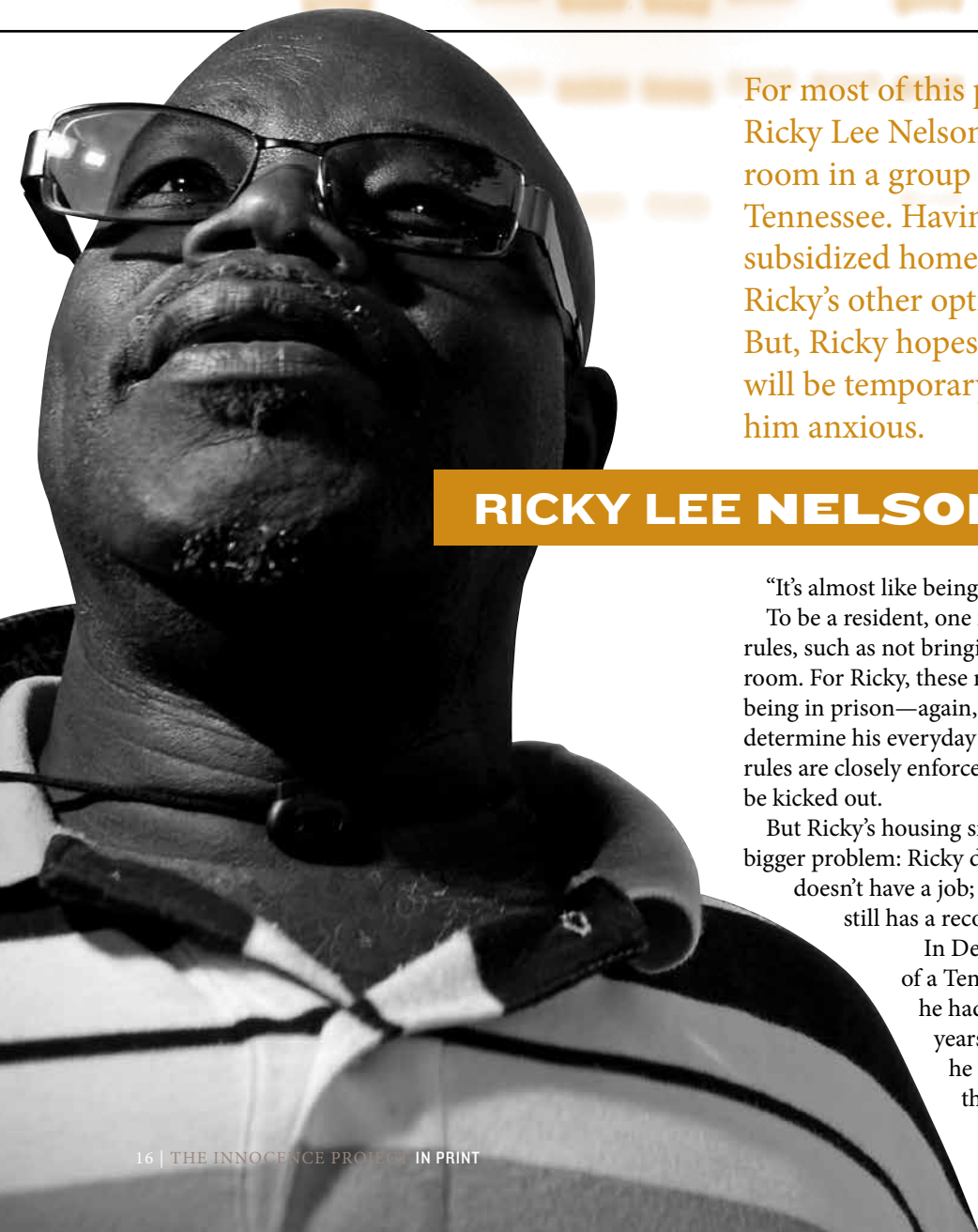
RICKY LEE NELSON

"It's almost like being back inside again," Ricky explains.

To be a resident, one must adhere to strict mandatory rules, such as not bringing nonresidents back to your room. For Ricky, these restrictions are reminiscent of being in prison—again, a set of punishable rules that determine his everyday actions. And, like prison, the rules are closely enforced; one infraction and he could be kicked out.

