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The Exoneration of Guy Randolph



Guy Randolph

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Memoir of an Exoneration

Who Really Is Innocent After We Correct a Wrongful Conviction?

Almost 80 years old, Ruth Johns said earlier this year, “I don’t know how much longer I’m going to be around to take care of my son.” Ruth’s son, Guy Randolph, is schizophrenic. He was also a child molester. Guy insisted that he had not committed the crime for which he was convicted: molesting a six-year-old girl at knifepoint in Roslindale, Mass., on New Year’s Eve in 1990. Ruth believed in her son’s innocence and fought to have his name cleared. I was assigned to be Guy’s court-appointed attorney in November 2005, 15 years after his arrest. When we met, Guy had served 10 years in prison and had been living with his mother for five more as a “high risk” registered sex offender. My job was to investigate whether or not this man had been wrongfully convicted.

I had moved to Boston from San Francisco with my husband and five-

month-old daughter a year before I met Guy. I worked as a federal prosecutor earlier in my career and hoped to resume government life in Boston. I relished my work as a prosecutor, where I could mete out justice without worrying that a client I represented was guilty. But I had litigated wrongful conviction cases in law school and felt that giving the underserved a voice was critical to the strong administration of justice. I decided to open a solo criminal defense practice for practical reasons. As a solo, I could both practice law and retain flexibility as a new mother in a new city.

When the Massachusetts public defender’s organization, the Committee for Public Counsel Services, called me to look into Guy’s wrongful conviction claim, I agreed.

I scribbled the new client name on a legal pad, hung up the phone, and checked the Massachusetts “Public Safety” website. The information on the page contained highlighted, bolded, and all capped syntax. Name: GUY QUINTON RANDOLPH. Age: 39. Race: B. Sex: M. Height: 5’ 03”. Weight: 160. Hair Color BLK. Eye Color: BRO. Offense: INDECENT ASSAULT AND BATTERY ON CHILD UNDER 14 YEARS OF AGE 5/21/1991. Below the profile, I read this sentence: “The [Sex Offender Registry Board] has determined that these individuals have a *high risk* to reoffend and that the degree of dangerousness posed to the public is such that a substantial public safety inter-



© Brenda Bancel

Ruth Johns

BY SEJAL H. PATEL

est is served by active community notification.” There was a photo of my new client on the page as well. My first introduction to Guy was of him staring straight into a camera with narrow eyes, unwieldy hair, scattered whiskers, and a thick upper-lipped frown. He wore an unzipped hoodie under a puffy winter coat, with his gaze locked on the camera. I looked at other Level 3 Sex Offenders on the website, unable to shake my skepticism and even fear of representing a convicted child molester.

My first impression of Guy was wrong. I have worked with Ruth and Guy since 2005 to correct a 17-year long, spiraling mistake that began on Dec. 31, 1990. On May 1, 2008, a Suffolk Superior Court judge exonerated Guy, declaring him factually innocent of the child molestation charge. Guy’s exoneration, to most, was the archetypal happy ending to a tragic story: man wrongly accused; lawyer proves innocence; judge exonerates; man free; the end. But this man was black, homeless, and schizophrenic — the holy trinity of American prejudice. Guy’s exoneration may have been *the end* as far as the justice system was concerned, but it was not exactly a happily ever after for Guy and Ruth.

First Meeting

On a dreary November morning in 2005, Ruth and Guy arrived at my office in the financial district of Boston a half hour early for our 10:00 a.m. appointment. I walked out and asked them to wait so that I could collect my file and notes. “How are you both doing today?” I asked them. Ruth rocked herself a few times to climb out of the overstuffed sofa in my shared office waiting area. She stood to shake my hand, her petite five foot, one inch, 70-year-old frame outfitted in a smart suit and a sweet tilted hat. Ruth smiled and replied with a measured Southern lilt, “I can’t complain. God is with me, and I am so blessed to be alive and here with you.”

Guy stood up and cast his eyes downward. “Oh hello,” he whispered as he shook my hand and sat back down. Guy was a small man, standing just a few inches taller than Ruth. Nearly 50 years old then, he kept a scraggly, thin beard and had permanently shrugged shoulders. His hands shook ever so slightly as he folded them into his lap. Through our meeting, Guy barely spoke, barely made eye contact. He seemed vacant. Guy had already served 10 years in jail and had been living with Ruth since then as a Level 3 Registered Sex Offender.

