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

***Legal Aid Secures Dismissal for Brooklynite James Davis who was Wrongfully Convicted of a 2004 Murder, Incarcerated for the Past 17 Years***

***Davis' Family Announces [GoFundMe](#) to Assist with James' Transition Back to Society***

(NEW YORK, NY) – The Legal Aid Society secured a [dismissal](#) of charges against James Davis, a Brooklynite who was wrongfully convicted of a 2004 murder and who spent the last 17 years incarcerated. This dismissal comes after the New York State Appellate Division, Second Judicial Department vacated James' 2006 conviction and ordered a new trial. Today, the Kings County District Attorney dismissed all charges, declining to retry the case.

“James Davis never committed this crime, and despite overwhelming evidence of innocence, he spent the past 17 years - his entire adult life - behind bars. While today provides some justice for James, it does not recoup the almost two decades of his life that were taken from him,” said **Elizabeth Felber, Director of the Wrongful Conviction Unit at The Legal Aid Society**. “In order to better prevent further wrongful convictions like James Davis's, there needs to be an accounting of what went wrong here. In his case, the eyewitness identifications were always troubling: one witness always only said Mr. Davis resembled the shooter (except that he had a different hairstyle), one changed his testimony four times ultimately recanting, and the third and only witness at trial was a stranger who saw sparks coming out of the gun, and in his panic, ran

into a wall while trying to flee. Archival studies show that eyewitnesses make incorrect identifications approx one-third of the time. On top of this problematic evidence, tunnel vision set in with law enforcement: no investigation was ever done into James Davis's rock-solid alibi evidence or of the prosecution's star witness who was the subject of a massive federal drug ring investigation."

**Go Fund Me link:**

<https://www.gofundme.com/f/help-james-davis-after-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.

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.

### **Appellate Reversal**

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.

### **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)*