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Northern California Innocence Project

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Exoneration Update:
Northern California Innocence Project helps free two wrongfully convicted men

Since our last newsletter in September, the Northern California Innocence Project at Santa Clara Law has helped exonerate two more wrongly convicted people: Jeffrey Rodriguez and Kenneth Foley.

“Our students, staff, and volunteer investigators worked tirelessly on these cases, and I am so proud of their efforts,” says Kathleen “Cookie” Ridolfi, executive director of the Northern California Innocence Project. “This work is monumental and so important, and we all feel privileged to be part of something that is making such a difference.”

Jeffrey Rodriguez freed in February

The Northern California Innocence Project played a key role in freeing Jeffrey Rodriguez, 29, who was released in February after serving more than five years of a 25-years-to-life sentence for robbery.

After appellate attorney Irma Castillo convinced the Sixth District Court of Appeal to grant Rodriguez a new trial, public defender Andy Gutierrez was appointed to represent him. He contacted the Northern California Innocence Project for help. Santa Clara Law student and NCIP intern Curtis Macon was assigned to the case. The evidence against Rodriguez consisted of mistaken eyewitness testimony and a spot on Rodriguez’s jeans that a Santa Clara criminalist testified was motor oil. The prosecution argued that the oil was transferred onto the jeans during the crime, which took place behind a Kragen store.

Jeffrey Rodriguez was arrested the morning after the robbery when the victim, standing in line at the DMV, noticed Rodriguez standing in line with his sister. Believing Jeffrey was the man who robbed her, the victim alerted police and he was arrested.

Macon worked closely with Gutierrez to conduct extensive research, including diagramming the discrepancies in the victim’s testimony, and re-enacting the crime. They also successfully used video forensic experts to prove that the jacket the robber wore, captured on a video surveillance camera, was not the jacket police found in Rodriguez’s house.

When the district attorney’s office ordered the jeans retested, the results proved there was no oil on Rodriguez’s pants, discrediting the testimony of the Santa Clara Crime Lab criminalist. Based on the new evidence, the Santa Clara County district attorney dismissed the charges, and Rodriguez was released on February 5.

This case was included in the 2006 San Jose Mercury News series Tainted Trials, Stolen Justice, which highlighted wrongful convictions and other problems in the in Santa Clara County criminal justice system.

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From the Executive Director

On April 23, Jerry Miller was exonerated in Chicago after serving 24 years in prison for a crime he didn’t commit, becoming the 200th person to be proven innocent through DNA testing. Jerry Miller’s case and the hundreds of exonerations based on evidence other than DNA are a tribute to the work of Innocence Projects across the United States and the people supporting this important work.

Recent Exonerations

Since September, the Northern California Innocence Project at Santa Clara Law has worked to exonerate two more people: Jeffrey Rodriguez and Ken Foley (see our cover story).

In every case we tackle, our students, staff, and volunteer investigators spend countless hours investigating, researching, reviewing evidence, pursuing leads, and interviewing witnesses—all in search of the truth. This work is monumental and so important. It is a privilege to be part of something that is making such a difference.

Legislation and Public Policy

Our Innocence Project is committed to correcting the injustices and inequities in the justice system so that innocent people will not be wrongly convicted in the future. We are now finalizing a three-year strategic plan to focus our resources on exonerations and systemic reforms. Moreover, as a commissioner on the California Commission on the Fair Administration of Justice, I am directly involved in legislative efforts to address the flaws leading to wrongful conviction in this state. The Commission has co-authored three bills that the California Legislature is currently considering (see page 8 for a report).

Events

We have been able to accomplish so much with the help of our friends and donors. To show our appreciation, we are planning our Inaugural Awards Dinner for Spring 2008. Also mark your calendars for an historic conference on justice and innocence, which will be held at Santa Clara University in March (see the back cover). For more information on these and other events, please watch for upcoming newsletters or visit us online.

I offer my heartfelt thanks to everyone who has helped NCIP achieve these many accomplishments.

KATHLEEN “COOKIE” RIDOLFI
Kenneth Foley freed in April

In April, a Santa Clara County Superior Court judge overturned the conviction of Ken Foley, who served almost 12 years after being wrongly convicted of a 1995 armed burglary.

From the beginning, Foley maintained his innocence, insisting that the victim mistakenly identified him. At Foley’s trial, Luke Gaumond, the person who actually committed the burglary, and his female co-defendant both testified that Luke was the actual burglar and that Foley had indeed been misidentified. But the prosecution attacked the credibility of Gaumond and the co-defendant, and Foley was convicted. Since that time, Luke Gaumond maintained contact with Foley’s trial counsel, Steve Nakano, to try to help Foley. Nakano approached the district attorney’s office to reinvestigate the case, and that office determined that Foley should be resentenced.