I had reviewed his 15-year-old file, which consisted of police reports, some medical records, and one court transcript. Litigating an innocence claim in his case, I explained to them, was about proving that the child victim had misidentified Guy as the man who molested her. I told them that this was a difficult task but that in this case, the Suffolk County District Attorney’s Office admitted in 2001 that there might have been a mistake in eyewitness identification. I hoped that with that prosecutorial *mea culpa* as a starting point, I could reconstruct history through documents and interviews. I could not guarantee that in a 15-year-old case I could find missing documents or expect people to remember what happened. But with enough proof, I said, I would prepare a motion to the Suffolk Superior Court petitioning for Guy’s exoneration.

They nodded as I spoke. I stopped after every few sentences to ask if they understood.

Ruth answered, “I do, very much. I so appreciate you doing this.”

I asked Guy separately, “Do you understand? Do you have any questions?”

He examined his calloused fingers, flitted his eyes to mine for a second at a time, and answered, “Oh yes, I do. Thank you.”

As they were leaving, I deposited one last piece of information with them. “Sit tight,” I told them. “This is going to take a while.” And it did.

Three Princes

To understand how Guy ended up in jail, I needed to know why he was homeless when he was arrested in 1991. Ruth shared her life story in pieces, with Guy sitting silently with us over cups of Lipton tea in their home. I wondered why Guy seldom spoke. Because I had no inkling of what it would feel like to be incarcerated for a decade for something I did not do, I suspended my expectations about Guy’s ability and desire to tell me his story. I worked instead with the gifted storyteller who could help me — his mother.

Ruth told me that she raised her three sons alone. The boys’ father was a paratrooper stationed in North Carolina near Ruth’s hometown. He and Ruth married in March 1955 when she was 21. She moved with him to Boston and bore three children in three years — Gregory, Paul, and Guy. “I don’t believe in sugarcoating anything,” Ruth said of her husband, “but he wasn’t interested in his family.” He left her when the boys were toddlers. Ruth raised her sons without

help from her family because she believed “every tub should stand on its own bottom.” Ruth worked as a hairdresser for 25 years while the boys were young. She considered going back to North Carolina, but she stayed in Boston to give her boys a chance at better schools in the city she called the “Cradle of Culture.” Ruth then worked as a registration clerk at the Brigham & Young Women’s Hospital in Boston for 11 years. She retired at age 62 in 1996.

“My boys were my three princes,” Ruth said. Gregory, the eldest, attended college and then joined the Navy after his scholarship money ran out. He now serves the U.S. Department of State and has been stationed in Afghanistan, Japan, and Liberia. Growing up, Gregory always gave his younger brothers advice. “Walk that straight and narrow.” “Stay in school.” “Watch your friends.” Ruth remembers Gregory always tried to set good examples for his younger brothers. Paul and Guy used to tease Gregory, calling him “square” and a “nerd.” I met Gregory in 2006 when he came back from Afghanistan for a short visit. Bespeckled and stout, he carried with him an aura of distinction, a pride not boastful but sincere and humble.

Paul and Guy were only a year apart and were close growing up, Ruth told me. Paul struggled in school and developed a drug addiction. He died suddenly of cardiac arrhythmia in 1996. Paul’s death haunts Ruth still, but she did the best she could by him. “I didn’t just dote on Gregory because he was the one who excelled,” she said. “I doted on all three of my sons.” Before Paul died, Ruth said he looked his older brother in the eyes and said to Gregory, who was married and had two daughters, “Gregory, you have a nice family.” Ruth could see in Paul’s eyes that he wished his life had turned out like Gregory’s.

Growing up, Guy was a happy, gregarious boy. He was agile and a great basketball player, Ruth said proudly. But Guy dropped out of high school by the 10th grade, struggling to read and keep up with classes. He participated in a Job Corps program and learned how to be a welder. By his 20s, Guy wanted to live on his own. Ruth found him a living situation with a landlord in a nearby apartment building. Guy lived there for six years rent-free in exchange for helping out with errands, such as taking out the garbage and flipping over mattresses. The elderly lady was afraid to live there alone, so Guy’s company provided her security. That ended when the woman no longer needed help, and then Guy strung

together odd jobs for a while. No one in his family suspected he had a mental illness. Because his schizophrenia went undiagnosed until he went to prison years later, he just appeared irresponsible and unable to hold onto work. Guy eventually ended up on the streets. By then, Ruth was living with a longtime boyfriend named Walter. She and Walter both had grown children, and Walter disapproved of any child who did not work. He refused to let Guy live with them. He insisted that Guy needed to “be a man.”

