

CASE SUMMARY

CATEGORY: Exoneration

DEFENDANT'S NAME: Verneal Jimerson

JURISDICTION: Cook County, Illinois

RESEARCHED BY: Rob Warden
Center on Wrongful Convictions

LAST REVISED: January 16, 2001

FACTS

Date of crime:	May 11, 1978
Convicted of:	Two murders (The crime also involved armed robbery, kidnaping, and rape, but the statute of limitations had run on those charges.)
Death-qualifying factor(s):	Multiple murder and murder committed in the course of another felony
Date sentenced:	December 9, 1985
Date released:	June 24, 1996
Months lapsed sentence to release:	126
Defendant's age at time of crime:	25 — born August 14, 1952
Defendant's sex:	Male
Defendant's race:	African American
Victim(s):	Lawrence Lionberg and Carol Schmal
Age of victim(s):	29 and 23
Sex of victim(s):	Male and female
Race of victim(s):	Caucasian
Relationship of victim(s) to defendant:	None
Trial judge:	Will E. Gierach

Prosecutor(s):	J. Scott Arthur and Deborah Dooling
Defense attorney(s):	Earl Taylor
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:	Sometime after 2:30 a.m., Lawrence Lionberg and Carol Schmal, who had just become engaged, were abducted from a gas station near virtually all-white Homewood, Illinois, and taken by Jimerson and co-defendants Dennis Williams, Kenneth Adams, and Willie Rainge to an abandoned townhouse in virtually all-black East Chicago Heights, where Schmal was raped seven times by the four men and, along with Lionberg, shot to death. (All four men were charged in 1978, but the man who was the prosecution's key witness at that time could link only Williams, Adams, and Rainge — not Jimerson — to the crime. Hence the charges against Jimerson were dropped. He was charged again in 1985 based on what later proved to be perjured testimony from a young woman who claimed to have witnessed the crime and who had refused to cooperate with the authorities earlier.
Summary of defense:	Mistaken identity, absolute actual innocence.
Did the defendant confess or make an inculpatory statement?	No
Did the defendant testify at trial?	Yes. He stated that he had nothing to do with the crime and that he was at home in Chicago with his wife and when the crime occurred.

Was there eyewitness testimony?	Paula Gray, a 17-year-old friend of the defendants, who claimed that she witnessed the rape and murders by Jimerson, Williams, Adams, Rainge was the prosecution's star witness. A man who lived near the murder scene, Charles McCraney, and who had previously testified that he has seen the three previously convicted outside the abandoned townhouse about the time of the crime, repeated that testimony, with certain inconsistencies, at Jimerson's trial. Although he did testify that he had seen Jimerson at the scene, his testimony corroborated Gray's purported the eyewitness testimony.
Was there serological evidence?	Yes. State forensic serologist Michael Podlecki testified that Jimerson had Type O blood and was a "secretor." The serologist concluded that Jimerson was a possible source of bodily fluid found on a vaginal smear recovered from Schmal's body.
Was there hair or fiber evidence?	Yes. Podlecki testified that hairs found in co-defendant Dennis Williams's car, which allegedly was used in the kidnaping of the victims, were consistent with the victims' hair.
Was there other physical evidence?	None purporting to link Jimerson or any of his co-defendants to the crime.
Was there informant testimony?	No
Did the informant(s) receive anything of value for testifying?	Not applicable
Was there accomplice testimony?	Yes. Paula Gray testified that she was present in the townhouse and held a disposable cigarette lighter providing light while Schmal was raped seven times, including twice by Jimerson.
If so, does it appear that the accomplice(s) received any benefit for testifying?	Yes. Gray, who had been serving a 50-year sentence for her role in the murders, was released from prison on April 23, 1987. (She no doubt would have been released earlier had she not been needed to testify at the retrial of Dennis Williams, who was sentenced to death a second time seven weeks before Gray's release.)
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:	Jimerson's wife and sister-in-law corroborated his testimony that he was at home in Chicago at the time of the crime. He had never been convicted of a crime.
Evidence introduced in mitigation:	The Reverend Charles Nelson, pastor of the church attended in East Chicago Heights, testified that he had known Jimerson and his family for about 20 years. Jimerson had done maintenance work at the church without charge. Nelson characterized Jimerson as reliable and trustworthy. Allowed an opportunity for allocution, Jimerson said he was innocent and that the trial jury had been prejudiced against him.
Was there any indication of bias on the part of the trial judge?	When Jimerson sought a post-conviction hearing on evidence that the prosecution had failed to correct perjury by Paula Gray, Gierach refused to hold a hearing. The Illinois Supreme Court later found the evidence that Gierach refused to hear substantial enough to warrant a new trial.
Defendant's criminal history:	None
Was police misconduct an issue on appeal?	No. However, serious police misconduct came to light in 1996 when students working under Professor David Protesch of the Northwestern University Medill School of Journalism discovered a file showing that on May 17, 1975, five days after the crime, a witness had made a statement saying he had seen four men flee the scene of the crime. The witness identified the four by name. Ultimately, three of those men confessed — the fourth was deceased — and DNA corroborated their confessions. After the exoneration of Jimerson, Williams, Rainge, and Adams, Cook County agreed to settle federal civil rights claims filed by the four men for \$36 million, the largest civil rights settlement in U.S. history.
Was prosecutorial misconduct an issue?	Yes. Jimerson's conviction was reversed by the Illinois Supreme Court on May 25, 1995, because Assistant State's Attorneys J. Scott Arthur and Deborah Dooling failed to correct perjury of Paula Gray, who had denied that prosecutors had offered her anything in exchange for her testimony when in fact they had promised to secure her release from prison.
Other major issues on appeal:	Ineffective assistance of counsel. Taylor, who had never tried a capital case before, failed to impeach Paula Gray with prior inconsistent statements that called her credibility into question.