Northern California Innocence Project Legal Director, Linda Starr, with able assistance from Santa Clara Law student and NCIP intern, Sadie Wathen, further reinvestigated the case and filed a petition for writ of habeas corpus on Foley’s behalf. “We argued that Foley’s entire conviction should be reversed, and we presented newly discovered evidence of Foley’s innocence as well as evidence that the prosecution had failed to turn over exculpatory information and that trial counsel had not fully investigated,” says Starr.

In a document filed with the court, the district attorney agreed that Foley’s petition for writ of habeas corpus should be granted, saying they agreed that “a strong showing of actual innocence had been made.” Foley was released on April 5.

Northern California Innocence Project Legal Director, Linda Starr, with able assistance from Santa Clara Law student and NCIP intern, Sadie Wathen, Kenneth Foley, and NCIP Legal Director Linda Starr.

United States Achieves 200th DNA Exoneration

When DNA tests proved that Jerry Miller did not commit the 1982 brutal rape of which he was convicted, Miller became the 200th DNA exoneration in the nation, and the innocence movement reached a significant new milestone.

In 1982, Miller was 22 and had served three years in the military when he was convicted of kidnapping, robbing, and raping a woman in a Chicago parking garage. After 24 years in prison, he was released on parole as a registered sex offender, requiring him to wear an electronic monitoring device at all times and prohibiting him from answering his door on Halloween or leaving his job for lunch.

Miller, who always maintained his innocence, was convicted based on misidentifications. The victim—who had been beaten, robbed, raped—was locked in the trunk of her car. The rapist was attempting to drive the car out of the parking garage when the garage attendants recognized the car as the victim’s and stopped the car before it could leave. The perpetrator fled on foot. At trial, two attendants identified Miller as the perpetrator, and the victim provided a more tentative identification. Because of the victim’s brutal injuries, hospital personnel were unable to collect a rape kit.

New investigation of the case led to re-examination of the evidence and DNA testing of semen on the victim’s clothing that could only have come from the perpetrator, proving Miller’s innocence.

“Like many of the 200 people who have been exonerated through DNA, Jerry Miller lost nearly his entire adult life because of a wrongful conviction,” said Peter Neufield, co-director of the Innocence Project. “It’s impossible to put ourselves in his shoes, but we all have a moral obligation to learn from these exonerations and prevent anyone else from enduring this tragedy.”
“Since the inception of our work at Santa Clara University in 2001, the Northern California Innocence Project has proven the innocence of six men whose combined sentences totaled 179 years, 60 of which they spent locked inside the walls of California prisons. It is no exaggeration to say that the Innocence Project and the support of our donors gave these men back their lives, their families, and reason to hope for a future. Thank you.”

— KATHLEEN “COOKIE” RIDOLFI
Executive Director
Northern California Innocence Project
at Santa Clara University

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In January, at a special evening, the Northern California Innocence Project thanked and honored Colin, Ian, and Sharon Gerbode for their multi-year support of our project through the Peninsula Community Foundation (now Silicon Valley Community Foundation). We also paid special tribute to Ash McNealy of the Peninsula Community Foundation. Peter Neufield, who co-founded the Innocence Project in New York in 1992, was the featured speaker. Co-author of the book *Actual Innocence*, Neufield signed complimentary copies for attendees. The distinguished gathering was generously hosted by Don Listwin and Hilary Valentine at John Bentley’s Restaurant in Redwood City.

Champions for Innocence Give Generous Challenge Grant

In a generous show of support for the Northern California Innocence Project and our mission, Don Listwin and Hilary Valentine pledged to match every gift up to $100,000 made to NCIP before June 30. Through this matching dollar-for-dollar challenge, they are encouraging everyone to support the work of freeing the innocent. To date, $75,000 has been raised towards Don and Hilary’s challenge. Please make a difference by giving as generously as you can before June 30 and seeing your donation double through the generosity of Don and Hilary. See page 11 for the donation form, or visit www.ncip.scu.edu to donate online.
Santa Clara Law students reflect on their experiences as interns at the Northern California Innocence Project

Every year, dozens of Santa Clara Law students work as interns at the Northern California Innocence Project. We spoke with several current students and asked them to share their thoughts about the experience—how it changed them, how it surprised them, and what was most meaningful to them. Here are some of their answers.

CURTIS MACON

I believe that this class, more than any other class I’ve taken at Santa Clara Law, has best prepared me to actually practice law.

After thinking that I was a born prosecutor, this class taught me that what I really want to do is be a public defender. Watching Linda Starr and Jill Kent strategize on ways to basically go where no lawyer has gone before really opened my eyes to the fact that there are still trails to be blazed in criminal law.