But Ricky's housing situation is a mere symptom of a bigger problem: Ricky doesn't have money because he doesn't have a job; he doesn't have a job because he still has a record.

In December of 2014, Ricky walked out of a Tennessee state penitentiary where he had spent half of his life—almost 25 years—locked up for a rape with which he had no involvement. Although the Innocence Project was able to



prove that Ricky was innocent, the prosecutor only agreed to clear his record of his conviction for aggravated sexual assault. Two other felonies linked to the same crime remain on his record.

“I still have felonies on my record,” he says. “But, all of the evidence proves that I’m innocent.”

In 1989, Ricky became mired in a rape case through witness misidentification. According to the victim, a stranger who called himself Jeff Davis had come to her apartment needing directions and asking questions about jobs at Captain D’s—a local fast-food restaurant where her daughter worked. When the woman tried to help him, he took a knife from her kitchen and demanded that she surrender her money. He then put the knife to her throat and raped and sodomized her until she passed out in shock.

From the start of the investigation, there were clues that should have alerted local police that they were dealing with a case of eyewitness identification gone awry. For example, when the police interviewed the victim’s daughter and the manager at Captain D’s, neither indicated that a man named Jeff Davis called to inquire about work. However, someone named Ricky Nelson had recently applied for a job. Police reports do not explain how it was determined that the person named Ricky Nelson who applied for a job was also the perpetrator. Nonetheless, police included Ricky’s photo in two separate lineups that they conducted with the victim and her daughter. Each of the women identified Ricky as the assailant.

Even though DNA testing was in its infancy, Ricky requested DNA testing prior to trial, but the judge refused to rule until less sophisticated serology blood typing results became available. When those results were reported as inconclusive by the prosecutor on the morning of the trial, Ricky renewed his request, but it was denied. The judge commented that an inconclusive result would be helpful to Ricky. This meant that there was no real physical evidence connecting Ricky to the crime scene. The prosecution’s case relied entirely on the identifications made by the victim and her daughter.

A day later, the jury convicted Ricky on all counts based entirely on the unreliable identifications made by the victim and her daughter. He was sentenced to a total of 43 years.

Over the next 25 years, all of Ricky’s claims to legally prove his innocence failed. On several occasions, he petitioned the court for DNA testing, but each request was denied and the most relevant evidence—the rape kit—was lost. It was not until 2012 that there was a breakthrough in his case.

The Innocence Project filed a post-conviction proceeding based on newly discovered exculpatory evidence which revealed that the serology results were actually exculpatory. In a comprehensive review of pre-trial serology evidence from the case, three expert serologists all reached the same conclusion: the test results actually proved that Ricky was innocent, but due to an error or bad faith on the part of the forensic serologist, the results were incorrectly classified.

Had this evidence been correctly presented at trial, there is no possibility that Ricky would have been convicted.

But, there was a caveat to his release: while he would walk out of prison exonerated of the aggravated sexual assault charge, the prosecution insisted that the agreed relief did not cover burglary and robbery charges stemming from the same incident.

Knowing that an agreement with the prosecutor would save years of litigation—which also meant years of additional prison time—Ricky agreed to the arrangement. He had previously rejected an offer that required him to admit guilt, choosing instead to remain in prison for a year before the prosecutor relented.

Reflecting back on his decision to accept the concession, Ricky is resolved.

“I think it was in my best interest to take the deal,” he asserts. “I was in a bad situation in there. I had to get out.”

Ricky’s physical safety was at risk, he explains. He was becoming the target of abuse by inmates and prison guards alike and was fearful that he wouldn’t survive the next violent assault.

“Returning to Memphis, I had mixed emotions,” explains Ricky. “It was a bittersweet reunion.”

The last time he’d traveled down the streets of Memphis, it was 1990. He was 26 and worked for himself. He ran his own small business, doing interior and exterior painting and hauling furniture around Memphis. Now 52, Ricky is doubtful about his work prospects. He knows that his marred record will hurt his chances for getting hired.

