

Man freed after 6 years Evidence was flawed

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A man who spent more than six years in prison for allegedly shooting a Boston police officer was freed yesterday after a prosecutor said a police fingerprint analyst mistakenly matched a print at the 1997 crime scene to him.

"I was surprised and I wasn't surprised because I knew I was innocent," Stephan Cowans, 33, of Roxbury said after his release yesterday. "Once you know you're innocent of something, you have to keep living and try to survive so I can prove my innocence," Cowans said, referring to how he dealt with the prospect of serving a 30- to 45-year prison sentence.

Acting Police Commissioner James Hussey and Suffolk District Attorney Daniel Conley issued apologies to Cowans yesterday. Hussey also reassigned two fingerprint analysts and ordered review procedures in the fingerprint unit.

"There is no doubt that a mistake of this nature raises concerns," Hussey said. "Our error contributed to Mr. Cowans' conviction, and for this we offer him and his family our sincere apology."

On Wednesday, Cowans' lawyers told Suffolk Superior Court Judge Peter Lauriat that DNA testing on a sweatshirt, baseball cap and a glass mug from the crime scene indicated Cowans was not the man who shot Sgt. Detective Gregory Gallagher on Dec. 30, 1997, in Roxbury.

Cowans did not learn until yesterday that new analyses of a thumbprint on the same glass mug cleared him.

"I don't think there's any words in the dictionary to describe what that's like," he said. His darkest moment in prison, he said, was when he learned his mother had died last fall. Cowans thanked his lawyers, Robert Feldman and particularly Stephen Maidman, who began working in 2001 to obtain the evidence for DNA testing.

The New York-based Innocence Project and Boston law firm Testa Hurwitz & Thibault raised thousands of dollars to conduct the tests. No DNA tests were done on the evidence as part of his 1998 trial. Cowans was convicted primarily on the strength of the fingerprint and the eyewitness identifications by Gallagher and a civilian who was shot at, Benjamin Pitre.

Gallagher could not be reached for comment yesterday, but Boston police detectives' union President Tommy Montgomery said, "The last time I spoke with (Gallagher), he was adamant about the fact that the guy he picked out of the lineup was the person who shot him. No one here in this department has any desire to see an innocent person go to prison.

"We all apologize. To take (6 1/2) years out of someone's life, it seems a little hollow. Is it possible he made a mistake? It certainly is. We're all human," Montgomery said. "I don't want this to reflect badly on Sgt. Gallagher or the department."

Cowans is the seventh man in Suffolk County to be freed from prison since 1997 because of DNA tests or new evidence that eyewitness testimony was faulty.

James Dilday, Cowans' defense attorney in 1998, said he hired two private investigators, both former Boston police fingerprint experts, to analyze the print before going to trial.

"Both guys looked at the print and talked about ridges and curves and both independently said it was a match," Dilday said.

He said trial judge James McDaniel denied his request to introduce evidence about the unreliability of eyewitness identifications, particularly cross-racial identifications.

Gallagher is white, and Dilday said Pitre is Latino. Cowans is black.

Shortly after the trial ended, Dilday said, a Boston police detective approached him and said, "Between you and me, I don't think Gallagher knows who the (expletive) shot him."

After Wednesday's hearing, Suffolk Assistant District Attorney David Meier sent two homicide detectives to the Germantown, Md., laboratory where the DNA tests were conducted to retrieve the glass mug so new analyses could be done on the fingerprint. The detectives returned to Boston on Thursday night, and the analysts worked all night before Meier received a call about 7:30 a.m. yesterday informing him the print was not a match.

"In many ways, as much as this is a tragedy for Stephan Cowans, it's also a tragedy for Sgt. Gallagher because he was shot (twice) and the man who did it has never been brought to justice," Meier said.

Caption: INNOCENT MAN: Stephan Cowans, above, smiles at his lawyer, Stephen Maidman, moments before being set free on his own recognizance in Suffolk Superior Court yesterday. Below, Suffolk District Attorney Dan Conley, right, and Acting Police Commissioner James Hussey offer apologies. STAFF PHOTO BY JOHN WILCOX (below); STAFF PHOTO BY MARK GARFINKEL (above)

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