

## Wrongful Conviction Overturned Based on DNA Evidence

OREGON, December 2, 2019—The Malheur County Circuit Court has overturned the conviction of Nicholas McGuffin after his post-conviction legal team proved the existence of exculpatory DNA evidence that was never disclosed to the jury. Mr. McGuffin’s DNA was not found on any of the victim’s clothing or anywhere at the crime scene. Mr. McGuffin was convicted in 2011 and has spent nine years in prison for a crime he did not commit. He was represented at the post-conviction trial by Janis Puracal of the Forensic Justice Project (FJP) in partnership with Ryan O’Connor at O’Connor Weber.

In 2011, Mr. McGuffin was convicted of killing his girlfriend, Leah Freeman, who disappeared in 2000 and whose body was found in the woods five weeks after her disappearance. At the time the body was found, the Medical Examiner could not determine the cause of death, and there were no eyewitnesses to Ms. Freeman’s disappearance or death.

Before the criminal trial in 2011, the Oregon State Police Forensics Services Division (the “OSP Lab” or “Lab”) found DNA belonging to an unidentified male on the victim’s bloodstained shoe, but did not report that information to anyone outside the Lab. In fact, the OSP Lab knew that the DNA did not match Mr. McGuffin and came from some other man. Still, a lab analyst falsely testified that there was no DNA evidence pointing to any other suspect. The Lab did not report the unidentified male DNA until long after Mr. McGuffin had been wrongfully convicted of killing Ms. Freeman.

Mr. McGuffin’s post-conviction attorneys discovered the unidentified male DNA on Ms. Freeman’s shoes and confronted the OSP Lab about it in 2017. The Lab admitted that it tested the shoes in 2000 and discovered the DNA, but never reported it. According to the OSP Lab, in 2000, analysts could exercise discretion in reporting DNA results, and those analysts chose not to report the exculpatory DNA results in Mr. McGuffin’s case.

It is not known how many other defendants have been wrongfully convicted in Oregon in cases in which OSP Lab analysts chose not to report exculpatory DNA results.

Mr. McGuffin’s post-conviction attorneys argued that his conviction should be vacated and charges dismissed. If the DNA evidence in Mr. McGuffin’s case had been available at his original trial in 2011, the jury would have understood that another man committed this crime and that Mr. McGuffin is innocent.

In an opinion vacating the conviction, Judge Patricia Sullivan of the Malheur County Circuit Court in Oregon wrote that “[m]ale DNA was detected on the victim’s shoes during testing in 2000 that was not [Mr. McGuffin’s]. This information was not disclosed at trial. DNA from another male is material and exculpatory.” Judge Sullivan recognized that the OSP Lab, as an arm of the State, violated Mr. McGuffin’s constitutional rights by failing to disclose the DNA.



She also concluded that Mr. McGuffin's original defense attorney failed to investigate the exculpatory DNA results.

Janis Puracal, the Executive Director of the Forensic Justice Project and the lead attorney on Mr. McGuffin's post-conviction team, commented, "We are very pleased with the ruling. Mr. McGuffin has maintained his innocence all along and has fought to prove that the wrong man is in prison. We believe that the DNA evidence establishes that, and now the court has recognized that the DNA evidence is exculpatory."

Ms. Puracal noted that "Mr. McGuffin's case proves the importance of understanding forensic evidence and the need to get it right." Faulty or misleading forensic evidence is one of the leading causes of wrongful convictions around the country. "Mr. McGuffin's case proves that Oregon is no exception," said Ms. Puracal.

Ryan O'Connor, counsel at O'Connor Weber, noted, "Judge Sullivan's decision correctly recognizes that the State of Oregon obtained Mr. McGuffin's conviction by violating his constitutional rights. Mr. McGuffin deserves this legal victory and he deserves to have his name cleared."

Ms. Puracal has been working on Mr. McGuffin's case since 2014 and has devoted thousands of hours to the case. She credits the remarkable work of two investigators, John Comery (*pro bono* research paralegal at the Oregon Innocence Project) and Andrea Titus (an independent investigation and mitigation specialist), as well as *pro bono* counsel Andrew Lauersdorf, eight student interns, and numerous other professionals who have devoted their time and talent to the case over the years. Expert witnesses Huma Nasir, Larry Barksdale, Andrew Baker, and Patrick Sweeney were invaluable to the effort to overturn Mr. McGuffin's conviction.

### **About the Forensic Justice Project (FJP)**

The Forensic Justice Project is a nonprofit that is dedicated to preventing and correcting wrongful convictions based on forensic evidence. FJP works with defense counsel to understand and challenge faulty forensic evidence, or develop helpful forensic evidence, in criminal cases. The mission of FJP is to ensure the use of sound science in the courtroom. Learn more at [www.forensicjusticeproject.org](http://www.forensicjusticeproject.org)

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