For the time being, he waits to collect his first Social Security check to keep him afloat. And he crosses his fingers that soon he’ll find an affordable home of his own.

“I’m going to hope and pray that I can find a place to live [with rent] under \$500,” says Ricky. “Then I’ll have enough money for food. Then I might not feel like I’m drowning.”

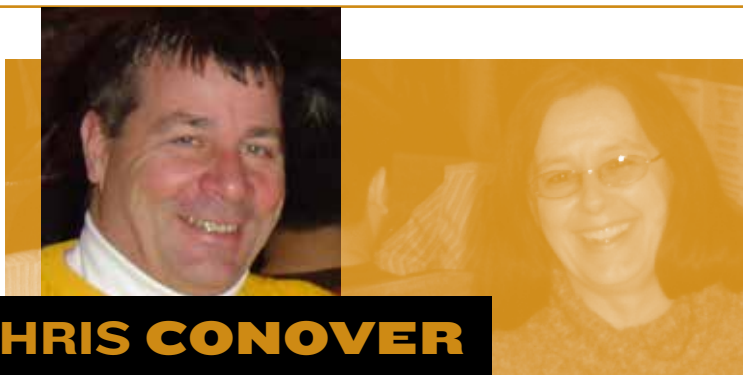
He’s working with an attorney to clear his record for good and to get compensated for the decades he lost due to his wrongful conviction. His attorney is “adamant and certain that things are going to go well, but he’s also adamant and certain that

he doesn’t know how long it’s going to take,” Ricky stresses.

In the meantime, Ricky focuses on the many things that he has gained through being free. “There are a lot of good things that have happened since I was released,” he says—one being the chance to tell others about his experience. Ricky has appeared at numerous local speaking engagements. Each time, he’s been greeted with

smiles. At each event, he meets new people. “I’m enjoying getting to know people,” he says, “even if just for a brief moment. Everywhere I go, I talk to someone new.” These exchanges keep him looking forward to the next day, he explains.

“I have a lot of hurdles to overcome,” says Ricky, knowingly. “But with every breath in my body, I’m going to challenge this thing. I’m not leaving one stone unturned.” ■



CHRIS CONOVER

Chris and Sue Conover

In 1997, from a Maryland state prison, Chris Conover wrote a letter to his fiancé Sue, the woman he’d loved for nearly his entire life. In the letter, he told Sue that it was time to face the facts: his chances

of ever getting out were next to none. He needed her to move on. The guilt he felt over her waiting for him was unrelenting. He pleaded with her to consider finding love with someone else.

“You are probably thinking as I have thought—What if I get out?” he wrote to Sue, who he had known since 1972, when he was 17. “Unfortunately, that old saying, ‘Hope for the best but expect the worst,’ fits perfectly here. I know that you are trying hard for me and I do have hope but I also know the odds are about 100 to one for post-conviction relief in Maryland. My innocence has little to do with my chances.”

Ultimately, Chris was partly right. While the Innocence Project was eventually able to overturn his murder conviction and secure his freedom, even DNA proof of

Chris’ innocence was not enough to fully exonerate him. In 2003, the Innocence Project secured DNA testing which excluded Chris from two different hairs left by two perpetrators at the 1984 crime scene, revealing that he was innocent of the double murder of which he had been convicted. A judge vacated the conviction based on the DNA evidence, but the state vowed to retry Chris. Rather than face another trial, he chose to plead guilty to a lesser charge in order to be released.

People close to Chris said that in the years that followed, the state’s lack of acknowledgment

of his innocence ate away at him, especially since his plea deal made him ineligible to receive compensation. In February of this year, Chris committed suicide.

“He couldn’t fight his demons any longer,” Sue told the *Baltimore Sun*. “He felt like he was disappointing everybody, and he couldn’t live like that.”

In the early 1970s, as a teenager, Chris got involved in dealing heroin in Baltimore, Maryland. In 1972, his actions landed him in prison, where he served a total of 12 years for heroin possession

and two armed robberies. In Chris' opinion, his years of crime played no small role in eventually getting him wrongly convicted years later. It was his criminal record, after all, that prompted police to see him as a person of interest in a double murder that took place in 1984 in Randallstown, Maryland.

