

## Court orders re-examination of 12-year-old murder conviction

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Recently, the 8th District Court of Appeals granted a hearing to a defendant convicted of murder after he appealed the Cuyahoga County Court of Common Pleas' decision denying him leave to file a motion for a new trial.

Marcus Blalock was indicted on charges of aggravated murder in 2001.

After a long history of litigation, a three-judge appellate panel found that the record of the case "raises lingering concerns about the validity of Blalock's conviction" and it ordered the trial court to hold a hearing to determine whether Blalock was unavoidably prevented from discovering new evidence that could lead to a new trial.

Blalock was charged along with three other people for the murder of Howard Rose.

Dion Johnson, Ernest McCauley and Arketa Willis were all involved in the clean-up of a grisly murder scene.

Case summary states that Rose's body was found in the back of a burned pickup truck on Interstate 90 in Pennsylvania.

The cause of death was determined to be a single gunshot wound to the back of the head at point blank range.

Tire tracks behind the pickup truck indicated that another vehicle had stopped behind the truck and then proceeded on I-90.

The previous day, police had been called to Willis' residence in Cleveland on reports of suspicious activity.

There, they found Johnson and McCauley parked in the driveway with blood on their clothes.

Police saw blood on the driveway as well as inside the house but did not find that anyone was home.

McCauley and Johnson each gave videotaped statements to police in which they said that Willis had shot Rose while he was at her house.

Willis had called McCauley asking for help to move the body and clean the murder scene. McCauley subsequently called Johnson and Blalock for help.

Initially, Willis told police that the blood on the driveway was from a dog fight but she later changed her story and said that Blalock had killed Rose in her bed while she was at work.

The police subsequently searched her house and found freshly painted walls, a brand new mattress and box spring and a bleached driveway.

No physical evidence ever linked Blalock to the murder and the only testimony against Blalock at trial came from Willis.

She told the court that she had left Rose and Blalock together when she left for work.

When she returned, Rose was dead in her bed.

According to her, McCauley and Johnson were called to help move the body into the truck.

Willis moved the truck to a side street before police arrived at her house and asked a friend for a ride back to work.

Eventually, everyone helped transport the body to Pennsylvania where the truck was set on fire.

The group traveled to New York and spent a few hours there before returning home to Cleveland.

In exchange for her testimony, many of the charges against Willis were dropped and she received only four years in prison.

Blalock was found guilty of all charges and was sentenced to 15 years to life for murder, life in prison with eligibility for parole in 20 years for aggravated murder, 10 years for aggravated robbery and kidnapping and one year for a weapons charge, all to be served concurrently but consecutive to a mandatory three years for a firearm specification.

In a separate case, Blalock was ordered to serve concurrent terms of five years for tampering with evidence and obstructing justice.

Blalock subsequently began a lengthy appellate process.

Petitions for postconviction relief and motions for new trials were overruled when Blalock failed to present any new evidence.

The Supreme Court of Ohio declined a review of Blalock's case, finding that he did not pose any constitutional questions.

A petition for a writ of habeas corpus was also denied when the court rejected Blalock's arguments that the trial court unreasonably applied federal law.

In 2005, the Lake Erie Correctional Institution produced taped recordings of conversations between McCauley and Willis while McCauley was incarcerated.

The transcript of the recordings indicates that Willis actually killed Rose and framed Blalock.

During one phone call, McCauley referred to Blalock and told Willis, "That really bothers me ... It bothers me because what you not seeing is I asked him to help me save you. And at the cost of saving you, he lost his life."

At other points in their conversation, Willis admitted to lying about the case.

She told McCauley that she told so many lies that she didn't think anyone would get convicted.

"When everybody said a story after me, I felt like it was like every man for theirself," said Willis. "And when I had got the deal and I was like well, I know they going to say I told like 50 different stories. So I ain't think — I'm for real in my heart of hearts — I ain't think no jury would believe me to convict anybody."

Eventually, McCauley asked Willis when she decided to blame Blalock for the murder: "Where's the turning come in? Where did you decide to turn? Because I'm saying to myself, if it wasn't Blalock helping us, then it makes me feel like it would have been me ... When did you decide to take the turn and put it on him?"

Based on the phone calls, a federal magistrate concluded that "these accounts indicate that the state of Ohio may have convicted the wrong person when it found Blalock guilty of the murder of Rose."

Nevertheless, the federal court denied Blalock's petition for a writ of habeas corpus because there was no underlying federal constitutional violation.

Blalock filed a motion for leave to file a motion for a new trial but it was denied without a hearing by the Cuyahoga County court, which ruled that it was barred by res judicata.

His most recent appeal followed and the Eighth District ruled that the trial court abused its discretion in ruling on the merits of Blalock's motion without first holding a hearing.

The appellate panel held that an affidavit from a prison inmate “demonstrated on its face that Blalock could not with due diligence have discovered the new evidence within 120 days of his September 2001 verdict.”

“In light of the record in this case, we cannot find the court’s failure to be harmless error,” wrote Judge Kathleen Keough on behalf of the court of appeals. “The record in this case is replete with new evidence that is material to the issues at trial and casts serious doubt on the validity of the jury’s verdict.”

The panel further held that, had the evidence of Willis’ motivation to lie been available at Blalock’s trial, there was a strong possibility that the trial would have produced a different result.

The court of appeals concluded that applying res judicata to Blalock’s motion was “an injustice” and it reversed the judgment of the trial court and remanded the case for a hearing on his motion to file for a new trial.

Presiding Judge Frank Celebrezze and Judge Eileen A. Gallagher joined Keough to form the majority.

The case is cited State v. Blalock, 2014-Ohio-934.

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