



OFFICE OF THE DISTRICT ATTORNEY
RICHMOND COUNTY

MICHAEL E. MCMAHON
DISTRICT ATTORNEY

130 STUYVESANT PLACE
STATEN ISLAND, NEW YORK 10301
TELEPHONE (718) 876-6300

PRESS RELEASE

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Contact: Ryan Lavis (718) 556-7150
Ryan.Lavis@rcda.nyc.gov

Staten Island District Attorney Michael E. McMahon Agrees to Vacate 1997 Murder Conviction of Staten Island Man Following Conviction Review Investigation

Staten Island DA's Conviction Integrity Review Unit reinvestigated 1997 homicide case, discovered new evidence, and determined defendant's actual innocence; first wrongful conviction case successfully brought on Staten Island

Staten Island, N.Y. — Richmond County District Attorney Michael E. McMahon today announced that following an investigation by his office's Conviction Integrity Review Unit he has agreed to vacate the 1997 murder conviction of Grant Williams, who was incarcerated for 23 years for the homicide of Shdell Lewis on Staten Island. Mr. Williams, 50, was paroled in 2019. The extensive and far-reaching reinvestigation by the Staten Island DA's office uncovered exculpatory evidence about the case, including numerous credible witnesses who gave testimony to the innocence of Mr. Williams. Additionally, it was discovered that identification procedures used by police at the time did not meet with modern standards or current best practices for ensuring fair and impartial justice. A copy of the full report is available from the DA's office.

"A reinvestigation of this case by my office's Conviction Integrity Review Unit uncovered new evidence showing Mr. Grant Williams could not have committed the murder a Staten Island jury convicted him of carrying out in 1997. Given the overwhelming amount of exculpatory evidence presented for the first time in this review, as well as a totality of the investigative circumstances in this case, which in several instances defy what we now accept as best practices, we now believe Mr. Williams to actually be innocent and conclude that our justice system failed him. Accordingly, we are consenting to the vacating of his conviction and the dismissal of the case," **said District Attorney Michael E. McMahon.**

McMahon continued, “As prosecutors, we have a legal obligation and an ethical duty to ensure that the right person is convicted for the crime charged. Justice depends on us not only correcting these past mistakes but working diligently to avoid the same errors from happening again. My office’s Conviction Integrity Review Unit went above and beyond in reinvestigating this case, and I would especially like to commend ADAs Wanda DeOliveira and Thomas Ridges, and RCDA Detective Investigators Thomas Joyce and Guy Gazzillo for ensuring justice finally prevailed. I also thank Mr. Williams and his counsel, Irving Cohen, for their assistance and continued cooperation throughout our investigation. While nothing can ever give Mr. Williams back all the years he unjustly lost in prison, today’s vacating of his conviction and dismissal of the case at the very least establishes his innocence and finally clears his name. My office’s Conviction Integrity Review Unit remains committed to addressing possible wrongful convictions openly and honestly and will always work to correct miscarriages of justice wherever they occur. We do this ever mindful that practices and procedures deemed appropriate for their time or their context must always be reviewed so we can ascertain that justice was done, justice is being done, and justice will be done.”

Mr. Williams appeared today before Judge Wayne Ozzi in Staten Island Supreme Court, with DA McMahon consenting to vacate the conviction and dismiss the indictment based upon newly discovered evidence showing actual innocence.

RCDA’s reinvestigation focused on the conviction of Grant Williams, who was arrested on October 11, 1996, for the murder of Shdell Lewis during a shooting outside the Stapleton N.Y.C.H.A. Housing Complex. The case went to trial before a jury, and on November 25, 1997, Mr. Williams was found guilty of Murder in the Second Degree. He was sentenced on January 22, 1998, to life imprisonment, with eligibility of parole at 25 years.

In May 2017, Mr. Williams’s attorney, Irving Cohen, contacted RCDA to request a conviction review of the case against his client and presented new information he had discovered that cast doubt on the identification of Williams as the shooter, including at least a dozen witnesses who gave affidavits attesting to the innocence of Mr. Williams. These new interviews were especially significant considering that at the time of the incident there was initially only one independent eyewitness who identified Williams as the shooter. RCDA made the decision to launch a full review of the case after further preliminary investigation showed no other evidence existed to implicate Mr. Williams in this murder – no confession, DNA or fingerprints, video recordings or cell phone evidence connecting the defendant to the crime, or any other forensic or independent corroboration of witness identification.

As the reinvestigation continued, RCDA investigators found and interviewed six new witnesses, most of whom had known Mr. Williams at the time, had witnessed the shooting, and told investigators that Williams was not the shooter. An alibi witness who was also interviewed during the reinvestigation stated that on the day of the Lewis homicide he had met up with Grant Williams at his mother’s house on Cebra Avenue on Staten Island and had driven to the WuTang Clan Recording Studio, where they met up with others and remained all night. Later that evening, an associate of this witness had even entered the Studio and reported that Lewis was killed in Stapleton. RCDA investigators also interviewed this associate and confirmed that he had also seen Grant Williams in the Studio the night of the homicide.

