

New Jersey conference exposes cases of wrongful conviction and imprisonment

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A conference on wrongful convictions in the US criminal justice system was held Saturday, May 6 in East Brunswick, New Jersey. Panelists at the Wrongful Convictions Conference included lawyers and advocates for the wrongfully convicted, as well as individuals who had been released from either life sentences or death row.

In retelling the series of events that led to the wrongful convictions of Jimmy Landano and Earl Berryman, advocates for the men emphasized the way in which prosecutorial abuses of power altered the outcome of the trials. The inability of the defendants—both working class men who lived in the New York metropolitan area—to pay for expensive lawyers placed them in a highly disadvantaged position.

While contending with the aggressive maneuvers of state attorneys out to secure convictions, Landano and Berryman were forced to rely on the services of court-appointed attorneys. While many of these individuals are able lawyers, they are often overburdened with heavy caseloads and lack the financial and personnel resources necessary to build a strong defense. The stories told by Landano and Berryman reveal a great deal about the workings of a criminal justice system that both feeds off and perpetuates legal and social inequalities.

Jimmy Landano—14 years in prison

On August 27, 1976, the FBI—armed with shotguns and high powered weapons—swarmed the New York residence of Jimmy Landano. Landano was arrested on charges of murder, armed robbery and car theft in connection with the recent robbery of a check cashing business in New Jersey. The theft resulted in the death of a police officer. In exchange for a lesser sentence, Alan Roller, a second man arrested on charges for the robbery, named Jimmy Landano as his accomplice in the crime.

Despite the fact that Landano in no way fit the physical description of the suspect given by eyewitnesses, he was extradited to the state of New Jersey, and was subsequently convicted of the charges and sentenced to death. Evidence unearthed in the struggle to overturn Landano's conviction reveal a legal system marked by various degrees of corruption.

After Landano fought the conviction for several years and lost his appeals at every level of the court system (the Supreme Court refused to hear his case), a federal judge ordered a raid on the files of all government agencies that played a part in Landano's prosecution. The material uncovered revealed that the prosecution consciously targeted an individual that they knew was not guilty,

with one document even explicitly stating this.

The prosecution pressured witnesses into testifying against Landano, despite the fact that previous statements made by these people would have clearly implicated someone else in the crime. In an interview conducted several years after Landano's conviction, a truck driver who identified Landano as the perpetrator at the trial admitted that until Landano's lawyer stood up to speak at the trial, he was unsure which of the men sitting behind the defense table was the supposed guilty person.

In reviewing evidence in the prosecution's files, Landano's advocates also discovered that the book of photos used by the police for the identification of criminals in the case contained two photographs of Landano, thereby increasing the likelihood that someone would peg Landano for the crime.

Apparently, the owner of the check cashing business had called the police and identified Alan Roller and another man, Victor Forney, as possible suspects in the crime. The man was told by the police to keep quiet. While Forney has never been tried for the 1976 robbery and murder, evidence uncovered as part of Landano's attempt to overturn his conviction strongly implicated Forney in the crime. At the conference, Landano speculated that Forney, who is known to be involved with organized crime, was able to avoid arrest because he is an informant for the Drug Enforcement Agency.

Paul Casteleiro, the lawyer who helped Landano overturn his conviction, stated that he felt the bulk of wrongful convictions, and Landano's case in particular, arose out of the willingness of the prosecution to rely on the testimony of unscrupulous persons in order to secure a conviction. Roller, the man who named Landano as his accomplice in the robbery, was active in the same organized crime ring as Forney, and the prosecution failed to reveal this information.

In the view of Casteleiro, Landano's conviction largely arose out of the fact that the “prosecution makes deals with the devil.” While there is no doubt that the aggressive and dishonest tactics on the part of the prosecution contributed to Landano's conviction, this doesn't answer why Landano was not able to defend himself in the face of a less than air-tight case against him. When this reporter asked Landano what he thought prevented him and people like him from securing acquittals, he stated, “Good attorneys—they want money. They [people on death row] don't have money. They're not the Duponts of the world.”