By the time Guy was 33 years old in 1990, he was living from shelter to shelter in Boston. “It takes a strong person to persevere in a shelter,” Ruth said when she described how Guy spent one night at a time at the Pine Street Inn, Ft. Point Shelter, and the Salvation Army. Guy slept outside sometimes, near a Chinese restaurant parking lot, McDonald’s, or the supermarket in Mattapan. Gregory consoled his mother by saying, “It looks like nobody cares, but you can’t just give your life up for Guy.” Ruth felt sick with guilt, but because Guy was no longer a child, she felt that she had no control over what he did. Ruth said she would never have left Guy stranded if she had known that he needed help. He came by the house less frequently over time. She gave him money for a room whenever she could. She fed him and let him shower at her house.

But Guy would disappear sometimes for weeks. She remembered once when Paul told her that someone found Guy frozen to death outside on a park bench. She and Paul raced to the morgue at the Boston Medical Center. “My son is 5’3”, has short hair, and dark skin,” Ruth told the medical examiner as she fought back tears. “He looks sorta like me, but he’s taller.” The medical examiner came back from the morgue and said, “Little mama, it’s not him. The person we found is 5’8”, has fair skin, and braided hair. Go home and get some rest.”

Guy’s story is hardly unique. Young men drop out of school because of learning or disciplinary issues, and they assert their independence from their parents. Some parents, like Ruth, are able to help. But many other parents cannot support their children emotionally or financially. Lacking any home, in possession of neither the tangible edifice nor the intangible emotional respite it provides, these men end up on the streets, shuffling between shelters and stays with friends. These wanderers lack any stable, rational person telling them that they need mental health attention. Many of my clients, Guy included, reside alone, in

mind and in body.

Though Ruth could not control Guy’s path, the one thing she told me she could rely on was Guy’s visits for holiday dinners. She told him on Christmas Day in 1990 that she was making pig’s feet, his favorite, for New Year’s Eve dinner. When Guy went missing that night, Ruth knew something was wrong.

Misidentified

Police records outline the narrative of how Guy came to be arrested. At around 5:30 p.m., the Boston Police Department received a call about a possible rape near the American Legion Highway in Roslindale, Mass. The responding officers met a six-year-old girl there, accompanied by her aunt. The reporting police officer wrote that the girl was playing alone in a snow mound when a black man riding a bicycle approached her. The man placed a knife on her cheek and forced her behind a nearby dumpster. He ordered her to pull down her pants and touched her in the vaginal area. The victim told the police that the man wore an olive green jacket or coat. The police placed a radio call to be on the lookout for a suspect matching this description, and the girl went to the hospital.

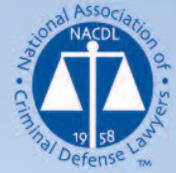
Twenty minutes later, the police apprehended Guy. The police report noted that Guy was on foot about a quarter to a half mile away from the hospital. The police knew Guy to be a harmless neighborhood homeless man who was “slightly mentally ill.” He stood 5’3” tall, wore a dark grey jacket and a blue stocking hat, and had “nappy hair.” The police did not find Guy with a bicycle or a knife, and the arresting officers had never seen him on a bike or wearing an olive green jacket. The police asked the young girl whether Guy was the perpetrator. She said no. She went back inside the hospital with her aunt. Then, a short while later, she returned outside. The victim’s aunt told the officers that her niece wanted to see the suspect again. The girl changed her mind. She said that Guy Randolph was, in fact, the man who assaulted her.

Two months later, the victim testified under oath and said she was sure the perpetrator was Guy Randolph. However, she affirmed that the perpetrator was wearing a long olive green coat and that Guy’s short, dark grey coat was not the one she had seen. She also said that the assailant’s hair was different from Guy’s. She verified that the man who hurt her was not wearing a hat.

