

DAILY JOURNAL NEWSWIRE ARTICLE

<http://www.dailyjournal.com>

© 2006 The Daily Journal Corporation.

All rights reserved.

April 07, 2006

WRONGFUL CONVICTIONS HARM JUSTICE SYSTEMS

Forum Column

By Natasha Minsker

"I will never forget the face of the man who threatened to kill my baby."

Those were the words that sealed the fate of Aaron Owens, leading to a life sentence for a double murder. The only problem: he didn't do it. The witness was wrong.

For the most part, Aaron Owens knew things weren't going well at trial. But he also knew he was innocent, and he believed in the system. Then the eyewitness took the stand. "Do you recognize anyone in the courtroom?" the prosecutor asked, as prosecutors always do.

The witness stretched out his hand and pointed firmly at Owens, the lone African-American man sitting at the defense table. "Are you certain that's the man?" the prosecutor said, following a well-worn script. It was then that the witness said, his voice quivering with fear and anger, the most powerful words Owens had ever heard: "I will never forget the face of the man who threatened to kill my baby."

Owens knew right then he would be convicted. Killing two people and threatening to kill a baby would generally get you the death penalty in Alameda County, where Owens was convicted. But in this one respect, Owens was lucky: he had the good fortune to be wrongfully convicted in 1973, when, as a result of the U.S. Supreme Court decision in *Furman v. Georgia*, California did not have a working death penalty law. So instead, Owens was sentenced to spend the rest of his life in prison for someone else's crime.

After nearly 10 years behind bars, Owens was finally freed, not because of the hard work of any defense attorney but because of the dedication and diligence of the prosecutor who sent him to prison for life: John Taylor. Years after the conviction, Taylor reinvestigated the case and realized that the eyewitness made a simple, human mistake: he picked the wrong guy.

It was an easy mistake to make, but a costly one. One that cost Owens 10 years - and almost cost him his life.

Sadly, Owens' story of wrongful conviction and struggle for freedom is hardly unique in this state. More than 200 people have been wrongfully convicted of murder, rape and other serious felonies in California just since 1989. The majority of these wrongful conviction cases resulted from massive police corruption scandals in Los Angeles and Oakland - scandals that caused prosecutors to return to court and ask judges to vacate literally hundreds of convictions that they now know were based on false evidence. In addition, at least 30 other individuals have been wrongfully convicted and then exonerated across the state in the last 15 years.

This weekend, the UCLA School of Law will host the largest-ever gathering of people wrongfully convicted in California. At the Faces of Wrongful Conviction Conference, more than 20 men and women will gather together to talk about the flaws in the system that lead to their wrongful convictions and their struggles for freedom. Together, these men and women spent more than 330 years in prison for crimes they did not commit.

They will be joined by legal experts, political leaders and advocates from across the political spectrum: Judge Kenneth Starr, dean of Pepperdine Law School; Barry Scheck, co-director of the Innocence Project at Cardozo Law School; former Los Angeles District Attorney Ira Reiner; Larry Marshall, professor of law at Stanford University and founder of the Center on Wrongful Convictions; former Assistant U.S. Attorney Thomas Sullivan; and many more.

Former prosecutors and Republicans are joining defense attorneys and Democrats in discussing the causes of wrongful conviction and the solutions. Why?

Whether you take the view that wrongful convictions are rare or common, almost everyone agrees on two principles: DNA evidence has proven that wrongful convictions are, in fact, more common than anyone believed; and wrongful convictions are, simply, wrong. They harm not only the innocent person sent to prison but also the victim and the community by leaving the true perpetrator on the streets and undermining public confidence in our criminal justice system.

As a result of these concerns, the State Senate created the California Commission on the Fair Administration of Justice to investigate the problem of wrongful convictions and wrongful executions in California. Chaired by former Attorney General John Van De Kamp, the commission has until the end of 2007 to provide the Legislature and the governor with concrete recommendations to make our criminal justice system just, fair and accurate.

Last month, they began their investigation with a public hearing on the problems of mistaken eyewitness identification, a factor in more than 80 percent of DNA-exoneration cases.

The concerns that wrongful convictions raise about our criminal justice system are most troubling in the context of the death penalty. Nationwide, 123 innocent people have been sentenced to death for crimes they did not commit just since 1973. On average, these people waited nine years before evidence of their innocence was established, some coming within only hours of execution.

In many of these cases, the true perpetrator has still not been found. In some, the prosecution refuses to even look for the true perpetrator.

The burning question in many minds: How many of the 1,000 plus people actually executed in this country in the last 30 years were innocent? The Faces of Wrongful Conviction Conference takes up this question, looking at the evidence of innocence in three cases of actual execution.

One of the cases considered will be that of Ruben Cantu, executed by the state of Texas in 1993. The prosecutor from Cantu's case will share his views on whether the state of Texas executed an innocent man.

As the pace of executions quickens in California, many have asked whether this state will be the next to send an innocent person to his death in the name of the people.

The stories of California's wrongfully convicted vividly illustrate that our criminal justice system is failing to deliver on its most basic promises: that it will protect the innocent, convict the guilty and ensure that all Californians are treated fairly and equally. This is not a matter of politics; it's a matter of public safety. Now is the time to restore integrity to California's criminal justice system.

The Faces of Wrongful Conviction Conference, starting today and running through Sunday, offers a unique opportunity for us all to identify the problems that lead to wrongful convictions and to create solutions. For more information and to register, visit www.facesofwrongfulconvictions.org.

Natasha Minsker is death penalty policy director of the American Civil Liberties Union of Northern California.