

Girding for new trial in 1993 Lockmiller murder

By Pat Milhizer
Law Bulletin staff writer

A decision by the Illinois Supreme Court overturning his conviction for the murder of a college student made it possible for Alan Beaman to taste freedom again after 13 years in prison.

And now the efforts of lawyers at the Center on Wrongful Convictions at Northwestern University School of Law's Bluhm Legal Clinic are being directed at keeping him on the outside.

Beaman was transferred from Dixon Correctional Center to the McLean County Jail last week and was released on bond on Thursday.

"I still think it hasn't sunk in," Beaman said in a phone interview from his home on the outskirts of Rockford. "I'm still enjoying some very simple pleasures - being with family, going outside, eating what I want to."

A McLean County jury in 1995 convicted Beaman, now 35, of killing ex-girlfriend Jennifer Lockmiller in her apartment in downstate Normal.

The trial was conducted by 11th Judicial Circuit Judge John P. Freese, who is now retired. Beaman was sentenced to 50 years in prison, but under the state law in force at the time, he was eligible for release in 2020.

Beaman's lawyers say prosecutors won the verdict despite the absence of an eyewitness, a confession or any solid physical evidence.

In a 20-page opinion, the Supreme Court agreed with that assessment, calling the evidence "tenuous" and circumstantial.

But the ground on which the justices overturned the verdict in their unanimous decision was that the prosecutors had violated Beaman's constitutional right to due process by withholding evidence pointing to an alternative suspect. *People v. Beaman*, No. 104096 (May 22, 2008).

Beaman's trial lawyer never learned of information uncovered when investigators focused on the "John Doe" suspect, and as a result the jury didn't either.

His new lawyers will have another shot at it. McLean County State's Attorney William A. Yoder says his office will "continue to move forward with the investigation and prosecution" of Beaman in a new trial.

The Supreme Court ruling is the first major legal victory that the Beaman family can point to after a string of losses at the trial and appellate levels, and they are confident of the outcome in a retrial.

"On one hand, we'd like it to just be over," said Beaman's mother, Carol. "But without a new trial, it might never be over."

The murder occurred in 1993. On Aug. 28, Lockmiller, 22, was found dead in her apartment with stab wounds to the chest from a pair of scissors. She was partially naked, the electrical cord of a clock radio was wrapped around her neck and box fan covered her face.

Both Beaman and Lockmiller attended college in McLean County, Beaman at Illinois Wesleyan University in Bloomington and Lockmiller at Illinois State University in Normal, a town that abuts Bloomington. In 1993, they had been involved in a relationship that featured several break-ups and subsequent make-ups, and a final break-up before Beaman went back to his parents' home in Rockford for the summer.

The police and prosecutors quickly focused on Beaman, creating a "fantasy" scenario to explain the murder, according to one of Beaman's attorneys, Jeffrey Urdangen.

At its heart: a jealous rage, going far beyond earlier incidents involving the two.

On two earlier occasions in 1993, Beaman had broken Lockmiller's apartment door open when he suspected that she was with other men. At the murder scene, authorities had recovered seven fingerprints from the alarm clock. Two belonged to Beaman, while four were from Lockmiller's new boyfriend. There was another print that couldn't be identified.

Based on crime scene evidence and Lockmiller's class schedule, the state contended that Lockmiller was killed around noon on Aug. 25, 1993.

When Beaman was asked to recount his activities between Aug. 23 and Aug. 27, he began with events from Aug. 25. But the detectives who were questioning him hadn't told Beaman that Aug. 25 was the day they thought the murder had occurred.

Beaman did offer an alibi, saying that he had worked third shift at his uncle's grocery store, handling routine maintenance jobs until 9 a.m. that day. Then he went to a Rockford bank, he said.

A security camera videotape showed that he left the bank at 10:11 a.m.

Telephone records showed that phone calls were made from Beaman's home at 10:37 a.m. and 10:39 a.m. - one to the family's church and another to the home of the church's director of music and youth ministries.

When questioned by detectives, Beaman said he didn't recall making the calls, but he thought it was possible that he did because he occasionally played music during church services and was scheduled to rehearse that night. He maintained that he was at home sleeping when the murder happened.