Other than the fact that the perpetrator and Guy were both black, the victim’s description of her assailant did not match Guy in any respect. The Suffolk County District Attorney’s Office charged Guy with Indecent Assault and Battery on a Child Under 14 and Assault and Battery with a Dangerous Weapon. Guy had been arrested and convicted in years past for offenses like being a disorderly person, malicious destruction of property, shoplifting, and possession of burglarious tools. But he had never been convicted of any offense in which he harmed another person, and no judge had sentenced him to jail time for these prior offenses.

Guy could not afford a lawyer, so the court appointed him trial counsel. The lawyer assigned to Guy was a regular in the Boston criminal courts, no doubt handling a hundred cases like Guy’s in a given year. Someone, either the court or Guy’s lawyer, recognized that Guy needed a mental health evaluation. A court-appointed psychiatrist interviewed Guy and adjudged him competent. The interviewer scribbled two paragraphs of notes on a single page of paper in an evaluation that must have lasted less than a half hour. He reported that Guy was “coherent” and “responsive” and that he “argued his innocence vehemently.” I later discovered that Guy had been evaluated by Bridgewater State Hospital in 1986, five years before this interview, when he was arrested for a prior offense. Neither the evaluator nor Guy’s trial attorney reviewed these records. When I found them in 2006, I saw that psychiatrists concluded that he may have had a major mental health illness. Had Guy’s lawyer requested these past records, Guy’s perfunctory competency evaluation would have been more careful.

This record fumbling raises the question of what lawyers and the court system can do with the rapidly rising mentally ill defendant population. Lawyers in Massachusetts who represent inmates below the poverty line, like Guy, do it for \$50 or \$60 an hour for nonmurder cases and \$100 an hour for murder cases. Compare those numbers to the \$500-\$700 an hour that Bernie Madoff, O.J. Simpson, and Martha Stewart pay their big firm lawyers. Working for so much less means that solo or small firm practitioners have to boost volume to make ends meet. And boosting volume means less time for each individual case. The reason Guy was exonerated, in my estimation, was because he was assigned to me, a lawyer who could focus on a few cases because my husband’s job allowed



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me not to worry about paying my mortgage or putting food on my table for my children. I could take my time on Guy's case and not rush through tedious to-do's like making repeated phone calls to beg for records.

A generous estimation of his lawyering skills suggests that Guy's attorney lacked the ability to pay attention to his clients. In May 1991, Guy pleaded guilty to "Indecent Assault and Battery on a Child Under 14." His attorney probably explained to him that in cases like these, the evidence comes down to whether a jury would believe him or the victim. Guy remembers nothing of this conversation other than that he told his lawyer and anyone who would listen that he was innocent. "I told him I didn't do nothing wrong," Guy insisted. The attorney presented to Guy the possibility of taking an *Alford* plea, which means that Guy could plead guilty without admitting to wrongdoing. Guy assented, feeling he had no choice. The judge punished him with a "suspended sentence." That meant that Guy was released with conditions, including that he had to report for drug and alcohol testing. If he failed those conditions, a court could sentence him to 10 years in jail. Still homeless and untreated for his mental illness because the court missed the prior documented records of it, Guy predictably missed one of his appointments and was hauled into court. The judge levied the entire 10-year sentence on him.

Still, Guy insisted to his mother that he was innocent. Ruth and Gregory steadfastly believed Guy. "We knew our Guy was no child molester," Ruth said.

Ten Years in Prison

Guy spent the next decade of his life shuttling between Bridgewater State Hospital for the Criminally Insane and prisons all over Massachusetts. Mentally ill inmates journey like this from facility to facility because schizophrenia is an episodic disease that can go dormant. Because Bridgewater is designed to treat acute episodes, inmates who are treated cannot reside there indefinitely. There are simply too few beds for too many inmates. So Guy moved from jail to Bridgewater, back to sometimes a different jail, back to Bridgewater, and so on as his schizophrenia appeared active and passive. Guy has little memory of his years there. He believes people at Bridgewater treated him well, but says in the next sentence that he does not want to talk about it. When asked if he

remembers names of fellow inmates, mental health professionals, or prison guards, he shakes his head and says, "I don't remember, don't remember."