The case of Earl Berryman

Earl Berryman, a resident of Newark, New Jersey, was charged with raping a Brazilian woman. She claimed that three African-American men abducted her from a street corner and then sexually assaulted her in an abandoned warehouse. A full year and a half after the crime supposedly took place, the victim picked Berryman, along with two other men, out of a book of police photos. Each of these men's last names started with the letter "B."

Jim McCloskey, a panelist at the conference and the director of an organization that takes on cases for the wrongfully convicted, speculated that after being faced with the prospect of looking through photo books from A-Z, the woman settled on three men in the "B" book. Despite the fact that several people considered the woman's accusations highly questionable in the first place, Berryman was eventually convicted and sentenced to life in prison.

Based on the material presented at the conference, it appears that Earl Berryman's conviction arose out of a confluence of factors. His case epitomizes the ways in which the legal system targets certain layers of the population.

When he was first arrested, police told Berryman that if he implicated Michael Bunch, another man charged in the crime, the charges against him would be dropped. Berryman refused. Berryman and Bunch never saw their court-appointed attorneys before going to trial. Berryman's lawyer was later disbarred.

Earl Berryman's conviction seems to have been based on even less credible evidence than that which led to Landano's conviction. During the trial it was easily established by the prosecution that Michael Bunch had a long criminal record. Lawyers for the state used this evidence to portray Bunch as a violent person, a hardened criminal who, on the basis of his prior history, must have committed the rape and kidnapping. Berryman's supposed guilt was then inferred on the basis of the prosecution's incriminating character assassination of Bunch.

Speaking at the conference, Casteleiro, who was hired by Bunch's family, pointed out the way in which having a previous criminal record or a history of drug addiction affects the outcome of a case. Casteleiro stated that the problem with the Bunch's position was simply that "nobody believed him" at trial. In the case of Berryman, the man had the misfortune of having taken a joy ride in a stolen car as a teenager. While the charges against him were dismissed, his picture remained in the police files. If it had not been for this minor infraction, Berryman would never been identified by the victim because he had no other criminal record.

Landano and Berryman fought for many years to have their convictions overturned. When asked about the process he went through in order to reach an advocate willing to take up his case, Landano stated, "I wrote to everybody you could think of, every reporter, journalist, politician." After about five years in prison, Landano eventually made contact with Jim McCloskey when the latter began doing seminary work in the prison. Landano spent a total of 14 years in prison.

After being released from death row, Landano was offered a deal by the prosecutor's office that would have overturned the murder and armed robbery convictions, if he pleaded guilty to car theft and accepted time served as a sentence. Landano refused to admit guilt in any manner and spent another nine years under house arrest before receiving a complete acquittal on all charges in July

of 1998.

Berryman spent time writing to people he knew in the city of Newark whom he thought might be able to help. After several years he made contact with McCloskey who agreed to take up his case. Berryman spent 10 years in prison fighting to have his conviction overturned before finally being released. Despite spending years fighting his conviction with the aid of Paul Casteleiro, Michael Bunch died in prison.

Several of those who spoke at the conference, both on the panel and in the audience, adopted a hard-line towards criminals in general. The main organizer of the event, Lorry Post, lamented the fact that "the system doesn't work ... the guilty guys go free." Many of those involved in the event appeared largely concerned with the plight of the "wrongfully convicted" and only as a more secondary interest with the way in which the criminal justice system operates as a whole.

Professor Mike Israel stated, "The problem is not only social class." He then went on to remark that wrongful convictions were in large part the product of "police culture and the general mood of getting down on crime." But he failed to make the point that the methods of the police and prosecution overwhelmingly target workers and the poor.

In response to a question from the audience, Paul Casteleiro drew attention to the passage in 1996 of the White House-sponsored Anti-Terrorism and Effective Death Penalty Act. Arguing that the new law severely hindered attempts to secure the overturning of wrongful convictions, Casteleiro stated that the passage of this act "effectively suspended the writ of habeas corpus."

Significantly, none of the lawyers or advocates at the conference explicitly stated their opposition to the death penalty. While Jimmy Landano came within four months of having his life ended, the conference organizers and the panelists themselves never sought to raise the question whether or not such a possibility should ever have existed in the first place. In discussions with this reporter after the panel adjourned, both Jimmy Landano and Earl Berryman stated that they unequivocally opposed the death penalty.



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