But prosecutors and investigators worked to knock down the alibi.

Because she was on summer break from her job as a high school teacher, prosecutors suggested that Beaman's mother had made the phone calls.

At trial, a detective testified that Alan Beaman couldn't have made the phone calls because he couldn't have gotten home from the bank in time.

And he did have time to drive from Rockford to Normal, kill Lockmiller and drive back to Rockford before his mother returned home and found that he was asleep in his bedroom, the jury was told.

The prosecution was led by James E. Souk, who was an assistant state's attorney in McLean County at the time and who now is a circuit judge in Bloomington. Souk told the jury that Beaman had left the Rockford bank at 10:11 a.m. and driven south, arriving at Lockmiller's apartment in Normal around noon.

When Beaman saw some of Lockmiller's new boyfriend's belongings in the apartment, he "snapped," committed the murder and left by 12:15 p.m., Souk argued.

Beaman then drove back to Rockford, Souk maintained, and arrived at his home around 2:10 p.m. The prosecution's theory relied on Beaman driving his 1987 Ford Escort at an average of 75 mph between Rockford and Normal.

An assistant to Souk said that Souk wouldn't comment on the case because the matter is still pending.

What the jury wasn't told was that time trials had been conducted on more than one route that Beaman could have taken from the bank to his home. The detective only testified about the slower route, Beaman's appellate lawyers told the Supreme Court.

The jury didn't hear about the time trial on the faster route because police and prosecutors hadn't disclosed the information to Beaman's trial attorney, William R. Beu of Rockford.

At trial, Beu tried to show the jury that Beaman couldn't have made the trip to Normal by presenting evidence of the distances his car had been driven.

Beaman had purchased new tires on the day before the murder, so he had a record of his car's mileage as of Aug. 24. In addition, his mother had taken a photo of the odometer on Sept. 1, after Beaman had been questioned by detectives, and Beaman testified at trial that he drove about 305 miles that week.

Because a round-trip drive between his home near Rockford and Normal would be about 280 miles, Beu focused on recreating driving distances for Beaman's activities in Rockford that week, "a strategic choice that was not objectively unreasonable," the Supreme Court opinion says.

"There was enough mileage to account for the course of his week and doing things in Rockford," Beu said in a telephone interview.

"Time trials didn't seem to be terribly important because it's easy to fudge it or to have something happen to interrupt the accuracy of it," such as traffic congestion or weather conditions, Beu said.

According to the Supreme Court opinion, the prosecution told the jury in closing arguments that the trial evidence "weaves around this defendant a web ... that's so powerful that you can rest assured that you have the right person here."

But when the 4th District State Appellate court upheld the conviction on direct appeal in 1996, Justice Robert W. Cook wrote in a dissent that "it is our duty to reverse a jury's guilty verdict when the evidence, even after being viewed in the light most favorable to the state, is so improbable or unsatisfactory as to create a reasonable doubt of the defendant's guilt."

That dissent wasn't persuasive to the Supreme Court justices the first time it was brought to them, and they declined to hear the case.

In 1996, Beaman's parents traveled to Chicago to find a new attorney. Twelve years later the matter would be back in the high court's hands, and the outcome would be very different.

July 02, 2008 Volume: 154 Issue: 130

Family hopes to build on post-conviction win

By Pat Milhizer

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When Barry and Carol Beaman arrived in the Loop in 1996, the rumbling of the L trains were enough to remind them how far they were from their quiet neighborhood just outside of Rockford.

Walking down urban streets better known for pigeons than the hummingbirds and woodpeckers that visit their backyard, the Beamans were thinking about their son.

Alan Beaman was in the early stages of a 50-year prison sentence for a murder they say he didn't commit.

A state appeals court had just upheld the trial jury's verdict 2-1, and the Illinois Supreme Court had declined to hear the case on direct appeal.

Looking for a lawyer to handle post-conviction motions, the Beamans had two appointments that day.

At the first firm, they were referred to an associate.

"We got a 'This is very sad; I'm so sorry for your son.' And not too much enthusiasm about the case," Carol Beaman said.