According to investigators, in October 1984, three men entered the home of Charles and Linda Jordan, brandishing guns. Charles was a well-known drug dealer and reportedly knew one of the assailants (who had no prior connection to Chris). The men handcuffed the couple and their 18-year-old daughter, Lisa, and made them lay face-first on the living room floor. The men then placed pillows over the victims' heads and shot them at close range. Linda's head was only grazed by the bullet. Charles and Lisa were killed at the scene.

Police had several leads and anonymous tips as to who committed the crime, but the police zeroed in on Chris because of his past ties to local heroin dealers. Linda Jordan identified Chris in two separate lineups as one of the men she believed had entered her home although her opportunity to view the assailants was extremely limited. Despite having a strong alibi for the night of the crime—he attended an all-night birthday party of an African-American friend, and was one of the only white guests present—Chris was charged and went to trial in May 1985.

The prosecution presented an FBI forensic analyst who testified that microscopic analysis confirmed that two hairs found on one of the victims' bodies were microscopically Chris' hair. Based on Linda Jordan's questionable

eyewitness identification and the FBI expert's damning testimony, Chris was convicted of the double murder.

The Innocence Project took on Chris' case in 1998. Three years later, the Innocence Project and co-counsel at the law firm of Mayer Brown persuaded the Baltimore County State's Attorney's Office to send the hairs which had been analyzed by the FBI to a lab for DNA testing. A year later, results came back revealing that the hairs belonged to two different people, neither of them being Chris.

Despite the state's acknowledgment that the evidence cast serious doubt on Chris' conviction, and its move to vacate his conviction, it vowed to retry him. The state argued that its key eyewitness—Linda Jordan—still insisted that Chris was one of the men who'd victimized her family, even though more recent evidence exposed cracks in the reliability of her testimony.

In June 2003, Chris agreed to enter an Alford plea to an armed robbery. (By taking an Alford plea, Chris did not have to admit to committing the crime.) The state dismissed the other charges and agreed to a sentence of time served. Chris went home that very same day.

Chris felt prompted to take the plea to finally reunite with his loved ones. He told the *Towson Times* a few days after he was released: "I didn't do this crime. But I had to think of (my mother), and signing the Alford plea was my only guarantee that I could come home."

Chris and his mother were close. She had always been in his corner, speaking with Chris every day of his 18 year incarceration. Now, his

mother being very ill—and with his brother and father having died when he was in prison—Chris wanted to be home to reciprocate the support she had given him.

The plea allowed Chris to fulfill his dream of sharing a life with Sue. In January 2004, they moved to Kitty Hawk, North Carolina. They were married three months later.

Chris was industrious in the years following his release. He and Sue started two small businesses despite their limited financial means. Chris gave his time and of himself. He was a motivational speaker at local high schools. He mentored troubled youth. He cared for sick and abandoned animals. He also advocated for Maryland to overturn its death penalty.

But through it all, Chris was troubled by the fact that his innocence was never publically recognized by the state. It was especially frustrating given that his status made him ineligible to receive compensation, which would have provided much-needed financial security to him and Sue.

In 2009, Chris' co-counsel in Maryland—Lee Rubin and Kevin Ranlett of Mayer Brown—worked with the Innocence Project to petition the then-governor of Baltimore—Martin O'Malley—for a pardon. They argued that the testimony given by an FBI hair analyst was faulty and proved Chris's innocence. Many prominent figures wrote to the governor in support of Chris, but, nevertheless, the governor denied the pardon in 2012.

The governor's rejection simply added to the mounting challenges that Chris was already facing. In recent years, he had become prone to suffering from panic attacks

and depression. His emotional challenges were compounded by physical impairments that stemmed from his time in prison and by mounting financial problems that he and Sue faced. Ultimately, Chris came under a spell of depression that he couldn't fight off.

The Innocence Project was in the process of revising the pardon in the hopes that the state's new governor, Larry Hogan, would grant Chris the closure he deserved, when the sad news of Chris' death surfaced.