In total, investigators interviewed over thirty-five fact witnesses and traveled to seven states and five different correctional facilities in connection with this reinvestigation.

Additionally, the reinvestigation found that identification procedures used by police at the time to pursue Mr. Williams as the main suspect in the shooting would not comport with today’s standards of best practices or proper procedure. In fact, throughout the reinvestigation, it was determined that what is considered today to be best practices for ensuring fair and impartial justice were not used at various points throughout NYPD’s original investigation nor the duration of the prosecution's case against Mr. Williams.

The incident and background:

The night of the shooting, April 5, 1996, at approximately 6:00 p.m., the victim, Shdell Lewis, was with a close family friend, exiting the building where they both lived at 45 Warren Street, one of the many buildings within the Stapleton N.Y.C.H.A Housing Complex. As they walked together on the pathway immediately outside of 45 Warren Street heading toward the sidewalk, a black male, wearing a black jacket and a baseball hat, approached them. As he walked past them on the walkway he turned and began firing a gun at Lewis, striking him several times in the back and torso. Lewis attempted to run across the street but succumbed to his injuries and fell to the ground. He was removed from the scene in an ambulance and later died at the hospital, suffering multiple gunshot wounds to his body.

Officer Scott McCarthy and Officer Donna Garrison heard the shots fired and pulled their vehicle up closer to the street in front of 45 Warren. They observed the shooter with the gun in his hand, and the officers immediately exited their vehicle and gave chase, with Officer McCarthy in the lead just behind the shooter. The shooter managed to escape through the courtyard, running into a building, with an automatic door locking behind him and preventing the officers from gaining entry. During the pursuit, a baseball hat with a “WuTang” logo had fallen off the shooter’s head, which police later recovered.

Just after the chase, Officer McCarthy put a more detailed description of the shooter over his radio, recorded on the NYPD 911/Radio Run transmissions. The description given by Officer McCarthy on his radio was “male black, round face, stocky build, 5’5” tall, wearing a black jacket and a baseball hat.” This description became a strong point of contention throughout the case, as it stands in stark contrast to what Mr. Williams did in fact look like at the time: a light-skinned black male, 6’2”, and very thin.

Before the trial, the NYPD Radio Run transmissions that recorded this original description of the perpetrator was ordered by the defense, pursuant to a signed *subpoena duces tecum*, as early as one month after Williams’s arrest but was reported as having been destroyed. The prosecution represented that it never had the recordings, even entertaining an adverse inference charge in the preliminary proceedings prior to jury selection. Nevertheless, during the preliminary trial applications, the Radio Run transmission tape was then provided to the defense by the prosecution, having been found in the NYPD detective file by the assigned trial prosecutor during the final stages of trial prep. The recordings were disclosed to the defense over a year after multiple demands by the defense were made, a *subpoena duces tecum* was sent out, a motion to inspect the Grand Jury minutes was made, and a Dunaway/Wade hearing was conducted and re-opened over the issue of the identification.

About an hour after the shooting, detectives at the scene spoke with a 17-year-old male witness who gave a possible motive for the shooting, describing to detectives an ongoing drug turf war within the Stapleton Housing Complex and detailing several recent shootings between the two factions. Specifically, this individual alleged that the shooting may have been in retaliation for a prior incident involving Shdell Lewis and an individual he referred to by the nickname “BooBoo.” The witness account of the events of the night of the homicide would thereafter change several times – specifically with respect to his ability to see and identify the shooter, and as to whether it was “BooBoo.”

Without explanation as to how “BooBoo” was identified as the shooter, NYPD Detective Robert Walsh, the lead investigator on the case, ran the name “BooBoo” and confirmed it was a nickname associated with Grant Williams, and thereafter began his focus on Grant Williams as the suspect in Shdell Lewis’s murder.

In fact, that same night, when detectives arrived at the victim’s home to speak with his parents, the family friend who had been walking with Lewis at the time of the shooting was also there. He reluctantly disclosed to detectives that he was present with the victim at the time of the shooting, and that he knew and could identify all parties involved. When police said they were seeking Grant Williams as the main suspect and inquiring of any information

leading to his whereabouts, the victim's friend was adamant that Williams was not the shooter. Despite the importance of this information, it was not memorialized in any way, and it remained undisclosed to the prosecution for months.

Now focused solely on Mr. Williams as a suspect, Det. Walsh obtained a 1994 photograph of Williams from parolee files kept in the 120th Police Precinct. Williams was on Staten Island parole at the time. Sometime before 10:00 p.m. on the night of the Lewis homicide, Detective Walsh prepared a photo spread from Staten Island parolee photos, with the subject being Grant Williams. Det. Walsh also pulled several other parolee photos, using a description of "light skinned, short hair, some facial hair" as fillers for the photo spread. There is no record anywhere that describes the shooter in those terms; rather, Det. Walsh used a description that closely matched the two-year-old parolee photo of Grant Williams.

