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## D.A. should admit convicting an innocent man

Paige Kaneb

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When Maurice Antwone Caldwell was released March 28 after serving 20 years for a murder he did not commit, the San Francisco District Attorney's Office pronounced that he was free on a "technicality," and that he was, in fact, guilty.

That's despite evidence uncovered by the Northern California Innocence Project that another man committed the crime and that Caldwell was not involved.

It's difficult, sometimes, to admit making a mistake, but when the integrity and public perception of the criminal-justice system is at stake, one would hope that the prosecution would admit the wrong man was convicted instead of clinging to a misguided perception of the evidence.

And citing a technicality is insulting. Unless you believe that rights guaranteed by the Constitution are no more than a technicality.

In December, San Francisco Superior Court Judge Charles Haines reversed Caldwell's murder conviction after ruling that Caldwell's attorney was constitutionally ineffective for failing to investigate Caldwell's innocence. Haines ruled that if Caldwell's attorney had done his job properly, then there's a reasonable probability that the jury would have acquitted Caldwell.

Caldwell was convicted in 1991 of the murder of Judy Acosta in the Alemany Housing Project in San Francisco. No physical evidence connected Caldwell to the crime, and none of the surviving victims identified him as a shooter. He was convicted solely on the testimony of Mary Cobbs, who said she saw two men shoot at a car. Cobbs was heralded as a hero for defying gang threats to testify and later was relocated, given a new job, a \$1,000, and the city's highest civilian honor, the Medal of Merit. She also was given a trip to Disneyland.

At first, Cobbs said that she did not know the names of the shooters and that neither lived in the area. Caldwell was her neighbor, but after police allowed her to view him on two occasions, she identified him as the gunman - a procedure that has been condemned as suggestive and improper. Ultimately, Cobbs testified she saw him standing under a light pole - a light pole we have established cannot be seen from her window.

In granting Caldwell a new trial, Haines cited evidence from multiple witnesses exonerating Caldwell. Two eyewitnesses now say that Marritte Funches and Henry Martin were the real killers. Funches has confessed to the crime and asserts that Caldwell is innocent. Other new witnesses now say Caldwell was not at the scene of the crime and was seen running toward the crime scene after the shooting.

After Caldwell was granted a new trial, the prosecution decided to retry him. Because Cobbs died in 1998, prosecutors sought to introduce her prior testimony, even though the exhibits related to her testimony were long ago destroyed.

Judge Haines ruled that without the exhibits or an opportunity to question Cobbs, Caldwell would not get a fair trial and barred the evidence. The district attorney dismissed the case, but insisted there was no finding of innocence and that Caldwell was released on a technicality.

The Constitution is not a technicality. Neither is spending 20 years, 6 months and 3 days incarcerated for a crime he did not commit. Caldwell lost his mother, grandmother and brother while in prison. He lost nearly half of his life. We can't give him back that time, but let's at least give him back his reputation and admit that the evidence overwhelmingly demonstrates his innocence.

*Paige Kaneb is a staff attorney at the Northern California Innocence Project at Santa Clara University.*

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