

## CASE SUMMARY

**CATEGORY:** Exoneration

**DEFENDANT'S NAME:** Darby Tillis (aka Williams)

**JURISDICTION:** Cook County, Illinois

**RESEARCHED BY:** Rob Warden  
Executive Director  
Center on Wrongful Convictions

**DATE LAST REVISED:** January 15, 2001

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## FACTS

<b>Date of crime:</b>	November 13, 1977
<b>Convicted of:</b>	Two murders and armed robbery. Tillis and his co-defendant Perry Cobb were convicted and sentenced to death at the third of five trials to which they were subjected. The first two and fourth trials ended in hung juries, and the fifth, a bench trial, in acquittal.
<b>Death-qualifying factor:</b>	Felony murder
<b>Date sentenced:</b>	October 15, 1979
<b>Date released:</b>	January 21, 1987
<b>Months lapsed sentence to release:</b>	87
<b>Defendant's age at time of crime:</b>	36 — born September 1, 1943
<b>Defendant's sex:</b>	Male
<b>Defendant's race:</b>	African American
<b>Victim(s):</b>	Melvin Kanter and Charles Guccion
<b>Sex of victim(s):</b>	Male
<b>Race of victim(s):</b>	Caucasian
<b>Relationship of victim(s) to defendant:</b>	None

<b>Trial judge:</b>	Thomas J. Maloney
<b>Defendant's plea:</b>	Not guilty
<b>Was guilt phase bench or jury?</b>	Jury
<b>Was sentencing bench or jury?</b>	Jury
<b>Summary of state's theory of case at trial:</b>	Tillis and co-defendant Perry Cobb killed the victims in the course of an armed robbery.
<b>Summary of defense:</b>	No involvement in the crime — crucial evidence fabricated by police and witnesses.
<b>Did the defendant confess or make an inculpatory statement?</b>	No — both defendants consistently professed their innocence.
<b>Did the defendant testify?</b>	No
<b>Was there eyewitness testimony?</b>	Yes — Arthur Shields, a bartender at bar across the street from the murder scene, testified that he had seen two black men standing inside the door of the restaurant at about the time the crimes were committed. At the third trial, Shields identified Cobb and Tillis as those men, although at the previous trials he had failed to make a positive identification. When confronted with the inconsistencies on cross examination, Shields admitted he had previously stated that he had not seen the faces very well and thought all blacks looked alike in photographs.
<b>Was there serological evidence?</b>	No
<b>Was there hair or fiber evidence?</b>	No
<b>Was there other physical evidence?</b>	Yes. Cobb was wearing Charles Guccion's wristwatch when he was arrested. Cobb claimed that he had bought the watch from Johnny Brown, the boyfriend of Phyllis Santini, the star prosecution witness in all five Cobb Tillis trials.
<b>Was there informant testimony?</b>	No
<b>Did the informant(s) receive anything of value for testifying?</b>	Not applicable

<b>Was there accomplice testimony?</b>	Yes. Phyllis Santini was held by the Illinois Supreme Court to have been an accomplice. In fact, Maloney’s refusal to grant a defense request for an accomplice instruction was a principal factor in the Illinois Supreme Court’s reversal of the convictions.
<b>Was anything given in return for the accomplice testimony?</b>	Yes, Santini received \$1,200.
<b>Was there evidence of mental illness, retardation, or neurological damage?</b>	No
<b>Principal exculpatory evidence at trial:</b>	The night after the crime, Tillis was drinking at the bar where Shields was the bartender when two police officers came into the bar. Shields told the officers that Tillis was a regular customer and was not one of the men he had seen in the restaurant the previous night. The defense attempted to call two witnesses who would have cast doubt on Santini’s veracity. Maloney refused to allow the witnesses to testify, but the defendants made an offer of proof: Patricia Usmani would testify that in June 1978 Santini told her that she had participated in the crime with Johnny Brown, and Carol Griffin would testify that Santini told her she expected to receive a reward for testifying against Tillis and Cobb.
<b>Was there any indication of bias on the part of the trial judge?</b>	Yes. In eight years as a trial judge, Thomas J. Maloney sentenced nine men, including Tillis and Cobb, to death — a feat that placed him second in that regard among his contemporaries on the Cook County Circuit Court. In 1993, Maloney was convicted on federal charges of corruption, including sharing in a \$100,000 bribe to acquit three reputed New York gangsters of murder and taking a \$10,000 bribe to acquit two alleged Chicago street gang members of two killings; Maloney was said to have returned the latter bribe when he began to suspect — correctly — that he was under investigation by the FBI. That investigation culminated in his conviction, which made him the first Cook County judge ever convicted of taking bribes in murder cases. During the trial, federal prosecutors specifically alleged that, in order to divert suspicion that the acquittals might otherwise arouse, Maloney had been biased against defendants who had not bribed him. See <i>United States v. Maloney</i> , 71 F.3d 645 (7 <sup>th</sup> Cir. 1995), and <i>Bracy v. Gramley</i> , 81 F.3d 684, 700 (7 <sup>th</sup> Cir. 1995).
<b>Defendant’s criminal history:</b>	Tillis had no felony record.

<b>Was police misconduct an issue on appeal?</b>	The conduct of the police in effecting a warrantless arrest of Cobb was raised on appeal, but the Illinois Supreme Court found that probable cause justified the police action.
<b>Was prosecutorial misconduct an issue?</b>	No. After Tillis and Cobb were acquitted, however, Lake County Assistant State’s Attorney Michael Falconer — the key witness for the defense in the acquittal — stated that Cook County State’s Attorney Richard M. Daley had approached Falconer’s supervisor in an effort to prevent Falconer from becoming a defense witness. Falconer said Daley said something to the effect: “One of your boys is going to shoot a hole right through our case.”
<b>Other major issues on appeal:</b>	None other than those discussed above and below.
<b>Evidence of actual innocence:</b>	There was no credible evidence that Tillis and Cobb committed the crime. (Governor George H. Ryan granted them pardons based on innocence.)
<b>Was the conviction ever affirmed by an appellate court?</b>	No
<b>What was the status of the case at time of exoneration?</b>	It had been remanded for a new trial based on judicial error.
<b>How did exoneration come about?</b>	Michael Falconer, a prosecutor in neighboring Lake County, read an article about the case in <i>Chicago Lawyer</i> magazine and came forward and reported that Santini had told him that she and her boyfriend — Brown — had robbed a restaurant and that Brown had shot someone during the robbery. The conversation occurred the summer after Falconer graduated from college and before he entered law school when he and Santini worked together in a factory. Falconer’s testimony led to the acquittal of Tillis and Cobb at their fifth trial, a bench trial before Cook County Circuit Court Judge Thomas A. Hett.
<b>Was anyone else charged in the crime?</b>	No
<b>Appellate counsel:</b>	Steven Clark, assistant state appellate defender
<b>Summary of appeals:</b>	Reversed and remanded — <i>People v. Cobb</i> , 97 Ill. 2d 465 (Oct. 4, 1983).