

SAVING THE WRONGFULLY CONVICTED - PART 2

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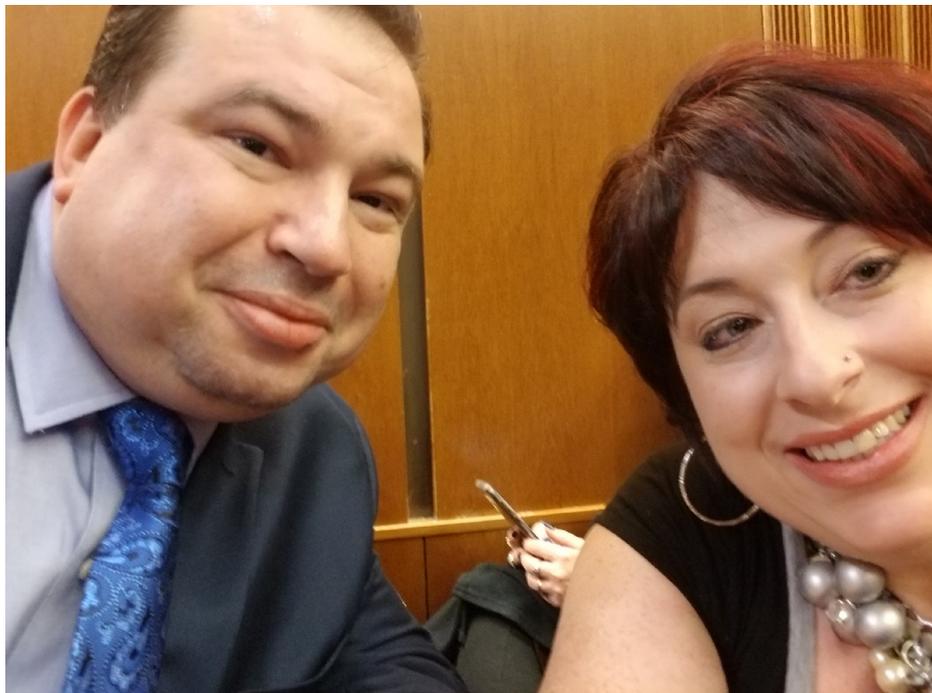
Policing DA's: Much Needed Reform Achieved in NYS

As a defense attorney, I can attest oh so well, the reform sought in NYS was desperately needed as activists call for reform to stop wrongful conviction. I was heavily supportive of this movement and attended the hearings in Albany, NY at the capital in February, 2018 when Rochester Woman Online first shared with you the stories of fellow activists Jeffrey Deskovic and H. Bosh Jr. The fellas have poured their blood, sweat and tears into pounding the pavement to see this day happen and we all celebrate what it means being the first state in the nation to pass legislation to set up a watchdog for rogue prosecutors. Despite claims it is not needed, it is. If one innocent person sits in a NYS prison because a DA sought re-election on their back it is needed. If one person wasn't fairly convicted because a prosecutor wrongly withheld evidence to obtain their conviction, it is needed. Our work is never over but the passing of this legislation is the first of its kind in the nation and we in NY are leading the way, instead of being the last state to jump on board. This is a huge accomplishment.

The legislation allows for an independent

commission who will be granted the power to conduct investigations of wrong-doing (1). In NYS, 11 of the 13 people who were exonerated involved prosecutorial misconduct (this number includes police and judicial as reported) (1). Complaints filed against prosecutors are rarely acted on, of 151 complaints only 3 were acted on (2004 to 2008) (1). The change is needed.

A local Rochester agency founded by Bill



Bastuk, "It Could Happen to You" aka ITCHY was very active in supporting this effort and was instrumental in educating legislators regarding the necessity.

On August 20, 2018, in their press release, Bill Bastuk shared, "The bill was sponsored by Senator John DeFrancisco (R- Syracuse) and Assemblyman Nick Perry (Brooklyn). It will hold prosecutors accountable for misconduct and withholding evidence by

creating a prosecutorial oversight commission. This is the first commission in the US. (Bill Bastuk, 2018) (2).

Jeffrey Deskovic, exoneree and founder of Jeffrey Deskovic Foundation (served 16 years in prison for a rape and murder he didn't commit) and ITCHY advisory board member shared "By signing by saying, this bill, Governor Cuomo took a significant step, though hopefully not the only one, at preventing wrongful convictions of New Yorkers, while also sending a strong message that prosecutorial misconduct is unacceptable in New York. Honest prosecutors who go about their job lawfully while observing legal ethics have nothing to fear while rogue prosecutors now have to think twice" (Jeffrey Deskovic, 2018) (2).