"And," Barry Beaman said, "the associate said, 'We don't see any way possible to fight this case. We suggest you just pack it in, and go home, and let him serve out his sentence.' "

The Beamans then walked six blocks to another law firm at Dearborn and Van Buren streets. They got on the elevator.

"Clickety-clack 15 stories up," Barry Beaman recalled. "It was kind of the 'Thoroughly Modern Millie' elevator that you had to tap dance on to make it work."

They were greeted by a young attorney three years out of law school, dressed all in black.

"Are you the Beamans?" Juliet M. Yackel asked. "Your case is the most compelling thing I have ever read."

What made the case compelling was that Beaman, now 35, was convicted in 1995 of killing his ex-girlfriend after a trial that featured no eyewitnesses nor, his attorneys argue, solid physical evidence.

And Beaman contended that he couldn't have killed her, offering an alibi based on phone calls made from his home and a bank surveillance tape that showed him in Rockford on the morning that Lockmiller was killed in downstate Normal.

Beaman maintained that he was sleeping about 140 miles away from the crime scene, having just gotten off a third-shift job at 9 a.m.

The victim, Jennifer Lockmiller, was a student at Illinois State University when she was killed around noon on Aug. 25, 1993. Lockmiller, 22, was found with stab wounds and a clock radio cord wrapped around her neck.

According to a theory offered by James E. Souk, then a McLean County assistant state's attorney and now a circuit judge in Bloomington, Beaman drove from Rockford to Normal after the bank transaction and "snapped" after he saw Lockmiller's new boyfriend's property in her apartment.

Souk told jurors at trial that Beaman committed the murder in less than 15 minutes and sped back to his home near Rockford to arrive by 2:10 p.m., or six minutes before his mother testified that she returned home from shopping and running errands that day.

All of this was discussed with the young attorney in black and her boss, who ran the Law Offices of Jeffrey Urdangen.

Urdangen had a track record that the Beamans thought made him a perfect candidate to represent their son.

A criminal-defense attorney since 1980, Urdangen made a name for himself representing defendants accused of murder in two high-profile cases known for wrongful convictions — the Ford Heights Four case and the Jeanine Nicarico abduction and murder.

Urdangen agreed to visit Beaman, who was then housed at Menard Correctional Center. When he returned, Urdangen told the Beamans that he would take the case. For free.

"I couldn't figure out, for the life of me, what evidence there was that he was guilty," Urdangen said.

Urdangen now works at the Northwestern University School of Law Bluhm Legal Clinic, where he joined the faculty in 2003 as a clinical assistant professor of law. In addition to Urdangen, Beaman is represented by Karen L. Daniel.

Urdangen filed post-conviction motions in 1997 in McLean County, raising claims of ineffective assistance of counsel and complaints that crucial information about a "John Doe" suspect wasn't given to Beaman's trial lawyer.

The case took several years to make its way through the system as Beaman's attorneys amended the petition twice and there were several changes of judges and prosecutors, Urdangen said.

Beaman's attorneys contended that the state had violated Beaman's due process rights under *Brady v. Maryland*, 373 U.S. 83 (1963). They asked the court to vacate the conviction because prosecutors didn't disclose information about Doe, whom Lockmiller had dated and owed money to from a drug deal.

A Bloomington resident, Doe lived less than two miles from Lockmiller's apartment.

When Doe was questioned by police after the murder, he said that he and Lockmiller had been about to start dating again. He also said that Lockmiller owed him money for marijuana and other drugs.

The Normal police lieutenant who interviewed Doe testified in the post-conviction proceeding that Doe was "somewhat evasive" and "very nervous."

In his first interview with police, Doe said that he went out of town on Aug. 24, the day before the murder. In another interview a few days later, Doe said that he actually didn't leave Bloomington until 4 p.m. on the day Lockmiller was killed.

In addition, Doe couldn't provide verification of his whereabouts at the time of the murder.

The lieutenant asked Doe to take a polygraph exam, but the test didn't take place because Doe didn't follow directions, which the polygraph examiner testified at a post-conviction hearing in 2005 could have been "an intentional avoidance tactic." The examiner also testified that police had identified Doe as a suspect in the murder.