This photo spread was shown to three additional civilian witnesses that night, with just one identifying Grant Williams as the shooter. Officer McCarthy also identified Williams as the individual he had chased who had the gun outside of 45 Warren when the shots were fired. The reinvestigation found the manner in which this photo array was conducted and recorded no longer meets modern investigative standards — the order in which the filler photos and the photo of Grant Williams were actually displayed to each witness, the manner in which they were presented, the method by which the photos were displayed to each witness, the amount of time each photo was viewed by each witness, the instructions, if any, given to each witness as the photos were displayed and viewed, what was said to each witness viewing the photos before, during and after the viewing, and what the witnesses actually said, if anything, in response, were never memorialized by the detective or anyone else.

Ultimately, Grant Williams was arrested on an unrelated parole warrant in Virginia on October 7, 1996 and extradited to New York. Shortly after his arraignment on October 17, 1996, an Order was granted for Grant Williams to be placed in a lineup. The lineup, which was videotaped with Williams's trial attorney present, was only viewed by the two witnesses who had previously identified Williams from the photo array, including Officer McCarthy. Both made positive identifications of Williams.

RCDA investigators determined that based on their reading of the original NYPD case file, the police investigation initially began with the 17-year-old witness police first spoke with at the scene within an hour of the murder and ended with the witness identifications that were made less than four hours later. Despite the fact that the homicide occurred in the early evening on a Friday in April, just outside the front door of a multi-floor, residential apartment building within a large City Housing Complex, and took over a year and eight months to get to trial, there was only one identifying independent witness presented at trial, without any other evidence.

The trial against Williams began in November 1997. The People's case featured only two identifying witnesses. Testimony regarding ballistics recovered at the scene, the autopsy of the deceased, photos and diagrams of the crime scene, and the recovery and presentation of the "WuTang" baseball hat that flew off the shooter's head were all evidence presented on the People's direct case. Additionally, in an attempt to link the defendant to the discarded hat, evidence was presented that the defendant had been employed in some capacity at the WuTang recording studio on Staten Island. The trial ended without any forensic evidence, no fingerprints to tie the defendant to the scene, and DNA was not readily available at the time; and the only possibility of video surveillance evidence came from the deli across the street from which the shooter had come from but had been destroyed before recovery by the police was possible.

On November 24, 1997, the jury was charged late in the afternoon and received the case to deliberate at 6:15p.m. The next day, the jury sent several notes, including one asking for Det. Walsh's testimony on how the police obtained Grant Williams's name as a suspect so soon after the shooting, and Det. Walsh's testimony which occurred at the Lewis residence, and another asking for the lineup video and the police radio transmissions tape with

Officer McCarthy's description of the person he was chasing. These notes reflected the same issues identified in RCDA's conviction review.

At approximately 4:15p.m., the same day, the jury returned a "hung" note, that stated that they were "hopelessly deadlocked." The judge then charged the jury with an Allen instruction. Within an hour the jury returned a verdict of guilty of Murder in the Second Degree. Williams was sentenced on January 22, 1998 to life imprisonment with eligibility of parole at twenty-five years.

In the year 2000, the defendant, Grant Williams, filed a motion demanding that the "WuTang" baseball hat that had been worn by the shooter and flew off when the police pursued after the shooting, be tested for DNA. Unfortunately, the hat had already been destroyed according to the NYPD Property Clerk's normal procedures.

RCDA Conviction Review Results

RCDA's Conviction Integrity Review investigation of this case was launched in 2017 with the objective of attempting to determine whether the defendant in this case was wrongfully convicted. In doing so, this case was examined from its beginning with an eye towards that, and not re-litigating the case. The reinvestigation showed clear and convincing evidence of actual innocence in this case, prompting the Staten Island DA's office to support the defense's motion to vacate the conviction and dismiss the case.

As of December 2019, Mr. Williams had served 23 years in prison. When he arrived before the New York State Parole Board for the second time, RCDA provided a letter advising the Board that the office was investigating his conviction, that he was completely cooperative, and that there was no objection to his release. The New York State Board of Parole granted relief and released Williams to lifetime parole. The COVID pandemic, which began shortly thereafter, meant a considerable delay in completion of this review and ultimate dismissal of this case.

But in light of the newly discovered evidence, as well as a multitude of other factors, RCDA has concluded that the defendant Grant Williams is innocent and that the interests of justice warrant that the court vacate the conviction of Murder in the Second Degree and all other charges and dismiss the indictment.

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The reinvestigation was conducted by Executive ADA for Litigation Wanda DeOliveira, Detective Investigators Thomas Joyce and Guy Gazzillo, Executive ADA for Investigations Thomas Ridges, Legal Support Supervisor & Paralegal Maria Scarna, and Chief Detective Investigator David Nilsen.