I wondered what it would feel like to tell dozens of prison guards, psychiatrists, nurses, and fellow inmates steadily over 10 years that you did nothing wrong, but those people either ignored you or ascribed your protests to a mental illness. Schizophrenia is an insidious illness in the way it robs its host of his sense of self. The drugs used to treat schizophrenia have terrible side effects including excessive weight gain, lethargy, and listlessness. If the very essence of *who a person is* becomes a clinical enigma, how could a diagnosed schizophrenic hold any personal conviction? "Someone must have been telling lies about Josef K., he knew he had done nothing wrong but one morning, he was arrested," Franz Kafka writes in *The Trial*, narrating the beginning of Josef's descent into madness as a desperate attempt to cling to what he knew was true. What would it feel like for anybody, schizophrenic or not, to simply not be believed?

High Risk Sex Offender

After Guy was released from prison in 2001, he went to live with Ruth. But Guy's release did not mean freedom for Guy or Ruth. Ruth's boyfriend, Walter, was very old and ill by that time. Walter knew that if he did not allow Guy to live with them, Ruth would separate from him. "Guy had suffered," Ruth said. "I knew then that he was a schizophrenic, and I wasn't going to let him go in the streets." Ruth had wanted to leave Walter for years. But it would weigh on her conscience to leave him while he was dying. Guy moved in with them, and Ruth nursed her dying partner and her schizophrenic son under the same roof.

Upon his release, Guy had to register as a sex offender. Sex offenders in Massachusetts are required to register so that the community has visibility and information about their whereabouts. The Massachusetts Sex Offender Registry Board (SORB) classified Guy Randolph a "Level Three," or "High Risk" sex offender. In 2001, the court appointed attorney Sondra Schmidt to challenge Guy's classification. She immediately noted the discrepancies between the victim's description of the offender and Guy. She knew when she looked at the file, as I did six years later, that Guy had been misidentified.

Schmidt contacted the Suffolk County District Attorney's Office and asked the prosecutors to reopen the then decade-old file. The Assistant District Attorneys (ADAs) agreed with her, stating that they too had "serious doubts as to the validity of the identification of the defendant as the perpetrator of the underlying offense." They agreed to withdraw their petition to classify Guy as a sex offender. At the hearing, the ADA went on to say, "Mr. Randolph does not in any way meet the description of the assailant." The judge allowed the Commonwealth to withdraw its petition. This prosecutorial admission, I noted to Guy and Ruth four years later, made me hopeful that we would be able to prove Guy's innocence.

But despite this exchange, Guy ended up classified a Level Three sex offender anyway. I noticed over the years a tragic disconnect between what happens in court and what a client understands. Guy and Ruth were now so afraid of Guy being rearrested that they abided by the restrictions placed upon them, knowing that the restrictions should have been removed. Guy's photo appeared on the SORB website as a person the community should be wary of as likely to reoffend. Flyers bearing his name and photograph were tacked onto supermarket and library bulletin boards. Neighbors insulted him on the streets. If he walked too close to a school, the police would order, "Get away from here!" Guy often came home terribly hurt, and Ruth consoled him by saying that the police department was only doing its job.

What Guy disliked the most were his required trips to the local police department to be fingerprinted. His fingerprints told two stories of Guy's identity. The friction ridges of his fingers told the story of Guy Randolph's biological identification. The act of tendering his fingerprints to law enforcement told the story of his identity as a convicted sex offender. The ritual of the fingerprints not only ensured safety of the community but also served as a weekly reminder to Guy that society labeled him a convict and a sex offender. He would say to his mother at home over dinner, "But I didn't do nothing. Why do I have to go down there?"

Ruth said Guy's limbs shook after he was released. Guy's physician said that he had been overmedicated in jail. "Who knows," said Ruth, "maybe the folks in prison just didn't want to be bothered with him so they drugged him up a lot." The doctor reduced the dosage, but

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Guy's body still trembled. The medical records from Bridgewater and state prisons document that Guy was medicated during those 10 years with a number of drugs to control his schizophrenia, including Haldol, Cogentin, Stelazine, Zyprexa, and Depakote. Guy was perennially anxious and uncomfortable around people. Ruth said that Guy had horrible nightmares. He would scream in the middle of the night, "Mind your business! Leave me alone! I'm not bothering you!" Ruth rapped on his door many nights to make sure he was okay.