Doe also didn't cooperate in scheduling a second polygraph exam. In a brief filed later, Beaman's attorneys said the prosecution didn't disclose information about the failed attempt at a polygraph exam for Doe even though it did turn over two other polygraph results for potential suspects who, the state established at trial, had alibis.

Doe also had been charged with domestic battery, and a girlfriend said that he had physically abused her many times before and that Doe was using steroids, causing him to act erratically.

If this information had been disclosed to the defense, Beaman's attorneys said, it could have been used to argue to the trial jury that there was an alternative suspect.

The post-conviction proceeding was heard in McLean County, where the jury trial had been held in 1995, by a judge brought in from another judicial circuit. In June 2005, 6th Judicial Circuit Judge Jeffrey B. Ford of Champaign County denied post-conviction relief.

The Illinois Appellate Court followed suit, rejecting Beaman's request 2-1 in November 2006.

But six weeks ago, the Illinois Supreme Court ruled in a 20-page opinion that prosecutors had failed to disclose information that could have helped his case.

Brady claims are rarely dealt with in Supreme Court opinions, mainly because they are made in less than 1 percent of all criminal petitions presented to the court, according to an estimate from a high court spokesman.

In the ruling written by Justice Thomas L. Kilbride, the court focused on the prosecution's failure to disclose information about the investigation into Doe. *People v. Beaman*, No. 104096 (May 22).

"We cannot have confidence in the verdict finding [Beaman] guilty of this crime," the opinion said, "given the tenuous nature of the circumstantial evidence against him, along

with the nondisclosure of critical evidence that would have countered the state's argument that all other potential suspects had been eliminated from consideration."

To comply with Brady, the opinion said, prosecutors have a duty to learn of evidence that would be favorable to the defendant.

The opinion said that the state acknowledged in its brief that prosecutors knew of the Doe evidence and didn't disclose it, and argued that the Doe evidence would not have helped Beaman's defense and was not material to his guilt or punishment.

"In fact, the state refers to the evidence as being 'withheld.' Accordingly, petitioner has established that the evidence was suppressed by the state," the Supreme Court said.

In the post-conviction proceeding, the circuit court ruled that the Doe evidence was "remote and speculative," according to the justices, and held that the state hadn't violated Brady because the Doe evidence wouldn't have been admissible at trial.

But the high court said that "even if some of the undisclosed evidence would have been inadmissible at trial, it still may have been favorable to petitioner in gaining admission of critical alternative suspect evidence."

The opinion continues that the Doe evidence is "clearly favorable" to Beaman in establishing Doe as an alternative suspect with both a better opportunity and a motive — jealousy over a rival boyfriend — to commit the murder.

Beaman could have established Doe as a suspect, the opinion said, due to Doe's actions during the attempted polygraph exam, the domestic battery charge and likelihood to commit violence against his girlfriend and the steroid abuse that explained violent outbursts. The high court also pointed out that Doe said that Lockmiller owed him drug money.

The evidence of Beaman's opportunity to commit the murder "is not as strong as that against Doe," the Supreme Court said, and ruled that the circuit court's dismissal of the Brady claim was "manifest error."

Through an assistant, Souk, the lead prosecutor at trial, declined to comment. According to a transcript from a post-conviction hearing in 2005, Souk said that he had no knowledge of the attempted polygraph exam of Doe.

McLean County State's Attorney William A. Yoder issued a statement last month saying that his office will "continue to move forward with the investigation and prosecution" of Beaman. The statement also says that Beaman is now "presumed innocent of any charges filed against him."

With his murder conviction reversed by the high court, Beaman was released from prison last week after his parents posted a \$25,000 bond.

A status hearing in the process leading to a retrial was held Wednesday morning in McLean County, and 11th Judicial Circuit Court Judge Kevin P. Fitzgerald scheduled another status hearing for October.

In a telephone interview last week, Beaman talked about leaving a prison society where simple things such as steak dinners and cell phone conversations don't exist. The first night that he got home, there was no question that he was going to stay up to watch the sun rise.

"I wasn't able to not do that," he said.