



Justice in Every Borough.

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***Legal Aid Files Amicus Brief to Defend the Rights of New Yorkers
Against Mistaken Eyewitness Identifications and Wrongful
Convictions***

(NEW YORK, NY) - The Legal Aid Society filed an [amicus brief](#) in *The People of the State of New York v. David Vaughn*, a case pending before the New York Court of Appeals, in support of Mr. Vaughn and all New Yorkers' right to be protected against mistaken eyewitness identifications and wrongful convictions.

In the brief, Legal Aid argues that the Court should overturn the current "corroboration rule" governing the admissibility of expert testimony on the reliability of eyewitness identifications, a rule that violates a criminal defendant's constitutional right to present a complete defense. Instead, the Court should instruct trial courts to admit reliable expert testimony whenever it satisfies the standard balancing test: that its probative value outweighs its potential adverse effects, without regard to the prosecution's corroborative evidence.

When a defendant is identified by eyewitness testimony, expert testimony serves a critical role in defending against misidentifications. Eyewitness identification has long been acknowledged as deeply powerful and convincing testimony to jurors, but decades of social science research show that even confident eyewitnesses are often mistaken. Experts inform members of the jury of common situations and factors that lead to inaccurate identifications. Despite the important role of such expert testimony, the Court's corroboration rule set forth in *People v. LeGrand*, 8 N.Y.3d 449 (2007), and its progeny allows trial courts to exclude relevant and reliable expert testimony as inadmissible where those courts deem it unimportant because the prosecution's evidence, if believed, could corroborate the eyewitness identification.

"As the oldest and largest public defender organization in New York City, we spend hundreds of hours a year litigating the admissibility of expert testimony to contest the reliability of flawed eyewitness identifications, but under the 'corroboration rule,' defense expert witnesses can be

excluded from trial when they have important and relevant information to share with the jury that could prevent a wrongful conviction,” said **Shona Hemmady, Staff Attorney in the Special Litigation Unit, Criminal Defense Practice, The Legal Aid Society**. “We hope that the Court of Appeals overturns the corroboration rule to uphold the constitutional right of every New Yorker to present a complete defense.”

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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 nearly 150 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