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Legal Aid Files Appeal in Case to Exonerate James Davis, Brooklynite who was Wrongfully Convicted of Murder in 2006

Appeal is Based on Claims of Actual Innocence, Ineffective Assistance of Counsel and Newly Discovered Brady Evidence

(NEW YORK, NY) – The Legal Aid Society filed an [appeal](#) in a wrongful conviction case today to vacate the conviction of James Davis based on claims of actual innocence, ineffective assistance of counsel and newly revealed Brady evidence, which emerged last summer during an evidentiary hearing in the trial court. This appeal comes in response to the denial, by the Kings County Supreme Court, of a [440.10 motion to vacate the conviction](#) that the defense filed in September of 2018. James Davis has been in prison for almost 17 years as a result of 2006 conviction for murder.

“James Davis has spent nearly 17 years imprisoned for a crime he didn’t commit, convicted without any physical evidence linking him to the crime and despite multiple witnesses corroborating his innocence,” said **Elizabeth Felber, Director of the Wrongful Conviction Unit at The Legal Aid Society**. “We were disappointed that the hearing court ignored this exculpatory evidence but we remain confident that the Second Department will see this case for simply what it is: a wrongful conviction.”

Case Background

In 2006, Davis was found guilty of murder in the shooting death of Blake Harper at a crowded party at a Brooklyn Masonic Temple. There was no physical or forensic evidence connecting Davis, then 21 years old, to the crime. The case against him rested solely on stranger eyewitness identification testimony which has deteriorated over time.

Davis’s post-conviction Legal Aid attorneys discovered that a former girlfriend falsely told police that Davis had been involved in the shooting, and he became their only suspect. Although the police interviewed several people at the club shortly after the shooting, the police first showed Davis’s photo to someone who had not been interviewed that night, the deceased’s brother-in-law, who was then on parole, and who was, unbeknown to the defense, a known major drug trafficker in Brownsville, Brooklyn at the time of this incident.

Six weeks later, the mother of the deceased brought two friends to view James Davis in a lineup after telling

them that the police had the person they believed was the shooter and they wanted witnesses to come view him. The brother-in-law and the two friends picked Davis out of the lineup. One of these witnesses always only said that Davis resembled the shooter. The other friend originally said that he did not see the shooter and then described someone not fitting Davis's description before he identified Davis.

When he was arrested, Davis told detectives that he had been at the party with his brother and some friends, but that he drank too much alcohol, became sick and left the party early in a cab that he took to his girlfriend's house around 2:00 a.m. He spent the night with his girlfriend. Davis gave the police the names of several people who had been at the party who could verify his story, along with his girlfriend. Neither the detectives nor the prosecutor ever spoke to any of these witnesses. Davis provided his defense attorney with the same information, but the attorney spoke only to Davis's girlfriend.

She testified on Davis's behalf at his first trial. Although, the prosecution's three so-called eyewitnesses testified against Davis, the jury voted 11-to-1 to acquit. At the time of Davis's retrial, he and his girlfriend had broken up, and although she told Davis she would testify at the second trial, after the prosecutor subpoenaed her late at night, her mother kicked her out of her house and she did not come to court to testify.

Only the deceased's brother-in-law identified Davis in court this time. One "eyewitness" recanted, saying he had only glanced at the shooter, and the third witness's testimony, who said Davis resembled the shooter, was read into the record at trial. In closing argument, the prosecutor alleged that those two witnesses were afraid to come to court, and only the brother-in-law – whose criminal conduct she alleged was behind him – was brave enough to identify Davis. Based on that evidence, Davis was convicted of second-degree murder and sentenced to 18 years-to-life in prison.

New Evidence

Since his conviction in 2006, Davis and his attorneys have located several witnesses, a number of whom say they were at the party and remember that Davis had become ill and left before the shooting took place. They fully corroborate the account that Davis had provided police from the outset. In addition, one of these witnesses testified at the hearing that he believed the true perpetrator was a man he knew from the neighborhood, because after the shots stopped, he saw this man putting a gun in his pocket, and the man said he had to leave before the police showed up.

A mug shot of this man bears a striking resemblance to Davis. Davis's alibi witness from his first trial testified at the 440 hearing and repeated the exculpatory testimony that led the first jury to vote 11-1 for acquittal.

The young woman who gave Davis's name to the police passed away in 2013. Recently, her mother came forward to say that before she died, the young woman admitted that she had made up the accusation against Davis because she was angry at him for being involved with another woman.

Finally, two of the prosecution's three original eyewitnesses have either wavered or retracted their testimony. The third eyewitness, the deceased's brother-in-law, is himself deceased, killed during his robbery of a drug dealer.

During the postconviction hearing, defense counsel learned that the brother-in-law of the deceased – the main witness against Davis - was under a joint FBI/NYPD investigation into major drug traffickers in Brownsville that was taking place at the same time as Davis's retrial. In addition, according to papers filed by U.S. Department of Justice, a confidential informant was buying large quantities of drugs from the brother-in-law at this time, as well. Thus, although the brother-in-law portrayed himself at Davis's trial as a law-abiding citizen, who worked as a barber, this was far from the truth.

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