Evidence of actual innocence:	A DNA test conducted in 1996 exculpated Jimerson, Williams, Adams, and Rainge as sources of the semen recovered from Carol Schmal. The test inculpated Arthur (Red) Robinson, who confessed to the crime, inculpating three other persons. One of those was by this time deceased, but the others were convicted of the double murder and acknowledged their involvement in the crime.
Was the conviction ever affirmed by an appellate court?	Yes. On direct appeal, the conviction was unanimously affirmed by the Illinois Supreme Court. However, one justice dissented on the death sentence, saying that Jimerson's culpability was less than that of Williams, who was then under sentence of death. <i>People v. Jimerson</i> , 127 Ill. 2d 12 (1989).
Did any appellate judge ever raise doubt about guilt?	It was implicit in the Illinois Supreme Court's unanimous reversal and remand of the case that the justices had doubts about Jimerson's guilt. <i>People v. Jimerson</i> , 166 Ill. 2d 211 (1995).
What was the status of the case at time of exoneration?	Williams's second conviction and death sentence had been affirmed by the Illinois Supreme Court. He was seeking post-conviction relief in the trial court when DNA exonerated him and all co-defendants.
How did exoneration come about?	Through the pro bono efforts of Mark Ter Molen and others at Mayer Brown & Platt and students and a private investigator working under the supervision of Professor David Protes of Northwestern University's Medill School of Journalism. It was sheer luck that DNA was testable 17 years after the crime.
Was anyone else charged in the crime?	Yes. Kenneth Adams, Willie Rainge, Verneal Jimerson, and Paula Gray all were charged and convicted.
If others were charged, briefly describe outcome:	Williams, Adams, Rainge, and Gray were tried in 1978. Williams was sentenced to death and the others to long prison terms. The convictions of Williams and Rainge were reversed in 1982. They were retried and again convicted in 1987. Williams again was sentenced to death and Rainge to prison.
Appellate counsel:	Mark R. Ter Molen, Mayer Brown & Platt, Chicago (312) 701-7307
Summary of appeals:	Direct appeal, conviction and death sentence affirmed by the Illinois Supreme Court, <i>People v. Jimerson</i> , 127 Ill. 2d 12 (1989) Petition for post-conviction relief — case reversed and remanded based on prosecutorial misconduct, <i>People v. Jimerson</i> , 166 Ill. 2d 211 (1995)