"Chris was a gregarious, loving, and deeply kind person," says Nina Morrison, senior staff attorney at the Innocence Project. "He took so much joy in his freedom in the years that followed his release, which only made his later struggles with depression all the more painful for those of us who loved him." Morrison was one of the attorneys who represented Chris when the Innocence Project was still in its infancy.

According to Morrison, the fight to have Chris formally declared innocent is not over. The FBI revealed earlier this year that its examiners' testimony in 96 percent of the trial transcripts that the bureau analyzed as part of a microscopic hair comparison analysis review contained erroneous statements. Twenty-six out of 28 FBI agent/analysts provided either testimony with erroneous statements or submitted laboratory reports with erroneous statements.

In light of the FBI's new revelations, which further highlight the injustice that led Chris to spend more than 17 years in prison, Mayer Brown and the Innocence Project plan to file a new petition before the governor seeking posthumous clemency for Chris. ■

Darrell Edwards knew that he had been left with no other choice. Getting out of prison was more critical than it had ever been. In 2012, as the Innocence Project was working to get him exonerated of first-degree murder in New Jersey, he was diagnosed with lung cancer. It had already spread throughout his body.


DARRELL EDWARDS

Although there was no telling how much longer Darrell would live, he knew he didn't want to do it within the walls of a prison cell.

"I think if you talk to any of our clients, they would say that their greatest fear is dying in prison," says Innocence Project Senior Attorney Vanessa Potkin, who worked on Darrell's case for a decade. After months of negotiation between the Innocence Project and the prosecutor's office, Darrell was offered the chance to take a guilty plea even though it would end any chance for an exoneration. "When we presented the [guilty plea] option to Darrell, he just said, 'Get me out,'" said Potkin.

Darrell Edwards was raised in Newark, New Jersey, and returned to live there after serving in the Army for a short period. People in the neighborhood knew him well and commonly referred to him as "Hak," short for his Muslim name Hakim.





In 1995, a Newark sandwich shop owner—who also sold drugs—was shot in the back of the head execution style, and Darrell became a suspect after police learned that the victim sold drugs with a man who also went by the name Hak (but was not Darrell Edwards). Investigators presented photo lineups including Darrell's photo to numerous people in the neighborhood who said they saw the assailants at close range as they left the sandwich shop. Two of these witnesses reported that they were certain that Darrell was not one of the men who committed the crime. Nonetheless, Darrell was arrested and charged.

Darrell was tried four times for the shooting. The first two trials ended in mistrials. The third resulted in a hung jury. At the fourth and final trial, in 1999, the prosecutors failed to present a motive for the murder, although they had credible and admissible evidence that pointed to who was actually involved in the crime. In addition, two eyewitnesses testified that Darrell was one of the assailants, albeit one of the witnesses admitted that he'd seen the assailants' faces for no more than a few seconds while the other witness made her identification from 271 feet away (research now shows that facial recognition at that distance is impossible).

The jury found him guilty. He was sentenced to life in prison with 30 years of parole ineligibility.

Almost 10 years after he was convicted, the Innocence Project helped Darrell obtain DNA testing of evidence that was used against him at trial. Results excluded Darrell as the contributor of DNA found on the sweatshirt linked to the person who shot the shopkeeper.

In 2007, the Innocence Project conducted a reinvestigation into Darrell's case. In a sworn affidavit, one of the eyewitnesses who testified against Darrell at his fourth trial recanted; she said that she'd been pressured by the police into saying that she'd seen Darrell leave the scene of the 1995 crime.

Based on this new evidence, Darrell filed a motion for a new trial, but the court rejected his motion.

The Innocence Project appealed and was fighting to get his conviction overturned, but in 2012, Darrell fainted in prison. An MRI scan revealed that he had lung cancer that had spread to his brain.

Darrell endured cancer treatment while he was still a prison inmate. This meant that though he was provided with care at Robert Wood Johnson University Hospital, he was made to wear full shackles before, during and after receiving chemotherapy and while suffering from the treatment's severe physical side effects.

Potkin says that ultimately the Innocence Project made the unconventional move of helping to secure a plea deal for Darrell to get him out of prison and offer him a better quality of life in his remaining days alive.