The stress of being a caretaker took its toll on Ruth's health. She went to the Brigham and Women's Hospital in Boston with severe chest pains one day. She told the doctor that she could not stay overnight because she had a sick son and a sick partner at home. The doctor asked, "Who's going to take care of you?" Ruth said it is a wonder she did not have a stroke or a heart attack. Walter died in 2004, leaving Ruth to care for only Guy. Ruth said of her sons, "I'm proud of Gregory, but I'm also proud of Guy for weathering this storm." Ruth told Guy, "Don't listen to ignorant people. I believe in your innocence." Ruth wrote to the Committee for Public Counsel Services (CPCS) and

asked that a criminal defense attorney be assigned to Guy's case.

CPCS receives many letters like these from defendants petitioning for postconviction help. A senior attorney in the appellate unit first screens the requests, then asks an attorney to review certain files more carefully to determine whether a post-trial motion is warranted. I asked CPCS to send me wrongful conviction cases, having worked on them in law school. David Nathanson of Wood & Nathanson, then a CPCS senior appellate attorney, asked me to investigate Guy's mother's request.

Exoneration

I began what I called my lawyer-archaeological work after I met Guy and Ruth that rainy November morning in 2005. I spent the next two years digging for old evidence to prove Guy's innocence. This mining was slow but necessary because of the magnitude of my request.

The way to correct Guy's predicament was to persuade a court that (1) the victim had misidentified Guy and (2) Guy's lawyer had not represented him effectively in missing his mental health diagnosis and advising him to plead guilty to a crime he did not com-

mit. The fact that I believed this meant nothing. In ink, deed, and word, I had to prove it. And because so many years had elapsed, I worried that destroyed documents and forgotten anecdotes would cripple any chance we had of proving Guy's innocence.

The reconstruction task was hardly glamorous. My correspondence logs from 2005 to 2007 chart dozens of phone calls and letters to court reporters, records departments in every prison and hospital Guy had ever lived in, former defense attorneys and prosecutors, and homeless shelters. I logged hours on Google searches tracking anyone down who might have useful information. Since the incident took place in 1991, many individuals had either died or refused to talk to me. I found them all — psychologists, the trial lawyer, prosecutors, other defense attorneys, police officers, court reporters who prepared transcripts of hearings, and record keepers for medical and mental health documents. It took sometimes five, sometimes 30 follow-up letters and phone calls to persuade anyone to respond.

This sort of persistence and groveling takes its toll on a person's patience. Growing up, my Indian parents modeled peaceful tone and respectful demeanor

to others regardless of how frustrating or disheartening a situation. So losing my temper was not in my nature, and I believed that outrage would only handicap my task anyway. The single largest impediment in preparing Guy's motion was receiving the short 30-page transcript in which the prosecutor admitted that Guy was misidentified. The two individuals responsible for producing that transcript ignored me with no cause or apology through some 30 calls and 10 letters. When they finally did produce the transcript, they did it unceremoniously and probably out of sheer annoyance. Any lawyer who has litigated a postconviction innocence case will attest to the fact that it is the callousness and negligence of many individual, ordinary people that perpetuate a wrongful conviction. Wanton excuses such as "I don't have time," "I don't remember," or refusals to call back keep innocent people locked in jails for years. And when a newspaper heralds an exoneration, these people are never disciplined or otherwise made to reform their behavior. Indeed, it is as if the exoneration serves to exonerate the criminal justice system as much as it does the defendant. It wipes the slate clean for everyone, except that the innocent person's slate is forever dirtied with persistent memory and the lifetime badge of stigma.

By the time I received everything I needed to prepare Guy's motion, I was pregnant with my second child. I lugged multiple copies of a giant, multivolume motion up the Suffolk Superior Courthouse steps and had my daughter two days later. I had already sent the motion to the Suffolk County District Attorney's Office weeks before to see if we could agree that there was a serious error in Guy's case. The ADA took a few months to review my motion and then supported my request to the court. In rare but earnest collaborative spirit, the government and I both petitioned the court to remove Guy's conviction and declare him innocent.

On May 1, 2008, the Suffolk Superior Court summoned Guy, the ADA, and me to a hearing. Ruth, Guy, and Guy's godmother arrived an hour early, wearing pressed suits as we shared lukewarm coffee outside the courthouse at 7:45 a.m. And then, after 17 years of waiting, time quickened. In a hearing that lasted barely 10 minutes, Judge Margaret Hinkle of Suffolk Superior Court pronounced Guy innocent. She said to them, "To you Mr. Randolph and to your mother, this is the beginning of the next stage of your life. I hope it is

immensely happier than the time that you've had sir, over the last years. I know that ... you[r] mother has stood by you, others have stood by you as well and again you have the court's best wishes at this time." Guy's name was removed from the Sex Offender Registry Board list an hour later.

