

CASE SUMMARY

CATEGORY: Exoneration

DEFENDANT'S NAME: Joseph Burrows

JURISDICTION: Iroquios County, Illinois

RESEARCHED BY: Rob Warden
Executive Director
Center on Wrongful Convictions

DATE LAST REVISED: January 29, 2001

FACTS

Date of crime:	November 6, 1988
Convicted of:	Murder
Death-qualifying factor:	Murder committed in the course of another felony
Date sentenced:	August 1, 1989
Date released:	September 8, 1994.
Months lapsed sentence to release:	61
Defendant's age at time of crime:	35 — born October 5, 1953
Defendant's sex:	Male
Defendant's race:	Caucasian
Victim(s):	William Dulin
Age of victim(s):	88
Sex of victim(s):	Male
Race of victim(s):	Caucasian
Relationship of victim(s) to defendant:	None
Trial judge:	John F. Michela

Prosecutor:	Tony Brasel (special prosecutor)
Defense attorney(s):	Ron Boyer and Mark Thompson
Defendant's plea:	Not guilty
Did defendant have an opportunity plead guilty in exchange for a lesser sentence?	No
Was guilt phase bench or jury?	Jury
Was sentencing bench or jury?	Bench
Summary of state's theory of case at trial:	<p>Burrows was the "enforcer" for a narcotics supplier, Steve Poll, who claimed that Gayle Potter, a drug dealer, owed him money from a cocaine deal. Poll instructed Burrows to persuade Potter to borrow money to satisfy the cocaine debt from William Dulin, a farmer for whom Potter's mother had done housework and from whom Poll knew Potter previously had borrowed money. After Burrows struck Potter, she agreed to meet Burrows and his co-defendant, Ralph Frye, at a parking lot in Watseka, Illinois. When she arrived in a borrowed car, Burrows and Frye were waiting in a pickup truck in which they followed her to Dulin's home in Sheldon, Illinois. Potter asked Dulin to lend her \$3,000. When he refused, Burrows pulled a gun and ordered Dulin to write a check. Dulin refused, the two men struggled, and Burrows shot Dulin in the head. Potter became hysterical, and Burrows struck her in the head, causing her to bleed. Burrows and Frye then forced her outside and into the truck. Frye remained there with her while Burrows went back inside to wipe away any fingerprints. Burrows emerged a few minutes later carrying papers, clothing, a gun, and a paper bag. These events occurred on November 6, 1988. The next day, Burrows and Poll came to the trailer where Potter was living and gave her a check made out for \$4,050 and signed William Dulin. The next day, through a friend, she attempted to cash the check at Iroquois Farmers State Bank. This led to her arrest later the same day. She was charged with murder and robbery and then implicated Burrows and Frye in the crime. Frye confessed, corroborating essential details of Potter's statement implicating Burrows as the actual killer. Frye recanted, but then recanted the recantation and corroborated Potter's testimony at Burrows's trial.</p>

Summary of defense:	Alibi — Four witnesses placed Burrows elsewhere when at the time of the crime. Frye gave a statement to defense attorneys Ron Boyer and Mark Thompson recanting his statement and contending that neither he nor Burrows had anything to do with the crime.
Did the defendant confess or make an inculpatory statement?	No
Did the defendant testify?	No
Was there eyewitness testimony?	Yes — the two accomplices referred to below.
Was there serological evidence?	Yes — a state serologist testified that tests performed on blood stains taken from papers found on Dulin's desk could have originated from Gayle Potter, but not from Burrows, Frye, or Dulin.
Was there hair or fiber evidence?	No
Was there other physical evidence?	No
Was there informant testimony?	No
Did the informant(s) receive anything of value for testifying?	Not applicable
Was there accomplice testimony?	Yes — Gayle Potter and Ralph Frye, who testified that they went with Burrows to the victim's home with the intention of robbing him. They accused Burrows of the actual killing.
If so, does it appear that the accomplice(s) received any benefit for testifying?	Reported decisions are silent on this issue. Potter received 30 years for the murder. Frye was sentenced to 23 years.
Was there a <i>Batson</i> issue?	No
Was there a <i>Brady</i> issue?	No
Was there evidence of mental illness, retardation, or neurological damage?	No

