



JEFFREY WARREN JOHNSON: 30 YEARS IN PRISON

Destroyed evidence tainted 2nd trial

BY JEFF GERRITT • DECEMBER 11, 2008

Jeffrey Warren Johnson knows he did the right thing by maintaining his innocence. But after 30 years in prison, he doesn't know if he did the smart thing.

The Detroit native, now 52, could have pleaded guilty and gone home 15 years ago. Before Johnson's second trial in 1978, Assistant Wayne County Prosecutor William Morris offered Johnson a manslaughter charge and 15 years max, if he copped a plea. But Johnson refused to admit to something he didn't do.

After Johnson's first trial resulted in a hung jury, his young court-appointed attorney, Ralph Sirlin, recommended that Johnson take the deal, even though Sirlin was convinced he was innocent. Sirlin knew a second trial would be tougher for the defense.

And it was. Police destroyed fingerprint evidence and changed testimony on whether Johnson's fingerprints could have been on the murder weapon. Johnson was convicted of first-degree murder.

Now serving a mandatory life sentence at Lakeland Correctional Facility in Coldwater, he seeks a commutation. Gov. Jennifer Granholm should grant him one, based on time served, his record before and after the crime, and probable innocence.

On July 25, 1978, Johnson, then 22, was convicted of killing 16-year-old Kevin May while May walked down an alley. Johnson had called 911 after hearing shots while shoveling snow near his garage in northeast Detroit.

The shotgun used in the Detroit murder was legally registered to Johnson. He bought it at K-Mart and said he sold it a month before the Jan. 20, 1978, shooting to Darryl Asbell, who worked with Johnson at the Chrysler truck plant in Warren.

On Feb. 1, a preliminary examination in Detroit Recorder's Court determined that the fingerprints on the murder weapon were not Johnson's. He was released on \$15,000 bail. In April, Judge George Crockett Jr. declared a mistrial after the jury failed to reach a verdict.

During the second trial that summer, before Judge George Crockett III, police said the fingerprints on the gun were unidentifiable smudges. Unfortunately for Johnson, police destroyed the fingerprint evidence after 30 days, as the department usually did when it couldn't make a positive matchup. Johnson challenged the action on appeal. In 1982, the state appeals court ruled that the evidence loss, without a defense attorney requesting it, did not mandate a reversal of conviction, or show that police intentionally suppressed evidence.

But the conviction had other cracks. During the second trial, the prosecutor suggested that Johnson was making up Darryl Asbell.

Police apparently never pursued Asbell beyond Detroit. But just last week, through an online public records search, I located a Darryl Asbell in Newnan, Ga., a city of 27,000, 39 miles southwest of Atlanta. At 55, he would be the right age. Records show this Darryl Asbell lived in Detroit, from 1991-97. I tried but failed to contact him.

Johnson graduated from Pershing High School in 1974 and then attended Denver Automotive and Diesel College. He maintained a good job as a repair technician. With no police record before his arrest, Johnson was out on bail for nearly seven months over the course of two trials and didn't flee.

His trial attorney remembers Johnson as polite and pleasant. "The jurors I talked to after the first trial couldn't figure out why this kid was here," Sirlin told me last week. In prison, Johnson, ticket-free since 1992, has maintained a good conduct record. He almost completed a four-year degree in criminal law, with a 3.2 grade-point average, before college programs ended in the early 1990s.

Odis Buffington, 67, a Detroit real estate investor and Johnson's uncle, said the family fully supports his nephew, who would be no threat to anyone if he got out of prison.

"I'd stake my life on it," Buffington told me. "He would be a productive citizen. I'm not saying that because he's my nephew, because, believe me, I have nephews I wouldn't say that about."

Johnson tries to do his time easy. He works at an institutional job and takes long walks on the yard, listening to opera -- much to the amusement of other inmates. It's too late, he said, to start a family or career. He wants only to live free and in peace and support himself.

"You know that Dirty Jobs show on the Discovery Channel?" he asked me during a prison interview. "Well, no job is too dirty for me."