The precision and pace of Guy's exoneration felt like a paradoxically happy trauma. The outcome, of course, rendered the morning joyous and celebratory. But the very fact that someone suffered for nearly two decades as the worst sort of social pariah and that his lawyer battled two years of administrative apathy to prove his innocence could be addressed in 10 minutes felt like a jolt. Guy, Ruth, and I interviewed with a *Boston Globe* reporter outside the courtroom and then walked out the courthouse doors together. It was too early to have lunch, too late to have breakfast, and Guy's godmother's parking meter was about to expire.

"Congratulations, Guy," I said to him. "You will go home and celebrate, I hope?"

"Yes," Guy smiled and laughed a little. "Yes, I think so. Thank you."

As I bid them goodbye that day, Ruth held onto me in an embrace as I walked her, Guy, and Guy's godmother to their car. I watched them drive away from Government Center and stood outside, knowing that this event would always be the highlight of my legal career. I called my parents, then my husband, all unreachable, and I left messages for them. Then, I walked to a sandwich shop near the Boston Harbor and ate my lunch outside alone.

Life After Exoneration

The next morning, the *Boston Globe* ran a front-page feature of Guy's story, with a large photo of him embracing his godmother and Ruth. "It's just tragic to get it this late. It's really something that fell through the cracks. He was forgotten," said Suffolk County Assistant District Attorney Joseph Ditkoff, the prosecutor who agreed with me that Guy was innocent of the offense. Ditkoff added that law enforcement back then did not know how best to interview child victims. A few months later, the Commonwealth of Massachusetts settled the civil suit I filed for Guy's wrongful conviction. Guy was half a million dollars richer, a legally innocent man, and a celebrity. The fanfare was over within moments for me and within weeks in the media.

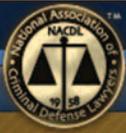
My work with Guy and Ruth concluded in the summer of 2008.

After I withdrew as their counsel, I realized that the declaration of Guy's innocence did little to help him piece his life back together. Guy faced a host of logistical problems including where to live, what to do with his newfound settlement money, how to obtain health care and mental health treatment, and how to procure identification. The public defender's organization could not appoint him counsel for these issues because they were outside the scope of criminal defense services. I asked for a social worker to help them, and I stayed on *pro bono*, worried that they may again slip through the cracks without guidance.

The first order of business was making sure that Guy's wrongful conviction settlement money did not suspend his public benefits. The money, I learned, needed to be in a Special Needs Trust, a mechanism available to the mentally ill to insulate their proceeds from benefit disqualification. Because I was not a trusts attorney, I petitioned the Boston office of Ropes & Gray to take Guy on as a *pro bono* client. The Ropes lawyers, Maura Carney and others, helped Guy understand how to manage his money. They paired Guy with a trustee, Richard Blank of Rubin & Rudman, who still works with them as both friend and trusted advisor.

We discovered a year after the exoneration that the IRS taxes wrongful conviction money. Guy stood to lose \$150,000 of his \$500,000 settlement to federal taxation. Horrified that a man who was wrongfully incarcerated for a decade could have to pay taxes on the proceeds he recovered for the lost years of his life, I worked with Blank to challenge the IRS policy. We succeeded on Guy's behalf and received a tax refund.

Since his exoneration, Guy and Ruth have been living in a modest three-bedroom apartment in Hyde Park, Mass. I framed the Page A1 *Boston Globe* article about Guy's exoneration for them, and it hangs in their hallway. Nearby, Ruth displays three framed photos of her three sons as happy little boys in school uniforms. She also keeps a photo of President Barack Obama in their dining nook. Ruth worries about what will happen to Guy when she is unable to cook for him, take him to doctor's appointments, and remind him to take his medicine. After caring for Guy for the past decade, she says, "It's time Guy and I separate into assisted care living situations now, before it's too late. If he loses his



