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Innocent Man Serves Years in Prison Due to Incomplete, Misleading DNA Report by Chicago Police, Lawsuit Charges

Police Misconduct in Crime Lab, Line Up Procedures Led to Wrongful Conviction

CHICAGO—Attorneys representing Marlon Pendleton, an innocent man who spent years in prison for a rape he did not commit, filed a lawsuit today alleging that Chicago Police manipulated a police line-up and that Police Crime Lab analyst Pamela Fish prepared an incomplete and egregiously misleading lab report that resulted in Marlon Pendleton's wrongful conviction and imprisonment.

According to the suit, Chicago Police Detectives Jack Stewart and Steve Barnes mishandled the lineup procedure, manipulating the victim into identifying Pendleton as her assailant. Fish prepared an incomplete lab report that claimed that DNA material found on the rape victim—evidence that would have exonerated Pendleton—was insufficient to retest.

Pamela Fish closed the book on the case, failing to do her job and thwarting Mr. Pendleton's efforts to prove his innocence, according to the suit. Fish's misleading report paved the way for the trial and appellate court judges to deny further DNA testing of evidence that would have exonerated Pendleton many years earlier.

“Marlon Pendleton served many years in prison for a crime he did not commit and deserves to be compensated for those lost years and the impact the horrible ordeal has had on his life,” said one of Pendleton's attorneys Locke Bowman, legal director of the Northwestern University's MacArthur Justice Center. “Mr. Pendleton is another victim of misconduct and incompetence within the Chicago Police Department.”

Pendleton was identified by rape victim A.H. (victim's name protected) during a mishandled police line up in 1993, according to the lawsuit. Prior to the viewing, A.H. saw Pendleton in handcuffs outside of the lineup, but she did not see any other lineup participants before the lineup. She then identified Pendleton as her attacker despite the fact that Pendleton weighed only 135 pounds, and she initially described her attacker as weighing 170 pounds. She also said the man who raped her carried a gun in his right hand (Pendleton is left handed) and had rotten teeth (Pendleton's teeth are in good condition).

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According to the suit, Stewart and Barnes not only mishandled the lineup procedure by allowing the victim to see Pendleton before the viewing, but they also knew A.H.'s identification was "extremely weak." However, the detectives used the questionable identification and prepared incomplete reports that were used in court in which they failed to disclose the improper tactics used to obtain the identification.

Over the next eight years, Pendleton repeatedly asked for DNA testing, saying it would prove him innocent of the crime. Lab analyst Fish claimed she had tested genetic material from A.H.'s rape kit but that "no DNA profile was obtained" and there was an "insufficient amount" of DNA to do further testing.

Because Fish's report said the genetic material was insufficient, Pendleton's requests for further testing were denied, until 2005 when attorneys with the Northwestern Center on Wrongful Convictions finally persuaded the Circuit Court to allow examination of the evidence. When the evidence was tested, it proved conclusively that Mr. Pendleton could not have committed the crime.

"It is deeply dismaying to me that anyone could do this to another human being," said one of Pendleton's attorneys Gareth Morris. "The torment, suffering and irreversible damage inflicted upon Marlon Pendleton during all those hours, days, months and years in prison is unfathomably cruel and sad."

Fish's misleading report and the manipulated identification by the victim were the lynch pins in Pendleton's conviction. And, according to the lawsuit, Fish has a long history of providing false and misleading reports that were slanted to favor the prosecution. She was finally fired from her position with the Illinois State Police lab in 2004.

Marlon Pendleton was convicted of the rape of A.H. and sentenced to 20 years in prison on February 29, 1996. He spent multiple years in prison before being vindicated by the same DNA evidence that Fish had claimed 12 years earlier to be insufficient for further testing. It was not until November 30, 2006, that Pendleton's sentence was at last vacated and he was released from prison.

Attorneys Jane Raley and Karen Daniel, of the Northwestern University School of Law's Center on Wrongful Convictions represented Mr. Pendleton in securing his exoneration. Ms. Raley is one of the attorneys representing Mr. Pendleton in this suit. Mr. Pendleton is also represented by Chicago attorney Gareth Morris and by MacArthur Justice Center attorney Locke E. Bowman.

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