The most meaningful part of the class for me was the case work. For most students (including me) this is the first time they’ve ever worked on a real case. There’s something exhilarating about evaluating a file and investigating it and then being allowed to offer your opinion on what the next step should be.

ALANA HAWKINS

In this class, my vision of what an attorney can do has definitely expanded. I had no idea that an attorney had to be so creative. I’ve also learned to truly read and think more critically, and I’ve learned patience. When we work on the cases, we’re lucky if we have all of the court documents and other case-related files in front of us. This means that we need to make the most of the documents that we do have and pull as much of the information from them as possible.

In addition, I was lucky enough to be in class for two exonerations. Those really were the most meaningful parts of class for me.
MABEL LIN

In this class, everything was meaningful, from getting to work on a real case to learning more about the criminal justice system to working with extremely skilled and intelligent attorneys.

What surprised me was the extent of how unjust the criminal system can be. It’s unsettling that a defendant can be convicted based on evidence that really does not prove beyond a reasonable doubt that the defendant is guilty.

This class has also impressed upon me the significant and positive impact that attorneys have even after a case has been tried and decided. To overturn something that the state has already committed itself to is not an easy thing to do.

MATT CURRY

This semester taught me not to take guilty verdicts at face value. There are plenty of different points in the conviction process where a mistake, honest or otherwise, can imprison someone for life. Yet even when those mistakes are acknowledged, undoing the result takes a ton of hard work and good luck.

It was inspiring to work with NCIP attorneys doing things to investigate every possible angle of an inmate’s claim, but it was also depressing to see so many cases of poor, uninspired lawyering by the inmates’ original attorneys, the result of which is next to impossible to undo.

The most meaningful part of the class was being involved in someone’s life in such an intimate way. It is powerful to know that a client was given a second chance at justice.

SADIE WATHEN

In this class, I have learned that I am at my best and am most productive when I am working on a project that will truly impact the freedom and dignity of another individual. I felt I was making a valuable contribution to society.

This class also made me see the human side of lawyering. My experience at NCIP showed me that being a lawyer is not merely about drafting documents or doing research but also about being able to relate to your clients.

The most meaningful part of this class was learning that there is a place in the legal profession for people like me who want to improve the system and to positively impact the lives of others and the community at large.
Criminal justice reform is not for the short-winded. The parade of innocent people released from our prisons...suggests we still have work to do to restore complete confidence that our system of criminal justice is just, fair, and accurate.

L.A. police chief and the San Benito County sheriff, two professors, four lawyers in private practice, one judge, and one victims' rights advocate.

The commission has issued three reports recommending action by the legislature. First, we recommended a state task force be assembled to compile mandatory guidelines for police conducting line-ups and photo arrays, to minimize the risks of wrongful identification. Second, we recommended a statutory requirement that custodial police interrogation be recorded, to minimize the risks of false confessions. And third, we recommended legislation to require corroboration of testimony by in-custody informants, also known as jailhouse snitches.

The Commission has a full agenda for its final year. A report was issued in February on the DNA testing backlog at state crime labs. Another report on problems with forensic science evidence is forthcoming. This summer, the Commission will take up the issue of professional responsibility and accountability of prosecutors and defense lawyers. The commissioners will conclude the year with a study of the death penalty in California and a final report.
Thanks to the generous support of our donors, we can continue our important work—fighting for justice for those who have been wrongly convicted, raising public awareness about the prevalence and causes of wrongful conviction, and promoting substantive legal reforms to prevent future wrongful convictions. Thank you.

Please note: This list reflects gifts and pledges from January 1, 2006, to the present. We make every effort to compile an accurate list. If your name is missing or misspelled, please contact Beau Takahara, Director of Development at 408-554-1945 or email btakahara@scu.edu.

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Make your donation before June 30, and see it double, thanks to a matching grant from Don Listwin and Hilary Valentine.

Your gift in support of the Northern California Innocence Project made before June 30 will be matched by Don Listwin and Hilary Valentine through their dollar-for-dollar challenge grant to our organization. Join Don and Hilary in supporting the Innocence Project today, and see your donation double. Now, more than ever, is the time to support the Innocence Project and help free innocent people!

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SAVE THE DATE
March 26-30, 2008

Join others who are committed to justice and ending wrongful convictions at this historic national conference at Santa Clara Law. We will begin on March 26 with two days of meetings sponsored by the California Commission on Fair Administration of Justice. On March 28, we will celebrate the opening of the 2008 Innocence Network Conference.

To receive the latest information on the conference, please visit www.ncip.scu.edu and sign up for our e-mail newsletter.