H. Bosh Jr. ITCHY advisory board member, CPLC and also wrongfully

accused in NY state indicated, "I am extremely happy Governor Cuomo approved this important law. I am hopeful it will spread throughout the United States. Prosecutors in NYS have enormous power. Judge Sol Wachtler, the former Chief Judge of the NYS Court of Appeals, once said, "A prosecutor can indict a ham sandwich!" Well, I lived through one of those sandwiches, when I was indicted and tried in 2005 for Arson, Reckless Endangerment and Insurance



“Being apart of this movement and sharing the journey with these awesome people is something I cherish. The hard-work and commitment everyone had in making this reform a reality is something even I cannot describe in words.”

Fraud. I was falsely arrested and charged for burning my own house.

I was lucky. Through a long and hard trial, I was able to prove, yes, prove my innocence. I know the law says every man and woman who is arrested is presumed innocent. But the truth is, often a person charged with a crime must prove his innocence.

There are many who were not as lucky as I was. I was able to avoid prison. There are many documented cases of persons who were convicted and served many years in prison, because of the suppression of exculpatory evidence or the improper presentation of evidence. Let me be clear. I am NOT claiming that all prosecutors engage in the suppression of evidence! The majority of prosecutors, like the majority of law enforcement officers in NYS and the United States, are dedicated, hard-working and honest.

This new law is intended to root out the wrong doing of the few who will use whatever means, no matter what, despite indications of innocence, to convict. What this new law does is send a message to those prosecutors in NYS who will push to convict, no matter how unjust the prosecution might be. This law does not take away any power from the prosecutors. This law just tells prosecutors to be fair.

I am not a lawyer, but I read there is a US Supreme Court decision stating “While prosecutors have the right to strike hard blows, they have no right to strike foul blows”. This law Governor Cuomo approved today, makes very clear that prosecutors in NYS will have consequences, if they strike foul blows! Thank you, Governor Cuomo”.

Pam Booker of Prison Families of NY, ITCHY Board member and wife of a

wrongfully convicted man stated, “My husband sits in prison serving two sentences of “life without parole”, for a murder the District Attorney knew he didn’t commit. But when your only concern is getting a conviction, you will do whatever it takes including violating the law and sending an innocent man to prison. The Commission means no other family will experience the horrors my family is going through”.

Marty Tankleff Esq., exoneree shared saying, “Governor Cuomo has restored some faith to those that have suffered horribly by our criminal justice system. However, this legislation will



not deter us from pushing forward on other fronts to eradicate wrongful convictions”.

Tiffany M. Garriga, Majority Leader, 2 Ward, Hudson City Council indicated: “As majority leader, 2 Ward, Hudson City Council, I’m extremely proud we were the first city to take the lead to support the first commission bill on prosecutorial conduct, through a resolution. Passing our resolution along to cities such as Syracuse, Yonkers, and Albany which passed unanimously.

For years, people complained about local

prosecutors, including right here in our backyard. Now, ordinary people have the opportunity to seek redress when prosecutors don’t act in good faith. With other professions there is accountability and now the time has come for prosecutors to have accountability as well”.

Cheryl L. Kates-Benman Esq., activist and former president of CURE NY shared, “This is monumental in establishing a watchdog to help lower the prevalence of wrongful convictions in this state. It should also serve as a warning “Anything goes is no longer going to be tolerated”. Once you take twenty years of someone’s life by sticking them in a NYS prison no amount of money is going to account for that. There are hundreds, if not thousands of people who still languish and fight for their freedom every day. This is one step in the right direction of preventing this from happening. Our work is far from finished in NYS, but this is a major victory!”

Being apart of this movement and sharing the journey with these awesome people is something I cherish. The hard-work and commitment everyone had in making this reform a reality is something even I cannot describe in words. Watching Jeffrey and H Bosh Jr. along the way reinforced in me as an attorney why I do what I do every day. To see two men who had their lives stolen from them by prosecutors who needed oversight and to see them reach back for their brothers and sisters they left behind is phenomenal. There are people who sit back and complain and then there are people like all of the people mentioned here who have faith and get up and do something about it. RWO salutes them!

