

CASE SUMMARY

CATEGORY: Exoneration

DEFENDANT'S NAME: Steve Smith

JURISDICTION: Cook County, Illinois

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Center on Wrongful Convictions

DATE LAST REVISED: September 24, 2001

FACTS

Date of crime:	June 30, 1985
Convicted of:	Murder (tried convicted and sentenced to death twice)
Death-qualifying aggravating factor:	There were three — contract murder, murder of an employee of a correctional facility, and prior murder conviction (based on a theory of accountability).
Date sentenced:	August 12, 1986 (first trial), April 24, 1996 (second trial).
Date released:	February 19, 1999
Months lapsed sentence to release:	115 (from first sentencing)
Defendant's age at time of crime:	37 — born June 23, 1948
Defendant's sex:	Male
Defendant's race:	African American
Victim(s):	Virdeen Willis, Jr
Age of victim(s):	45
Sex of victim(s):	Male
Race of victim(s):	African American
Relationship of victim(s) to defendant:	Willis had been a lieutenant in a prison in which Smith had been incarcerated a decade before the murder.
Trial judge:	Francis J. Mahon (first trial), Loretta Hall Morgan (second trial)

Prosecutor(s):	Stuart Palmer and John Brady (first trial), Ellen Mandeltort (second trial)
Defense attorney(s):	Gerald Maupin (first trial), Thomas O’Hara (second trial)
Defendant’s plea:	Not guilty
Was guilt phase bench or jury?	Jury (both trials)
Was sentencing bench or jury?	Bench at first trial.
Summary of state’s theory of case at trial:	Smith, who had once been incarcerated in the Illinois penitentiary at Pontiac, and Willis, an off-duty Pontiac assistant warden, were drinking in a bar in the West Englewood neighborhood of Chicago. Outside the bar, Smith shot Willis to death. Smith was charged with the crime after he was identified by a woman who claimed to have witnessed the murder and who became the star witness for the prosecution at both trials. Her name is given variously in official records as Debra Carraway, Debrah Caraway, or some combination thereof, and who is referred to <i>infra</i> as Caraway. The prosecution posited that Smith was a member of the King Cobras street gang and that the slaying was an “assassination” in reprisal for a harsh line Willis had taken against gangs in Illinois prisons.
Summary of defense:	Insufficient evidence to support a finding of guilt beyond a reasonable doubt
Did the defendant confess or make an inculpatory statement?	No
Did the defendant testify at trial?	No (at neither trial)
Was there eyewitness testimony?	Yes — from Caraway, as described above. Her testimony was dubious for several reasons. First, Caraway had been smoking crack cocaine. Second, she claimed Willis was alone when the killer stepped out of shadows and fired the fatal shot, but two other witnesses said they were standing beside Willis when he was murdered. Third, Caraway’s boyfriend, Pervis (Pepper) Bell, was an alternative suspect in the murder. Finally, Caraway, according to her account, was across the street when the crime occurred and, while she positively identified Smith, the two persons who were standing beside Willis were within only two or three feet of the killer and could not identify Smith.
Was there serological evidence?	No

Was there hair or fiber evidence?	No
Was there other physical evidence?	No
Was there informant testimony?	No
Was there accomplice testimony?	No
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. However, evidence presented at Smith's 1996 sentencing hearing indicated that he had an IQ of only 80.
Did the defendant take the stand at any point?	No
Principal exculpatory evidence at trial:	The defense introduced no evidence at the first trial. At the second trial, the sole defense witness was a defense investigator, Mary Waller, who testified that she interviewed Caraway on October 26, 1995. Waller said Caraway told her that, before she implicated Smith in the murder, she had gone to a police station where her sister Ronda and Pervis (Pepper) Bell were being questioned about the crime. At the station, Caraway was quoted as saying, she found that the police were holding Ronda against her will and had refused to give her food or allow her to use the restroom. Caraway said she saw Bell in handcuffs. He was bleeding from the mouth and one of his eyes was swollen.
Evidence introduced in mitigation:	Smith was raised in poverty by an alcoholic, abusive father. He was poorly educated and had an IQ of only 80.