Principal exculpatory evidence at trial:	Alibi testimony
Evidence introduced in mitigation:	A jail administrator who saw Burrows regularly testified that Burrows never gave him any difficulties. Neighbors of Burrows described him as a nice man and loving father who was outgoing and cared for others. His wife testified that she loved him and that he had a good relationship with their children and often did things to help others.
Was there any indication of bias on the part of the trial judge?	No
Defendant's criminal history:	Prior convictions for residential burglary and possession of burglary tools in Champaign County, Illinois.
Was police misconduct an issue on appeal?	No
Was prosecutorial misconduct an issue?	No
Evidence of actual innocence:	In testimony at a hearing on Burrows's petition for post-conviction relief, Gayle Potter acknowledged that she had gone alone Dulin's home. She asked him for a loan, which he refused after she admitted she wanted it to pay a drug debt. He pushed her toward the door. She pulled a gun and fired three shots into the ceiling. Dulin grabbed a gun hanging on his wall and hit her in the head with it, causing her to bleed. She shot him in the shoulder and then dropped her gun. Both she and Dulin went for it, but she beat him. As she raised the gun, it discharged, hitting Dulin in the head, killing him. Potter removed checks from a desk drawer and fled. Neither Burrows nor Frye was with her at any point. Frye testified at the same hearing that he was in no way involved with the crime. He had no knowledge of the Dulin murder His prior admissions and testimony against Burrows were false. He had made the statements because he was sick, under medication, and frightened when he was questioned by police. He had derived all information in the statements from police during interrogation.
Was the conviction ever affirmed by an appellate court?	Yes. The Illinois Supreme Court unanimously affirmed the conviction and death sentence on March 26, 1992. <i>People v. Burrows</i> , 148 Ill. 2d 196 (1992).
What was the status of the case at time of exoneration?	Verdict and sentence had been affirmed by the Illinois Supreme Court.

<p>How did exoneration come about?</p>	<p>After the Illinois Supreme Court affirmed Burrows's conviction 1992, Ralph Frye recanted his testimony to <i>Champaign-Urbana News-Gazette</i> reporter Peter Rooney. Frye, who had an IQ of 76, said police had intimidated him to falsely confess and implicate Burrows. Burrows's pro bono counsel, Michael Hemstreet, discovered a letter Gayle Potter had written asking a friend to falsely corroborate her testimony. Shown the letter, Potter admitted she had lied to lessen her culpability and because she had a grudge against Burrows. She admitted that she alone had killed Dulin during a robbery. On a petition for post-conviction relief based on the recantations, the trial court granted Burrows a new trial. After the Illinois Supreme Court affirmed that judgment, the prosecution dropped the charges.</p>
<p>Was anyone else charged in the crime?</p>	<p>Yes — Gayle Potter and Ralph Frye were convicted of the murder.</p>
<p>If others were charged, briefly describe outcome:</p>	<p>Potter was sentenced to 30 years and Frye to 27 after both testified that Burrows was the shooter. Both later recanted. Potter admitted that she alone committed the crime. After Burrow's exoneration, Potter was sentenced to 5 years for perjury. Frye's murder conviction was vacated. In 1996, he pleaded guilty to perjury and was sentenced to 10 years. With day-for-day good time, he had already served the sentence and was released.</p>
<p>Appellate counsel:</p>	<p>Michael Hemstreet, Kathleen T. Zellner & Associates, Naperville</p>
<p>Summary of appeals:</p>	<p>Direct appeal — Judgment and sentence unanimously affirmed by Illinois Supreme Court, <i>People v. Burrows</i>, 148 Ill. 2d 196 (1992).</p>