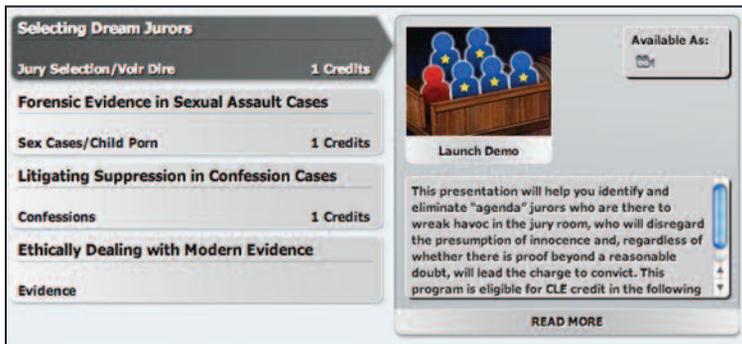
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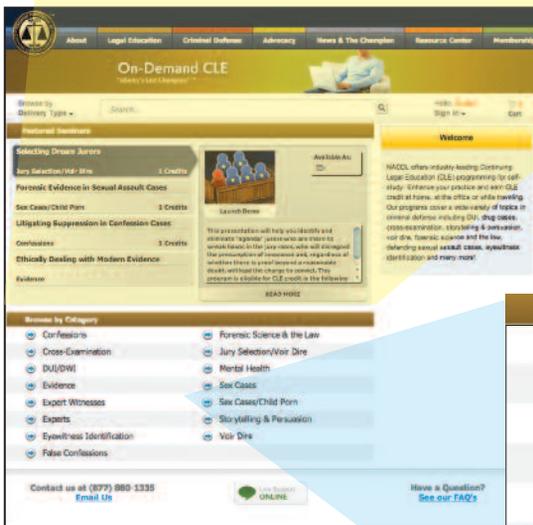
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mother suddenly, how is that going to make him feel? This way, he has some time to learn to live alone."

Guy is different now from the way he was when I met him in 2005. He makes eye contact and tells jokes. He watches his health and takes his medicine. He and his mother shop for new clothes every Christmas at Macy's in Downtown Crossing. He has friends and attends church on Sundays. He battles with health ailments resulting from his schizophrenia medications and old age. He loves subs and pizza and Dole's canned pineapple. But still, Ruth says that prison changed Guy. He is no longer the happy, gregarious son she raised. The stigma devastated him, and she still sees signs of withdrawal and depression in him. "It's hard dealing with a schizophrenic," Ruth says. "You don't know what mood he's going to be in." Ruth pities her son for his condition. "Only God can heal a broken mind. I'd rather have a messed up body than a messed up mind. When your mind is messed up, that's the essence of you." Ruth knows that Guy's condition requires patience, care, and attention.

What Ruth sees from Guy lately is deep hurt and anger. He is, I think, afraid of living without his mother. "I

love my ma," he says. "She saved my life." He admits that he has to move to a group home, but he is resistant. It is important to Ruth that Guy receive his placement first so that she can help him transition. They have been waiting for two years, but Ruth never complains that she is frustrated. "I don't feel right saying my needs are any more important than anyone else's," she says. "I'm number 54 on the list, so I'm praying my turn will come soon."

Ruth has made her peace with what she has done for Guy, and I have made my peace with what I have been able to do for them both as well. But still, I worry. I worry about how Guy will manage in an assisted living facility without his mother. I worry about how Ruth's health will fare in the coming years. I worry that when they need help, no one will have the time to look after them because it is not their job to do so. Ruth used to say to me about Guy's predicament, "You can't figure people out. You can only figure yourself out." And so Ruth, sustained by her faith in God and in her own good deeds, unwittingly paraphrased Immanuel Kant: "A man, and indeed every rational being, exists as an end in himself."

Exonerations end stories, but the

tidy endings belong to the wrong actors. Post-exoneration, the criminal justice system barrels on with its memory of past misdeeds forgotten. It declares the guilty innocent, it apologizes, and it pays whatever it can for the mistake. The system and all of its actors exonerate themselves, carrying no stigma or punishment for the injustice on the person whose life was ruined. And wrongful convictions keep making headlines. ■

About the Author

Sejal H. Patel is a former federal prosecutor and criminal defense attorney. A 2000 graduate of Northwestern University Law School, she now studies law and ethics at Harvard Divinity School, where she



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