"We shifted gears to get Darrell released by any means so that he could be with his family. Ultimately, he took a guilty plea that enabled him to be re-sentenced to time served and to return home," says Potkin.

He was back home with his family on December 13, 2013. He held his grandchildren for the first time.

Potkin is confident that Darrell would have been exonerated eventually; all of the evidence was on his side. But it was unclear how long the process would have taken. Darrell simply didn't have another year to wait in prison for additional hearings, for a ruling or for potential appeals.

Darrell died on May 15 of this year, in a Newark-based hospice. He was 51 years old.

"I think he was appreciative of the time he had with his family given his circumstances," says Potkin. "But it would have been meaningful to him and to his family for his innocence to be recognized."

Darrell's family cherished him and the time they had with him, but they were sorrowful that they didn't have time with him sooner.

"His family didn't lose sight of the fact that Darrell had been robbed from them for so many years," says Potkin.

In the end, Darrell will be remembered as a son, a father, a grandfather and a brother. According to his tight-knit family, he loved club music and dancing, and he savored a good joke.

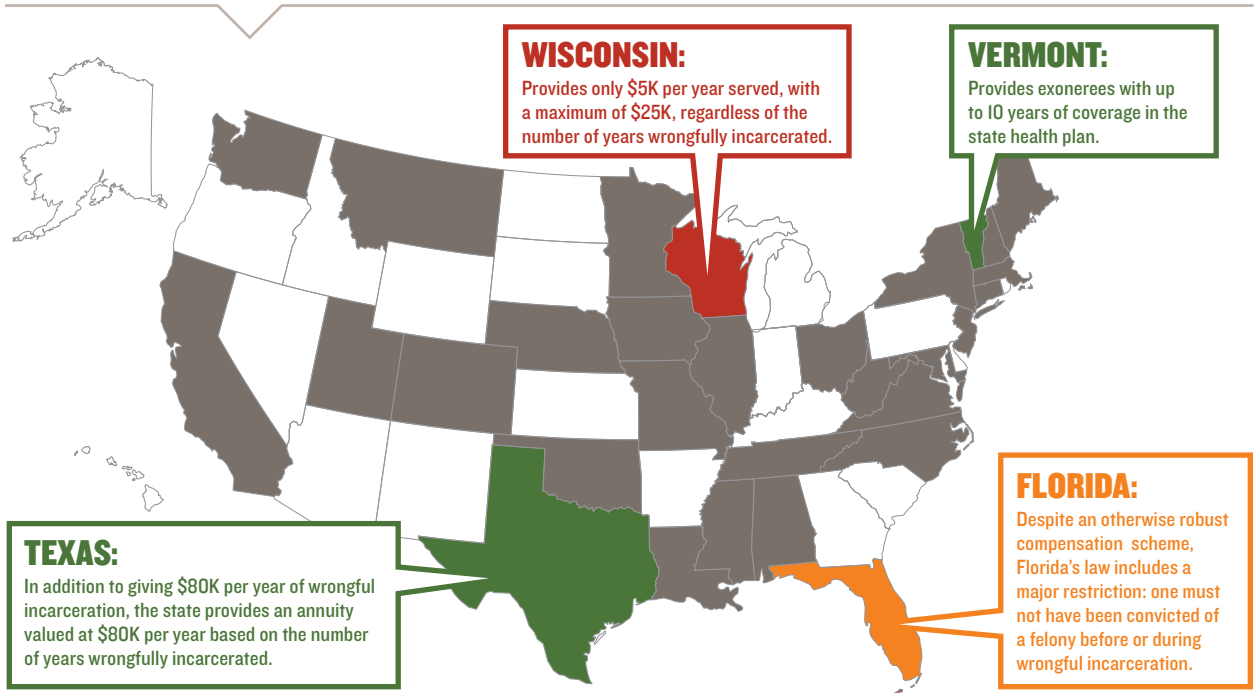
"It's hard to capture what an amazing man Darrell was," says Potkin. "From the depths of hell at New Jersey State Prison to his last days at a hospice facility in Newark—his strength and optimism were just incredible. He was such a wonderful man, and just had to endure the worst of what this country and our system dishes out. What a loss." ■

JUST THE FACTS

Compensation: Comparing Statutes State-by-State

More than half of the states in the country have statutes that compensate exonerated people for the years they spent wrongfully imprisoned, but the laws are not created equal. Read more to learn how state statutes measure up.

