

# THE LEGAL AID SOCIETY

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**\*\*\*FOR IMMEDIATE RELEASE\*\*\***

## ***Legal Aid Wins Reversal for Brooklynite James Davis in 2006 Murder Conviction, NYS Appeals Court Orders a New Trial***

### ***Successful Appeal was Based on Claim of Ineffective Assistance of Counsel***

(NEW YORK, NY) – The Legal Aid Society celebrated a [decision rendered](#) by the New York State Appellate Division, Second Judicial Department which vacates a conviction and orders a new trial for James Davis, a Brooklyn man who was [wrongfully convicted of murder in 2006](#).

The Second Department found that Mr. Davis’s trial attorney was ineffective for failing even to interview numerous witnesses who would have strongly supported Mr. Davis’s claims of innocence by confirming that, after drinking too much and becoming ill, he left the party where the shooting occurred well before it happened. Mr. Davis had provided this account of his innocence to police immediately upon his arrest and promptly furnished his attorney with the names of the witnesses who would corroborate it. The attorney, however, failed entirely to act.

“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 applaud this decision from the Second Department which rightly vacates this wrongful conviction against James, and orders a new trial. We call on the Kings County District Attorney to deliver our client justice by declining to prosecute James any further and dismissing the case in its entirety.”

#### **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.

The police focused on Davis when a witness who had not even been present at the party named him as the shooter (She later admitted she had done so falsely). From the moment he first encountered police, Davis explained that

he had been at the party earlier in the evening, had too much to drink, became ill, and then taken a taxi to meet up with his girlfriend. He had left the scene well before the shooting occurred.

At Davis's first trial, his then-girlfriend testified about their meeting that night and the jury deadlocked 11-to-1 in favor of acquittal. Unfortunately, Davis and his girlfriend were no longer together at the time of the retrial and she did not testify. Although his attorney could have obtained a material witness order to secure her appearance, he failed to do so. He also failed to call - or even to interview - any of the other potential witnesses whom Davis had identified to him. Those witnesses would have confirmed Davis's account that he had gotten sick and left the party before any shooting occurred. It was counsel's failure to interview these critical witnesses that formed the basis of the Appellate Division's conclusion that the lawyer had provided ineffective assistance. Without hearing any of this exculpatory evidence, the jury at Davis's second trial convicted him of second-degree murder.

### **Post-Conviction Hearing**

At the post-conviction hearing, Davis's former girlfriend testified and confirmed that Davis had been with her at the time of the shooting. Numerous others, who had been with Davis at the party, testified that Davis had gotten drunk and sick and left the party before the shooting. They further confirmed that Davis's trial lawyer had never contacted them to ask that they testify at Davis's trial.

During the post-conviction hearing it also came to light that the sole prosecution witness to identify Davis in court as the shooter had lied on the witness stand. Specifically, that witness testified under oath that, at the time of the trial, he was working as a Brooklyn barber and that the criminal activity of his youth was long behind him. In fact, at the time he testified, the witness was the target of a joint NYPD/FBI investigation into major drug traffickers in the Brownsville area. Federal court filings document the witness's involvement in drug dealing at the very time he was testifying, including sales to a confidential informant. A source would later describe the witness to the FBI as one of the most infamous and violent criminals in Brooklyn. Shortly after Davis's retrial, the witness was himself killed during a robbery of other drug dealers.

### **Documents**

Photo of James Davis: [https://legalaidnyc.org/wp-content/uploads/2020/08/PSX\\_20200818\\_105411.jpg](https://legalaidnyc.org/wp-content/uploads/2020/08/PSX_20200818_105411.jpg)

Appellate Brief: <https://legalaidnyc.org/wp-content/uploads/2020/09/JD-BRIEF.pdf>

440 Motion: <https://legalaidnyc.org/wp-content/uploads/2021/04/davis440F.pdf>

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*The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. [www.legalaidnyc.org](http://www.legalaidnyc.org)*