<p>Was there any indication of bias on the part of the trial judge?</p>	<p>None at the first trial. At the second trial, Judge Loretta Hall Morgan arguably was biased in favor of the prosecution to the extent that, in denying defense motions for a directed verdict and for acquittal notwithstanding the jury verdict, she accorded credence to Caraway’s testimony, which the Illinois Supreme Court found insufficient for any rational trier of fact to justify a finding of guilt beyond a reasonable doubt. <i>People v. Smith</i>, 185 Ill. 2d 532 (1999).</p>
<p>Defendant’s criminal history:</p>	<p>Smith was convicted in 1969 of the murder of Homer Mitchell, a 19-year-old reputed rival gang member, and sentenced to 40 years in prison by Cook County Circuit Court Judge James Crosson. The conviction rested on an accountability theory. The actual murder allegedly was committed in May 1969 by Smith’s brother, Charles Lee Smith, then 23, who was never tried for the crime. Steven Smith was paroled in 1976, at age 28, after serving seven years and three months of the sentence.</p> <p>At age 16, Smith pleaded guilty to the murder of Wilbert Lightfoot, 37, during a street robbery on the south side of Chicago in 1964.</p>
<p>Was police misconduct an issue on appeal?</p>	<p>No</p>
<p>Was prosecutorial misconduct an issue?</p>	<p>Yes. At the first trial, the prosecution told the that “every witness that had the guts to come in here and say what he or she saw, every witness that had the guts to point the finger at this defendant, every witness that had the guts to tell the police this is the guy, has had to leave town.” These remarks referred to testimony by Caraway and two other prosecution witnesses that they had moved out of Chicago after the crime, the implication being that they had been threatened by the King Cobras. The Illinois Supreme Court, in reversing the conviction, held that there was no evidence that the witnesses had been intimidated by the street gang. <i>People v. Smith</i>, 141 Ill. 2d 40 (1990).</p>
<p>Other major issues on appeal:</p>	<p>A number of issues were raised in both appeals, but the Illinois Supreme Court reached only those on which it bases its reversals. In the first appeal, the court discussed no issues other than evidentiary matters, <i>People v. Smith</i>, 141 Ill. 2d 40 (1990). In the second appeal, the court reversed outright on the basis of sufficiency of the evidence and reached no other issues raised on Smith’s behalf, <i>People v. Smith</i>, 185 Ill. 2d 532 (1999).</p>

Evidence of actual innocence:	The only evidence of actual innocence is the lack of competent evidence of guilt. The authorities apparently made no effort to pursue Pervis (Pepper) Bell as an alternative suspect after the Illinois Supreme Court ordered Smith released.
Was the conviction ever affirmed by an appellate court?	No. However, in reversing and remanding the case in 1990 based on inflammatory argument by the prosecution at trial, the Illinois Supreme Court held “that the competent evidence adduced at trial was not so unsatisfactory as to raise, as a matter of law, a reasonable doubt of defendant’s guilt.” <i>People v. Smith</i> , 141 Ill. 2d 40 (1990).
Did any appellate judge ever raise doubt about guilt?	Not in the first appeal, as the answer immediately above indicates. The decision in the second appeal, however, was unanimous that the evidence was insufficient for a trier of fact to find Smith guilty beyond a reasonable doubt.
What was the status of the case at time of exoneration?	Direct appeal of conviction and death sentence at his second trial.
How did exoneration come about?	The Illinois Supreme Court reversed the conviction outright on the ground that the evidence had been insufficient to prove the defendant guilty beyond a reasonable doubt.
Was anyone else charged in the crime?	No
Appellate counsel:	Ronald P. Alwin, assistant Cook County public defender, was the principal counsel for both appeals.
Summary of appeals:	<i>People v. Smith</i> , 141 Ill. 2d 40 (Nov. 21, 1990), reversed and remanded on grounds of inflammatory argument by the prosecution relating to Smith’s purported relationship with the King Cobras. <i>People v. Smith</i> , 185 Ill. 2d 532 (Feb.19, 1999), reversed outright on the ground of insufficiency of the evidence.