# *Trial 4*: A shameless police frame-up in Boston

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*Directed by Rémy Burkel*

*Trial 4* is an eight-episode documentary television series, currently streaming and enjoying a wide viewership on Netflix.

Directed by Paris-based filmmaker Rémy Burkel, the series examines the case of Sean Ellis, a Boston teenager wrongly convicted of the 1993 murder of police officer John Mulligan. Ellis spent nearly 22 years in prison after the prosecution finally managed to obtain a conviction in his third trial. His first two trials had ended in a hung jury. The docuseries chronicles Sean's fight to prove his innocence, while exposing the rampant police corruption involved in his frameup.

On September 26, 1993, Boston police detective John Mulligan was shot in the middle of the night in a Walgreens parking lot where he was sleeping in his car. Mulligan's gun went missing and there were rumors that his pants were found around his ankles.

Two years later, Sean, a black teenager who was 19 at the time of Mulligan's murder, was convicted of the crime. He admitted he was at the drug store that night with his co-defendant, Terry Patterson, then 18, but insisted he had entered the store to purchase diapers and then left. Authorities eventually claimed the teens saw the sleeping officer and decided to take his weapon as a "trophy."

After more than two decades behind bars, the three trials and two hung juries and a release on bail, Sean faced a fourth trial that would determine whether he would be sent back to prison for life.

The series focuses on the upright, endearing protagonist and his remarkable Boston attorney Rosemary Scapicchio, fearless in her quest to prove her client's innocence. Five months after Sean was convicted, the *Boston Globe*'s investigative Spotlight Team broke the story of corruption in Boston's Area E-5 station house—the base of operations for Mulligan and task force investigators Kenneth Acerra, Walter Robinson and John Brazil (until 1992).

Acerra, Robinson and Brazil were exposed as dirty cops—extortionists, robbers and perjurers on a massive scale. Acerra and Robinson were indicted on federal charges and convicted; Brazil turned state's evidence and escaped charges.

In the immediate aftermath of Mulligan's murder, as the eight-part series reveals, Acerra and Robinson, who tellingly were not homicide but drug detectives, inserted themselves into the murder investigation. The two had been scrutinized multiple times by the city of Boston for stealing the money of drug dealers. Strong evidence existed that Mulligan, who owned various cars and properties, was also involved in their criminal schemes. Their star witness, Rosa Sanchez, claimed she saw Sean next to Mulligan's car on the night of the shooting. She also picked him out of a photo array, and a suspect lineup. It came to light that Acerra lived with Sanchez's aunt and had a child with her.

Sean's girlfriend at the time, Letia Walker, testified for the prosecution after they threatened to take away her child.

In 1997, Acerra and Robinson pleaded guilty to their various crimes. Related to that, the following year, Sean filed a motion for a new trial, but it was denied. He put forward a second retrial motion in 2013, and in 2015 his conviction was overturned. In December 2018, the acting District Attorney John Pappas announced his office would not be pursuing another trial, but still maintained that Sean was guilty. The vindictive, face-saving action means that Sean will not face another trial, but has not been declared innocent by the state.

"If there was any question about my exoneration we would be heading to a fourth trial," the victim pointed out following the news.

During his own trial, Patterson, who maintained his innocence, was found guilty and sentenced to life without possibility of parole. Following an appeal and the undermining of the fingerprint evidence used to convict him, he agreed to take a plea deal in order to be released from prison. His counts were reduced to manslaughter, armed robbery and gun charges, and in 2006 he was credited with time served and freed.

Footage of Sean's legal and personal ordeal over two

decades forms the basis of *Trial 4*, along with animated reenactments of the crime and interviews with Sean's family members. It is a thorough and well-organized documentary. Sean comes across as an admirable figure, extraordinarily resilient in the face of a state-organized nightmare. His tough, highly principled attorney Scapicchio is a fount of energy and compassion.

In February 2018, she issued a press release rejecting the idea she was a potential candidate for district attorney:

> Nothing could be further from the truth. I have spent my entire adult life DEFENDING individuals accused of a crime and prosecuted by that office.
>
> Not for a single moment have I considered such a career change as there is not a single fiber in my being that desires to stop DEFENDING people.
>
> I can only surmise that the source of this falsehood are the very people that want me to stop the successful zealous advocacy I have practiced for now over 26 years.

In the documentary's closing moments, we see Sean addressing an audience: "No one is speaking about the fact that wrongful convictions are an epidemic. No one is speaking about the fact that wrongful convictions are a catastrophe. You are dealing with somebody's life. ... Part of what I've been doing since I've been home is social justice, criminal justice reform. ... What happened to Sean Ellis is not just about Sean Ellis. It happens on a daily basis throughout this country and probably throughout the world."

*Trial 4* is a conscientious, valuable series. It is a further exposure of police corruption and brutality. The number of such documentary films and series is growing and each of these efforts is needed and welcome. However, what is absent from every such exposure is any examination of the character of the police as an institution and its relationship to society as a whole.

If medical researchers or public officials became aware of a thousand cases in which the victims showed similar symptoms, they might reasonably conclude that a generalized problem existed, which needed to be treated at its source. Reports of police killings, brutality and corruption are daily occurrences, yet no one will offer any broader diagnosis.

The police do not exist to provide directions to tourists, help little old ladies across the street or solve "especially heinous" crimes. The police force, whatever the social background of its individual representatives, essentially defends the property and interests of the rich on behalf of the rich. It forms part of the capitalist state apparatus, courts, prisons, etc., "special bodies of armed men," in the famous phrase, whose function, in the final analysis, is to intimidate, terrorize and suppress the working class.

In the Ellis case and beyond, all talk of systemic racism as an explanation of injustice misses the mark. Racism exists and fascistic sentiments are widespread in police forces. But the police function not as an instrument of racial oppression but of class rule.

The particularly homicidal brutality of the police in the United States is to be explained by the particular brutality of class relations in America—a land of monstrous inequality dominated by an anti-democratic and authoritarian oligarchy.

Two additional points along these lines. First, a certain sort of upper-middle-class liberal, including those who live in New York, Chicago, San Francisco and elsewhere, like to console themselves by imagining that frame-ups of the Sean Ellis variety occur only in "backward" Mississippi, Alabama, Louisiana, Georgia or the more remote rural regions of Texas. That this travesty of justice occurred in Boston, home to Harvard and MIT, the enlightened birthplace of the American Revolution, should be a useful slap in the face and further proof that this is a social and institutional question, solvable only by the end of the profit system.

Second, the filthy and *accurate* picture of the police that emerges from the Ellis case and others like it should be a further corrective to the fantasy presented on network television in series such as *Chicago P.D.*, *Blue Bloods*, *S.W.A.T.*, *Law & Order: SVU*, *The Rookie*, etc., etc. In these programs, the producers and screenwriters subscribe to the "bad apple" theory—the occasional rotten cop proves by his or her malfeasance and punishment that the exception proves the rule. The affluent layers that churn out these series are responding on the basis of class instinct in creating their mythologies of the hard-working, "blue collar" cop—they see the police as a crucial line of defense of their wealth and privilege.