30 STATES (PLUS D.C.) HAVE COMPENSATION LAWS



OUT OF THE 30 STATES THAT DO HAVE STATUTES:

11 STATES

AWARD \$50K OR MORE PER YEAR OF WRONGFUL INCARCERATION:

Alabama, California, Colorado, Florida, Minnesota, Mississippi, New Jersey, North Carolina, Texas, Vermont, Washington

10 STATES (PLUS D.C.)

DON'T HAVE A SET ANNUAL COMPENSATION AMOUNT:²

Connecticut, Maine, Maryland, Massachusetts, Nebraska, New Hampshire, New York, Oklahoma, Tennessee, West Virginia, (Washington, D.C.)

4 STATES

AWARD BETWEEN \$10K AND \$25K PER YEAR OF INCARCERATION:

Illinois, Iowa, Missouri, Louisiana

2 STATES

BASE AWARD AMOUNTS ON LOCAL ANNUAL PER CAPITA INCOME:

Virginia, Utah

1 STATE

AWARDS \$40,330 PER YEAR OF WRONGFUL INCARCERATION:
Ohio

11 STATES

HAVE CAPS FOR TOTAL YEARS SERVED:

Florida: \$2 million cap
Tennessee: \$1 million cap
North Carolina: \$750K cap
Mississippi: \$500K cap
Nebraska: \$500K cap
Maine: \$300K cap
Louisiana: \$250K cap
Illinois: \$199,150³ cap
Oklahoma: \$175K cap
Wisconsin: \$25K cap
New Hampshire: \$20K cap

1 STATE

AWARDS LESS THAN \$10K PER YEAR OF WRONGFUL INCARCERATION: Wisconsin

1 STATE

HAS A COMPENSATION LAW BUT OFFERS NO MONEY:
Montana (offers educational aid to those exonerated through post-conviction DNA testing)

¹ Vermont offers between \$30K and \$60K per year.

² Award amounts can vary greatly with open-ended laws. Such laws can enable, but do not promise, large damages. For example, New York has awarded exonerees compensation in the millions, while New Hampshire has a \$20K lifetime cap no matter how many years served.

³ Illinois: up to five years, no more than \$85,350; between five and 14 years, no more than \$170K; more than 14 years, up to \$199,150.



AUGUST 13, 2015: **LEWIS FOGLE'S FIRST MEAL OUT OF PRISON IN 34 YEARS**

On this day, an Indiana County Judge reversed the 1982 conviction of Lewis Fogle who spent 34 years in prison in Pennsylvania for a murder he did not commit. Fogle's first stop after walking out of prison was a local steak house where he enjoyed dinner with his family and legal team from the Innocence Project and the Pennsylvania Innocence Project. Recent DNA testing of newly discovered crime scene evidence proved that Fogle is innocent and pointed to an unidentified male as the likely perpetrator. This photo captures Fogle being congratulated by the entire New York-based Innocence Project staff via video chat.

FOR THE **RECORD**

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The Innocence Project was founded in 1992 by Barry C. Scheck and Peter J. Neufeld at the Benjamin N. Cardozo School of Law at Yeshiva University to assist prisoners who could be proven innocent through DNA testing. To date, more than 300 people in the United States have been exonerated by DNA testing, including 20 who served time on death row. These people served an average of 14 years in prison before exoneration and release. The Innocence Project's full-time staff attorneys and Cardozo clinic students provided direct representation or critical assistance in most of these cases. The Innocence Project's groundbreaking use of DNA technology to free innocent people has provided irrefutable proof that wrongful convictions are not isolated or rare events but instead arise from systemic defects. Now an independent nonprofit organization closely affiliated with Cardozo School of Law at Yeshiva University, the Innocence Project's mission is nothing less than to free the staggering number of innocent people who remain incarcerated and to bring substantive reform to the system responsible for their unjust imprisonment.



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