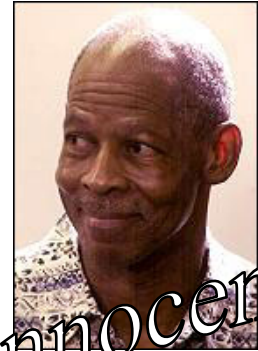




## Failed justice: EDDIE JOE LLOYD

### Eddie Joe Lloyd:

- Mentally ill and institutionalized when charged with the crime.
- Wrongfully convicted in Wayne County of the 1984 brutal rape and murder of a sixteen year-old girl.
- Sentenced to life without parole.
- Spent more than 17 years in prison for a crime he did not commit.
- Exonerated on August 26, 2002.
- Died September 22, 2004, because of medical complications arising during his incarceration.



Innocent!

### Mr. Lloyd's mental condition

While committed to the Detroit Psychiatric Institute, Mr. Lloyd sent letters to the police with suggestions about how to solve the murder case. He had been diagnosed by the psychiatrist as suffering from bipolar affective disorder and exhibited symptoms such as grandiosity, flight of ideas, and “a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.”

Mr. Lloyd falsely confessed to committing the crimes.

### The trial (1985)

His first appointed lawyer quit on the day of his trial because he was ill. His second lawyer failed to argue key issues.

- There was no challenge to the police interrogation that took place while Eddie was in a mental institution.
- No psychiatric expert was asked to evaluate the reliability of his confession, even though he was in a mental institution at the time he was interviewed.
- There was no call for forensic analysis of the blood, hair or fingernail scrapings from the crime scene.
- Little cross-examination took place during trial, *and no defense witnesses* were called.
- The first lawyer received a flat \$150 for all investigative activities, regardless of what could actually be accomplished for that amount.
- The investigator, a law student with a prior criminal record, never met with Mr. Lloyd or conducted a meaningful investigation.

### Mr. Lloyd's exoneration

Mr. Lloyd contacted the Innocence Project and after years of searching for the biological evidence in his case, two crime labs performed DNA testing, both finding that the DNA evidence excluded Mr. Lloyd as a suspect. In August 26, 2002, he was exonerated. *The real perpetrator in this case has not yet been found.*

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# Failed justice: Frederick Mardlin

## **Frederick Mardlin:**

- Wrongfully convicted in St. Clair County of arson of a dwelling house and sentenced to 3 to 20 years
- Courts denied funding for a defense electrical expert to rebut the testimony of the prosecution's experts
- Investigation by an electrical expert working pro bono provides compelling proof of Mr. Mardlin's innocence

## **The charges against Mr. Mardlin**

The charges against Mr. Mardlin arose from a November 13, 2006 fire in his home. The prosecution argued that Mr. Mardlin intentionally started the fire to collect insurance proceeds because he was behind on his bills. Though no accelerant was found during the investigation, the prosecution claimed that the damage was "consistent" with such use. The prosecution's experts, however, failed to examine the faulty wiring in an outlet in the room where the fire started.

## **Mr. Mardlin's public defense failure – Lack of critical expert evidence**

Evidence as to the cause of the fire required expert investigation and analysis. Three arson experts testified on behalf of the prosecution. Mr. Mardlin's appointed counsel requested appointment of an electrical engineer and a fire investigator. The trial judge requested the results of the electrical engineer's investigation, which defense counsel was not able to provide, as no expert was yet appointed. The court then denied the appointment of an electrical expert. The trial court approved funding for a fire investigator's testimony but not for his investigation. The fire investigator determined that the fire had an electrical cause, but because of the lack of funds and electrical expertise, could not investigate further. Mr. Mardlin was convicted by jury of arson of a dwelling house and burning insured property and was sentenced to concurrent terms of 3 to 20 years and 1 to 10 years.

## **Newly developed exonerating evidence**

In 2008, appointed appellate counsel filed a motion for a new trial on the ground of new evidence based on preliminary work done by an electrical engineering expert, Larry Stalter. Though the trial court denied the appointment of Mr. Stalter as an expert, Mr. Stalter continued assisting on the case in a pro bono manner. He conducted destructive testing on the faulty outlet which had never been tested before. That testing conclusively showed that the cause of fire was electrical, and, therefore, that the fire was accidental.

The Court of Appeals ordered an evidentiary hearing, at which the defense presented evidence of the documented testing and the electrical expert's sworn statements that the fire was an accident and electrically caused. The prosecution did not rebut this testimony. The trial court denied the motion for a new trial and again denied appointment of the expert. The Court of Appeals reversed on an evidentiary ground, but also denied appointment of an expert, as did the Supreme Court of Michigan. The Michigan Supreme Court then granted leave to appeal to the prosecutor and denied bond to Mr. Mardlin. The county has also refused to pay for the appointed appellate attorney's work at the Court of Appeals unless he undertakes the full appeal at the Supreme Court on a pro bono basis.

Mr. Mardlin remains incarcerated, having served nearly his entire minimum sentence, at a cost of greater than \$100,000 to the taxpayers of the state of Michigan. The appointment of the electrical expert would have cost the trial court approximately \$2,000.

*"Mr. Mardlin is still in prison for an accidental fire for which he was unfairly convicted."*

- *F. Martin Tieber, Mr. Mardlin's appellate attorney*

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## Failed justice: WALTER SWIFT

### Walter Swift:

- Was wrongfully convicted in Wayne County of rape and robbery in 1982.
- Was represented at trial by a public defense attorney who later lost his law license because of his incompetence.
- Was sentenced to 20-40 years. He spent almost twenty-six years in prison before he was exonerated on May 21, 2008.



### The case against Mr. Swift

In 1982, Mr. Swift was arrested and charged with raping and robbing a Detroit schoolteacher in her home. The victim initially described her attacker as a thin, clean-shaven young man, between 15 to 18 years old, with braided “poofy” hair. Looking through mug shots at the police department after the attack, she pointed to eight men with features somewhat similar to those of her attacker. Mr. Swift was one of them. The police then placed Mr. Swift and several other men whose photos the victim had never reviewed in a line-up. Based on that single line-up, the victim identified Mr. Swift as the perpetrator. None of the seven men previously identified by the victim as resembling her attacker were subjected to a line-up.

The police officer in charge of the investigation wrote, “*Not a strong I.D.*,” in her notes following the lineup. Mr. Swift did not at all resemble the victim’s initial description. He was 21 years old, had a full moustache and short hair with side burns. That police officer, however, was subsequently removed from the case.

### Mr. Swift’s public defense attorney

Public defense attorney Lawrence Greene was assigned to represent Mr. Swift. At trial, Mr. Greene failed to present alibi testimony from a veteran law enforcement officer with 24 years of service and no motive to lie; did not provide the jury with the results of blood tests implicating another individual as the perpetrator; neglected to make the jury aware of the fact that Mr. Swift did not resemble the victim’s initial description of her attacker; and did not challenge the manner in which the line-up had been conducted.

Mr. Greene was subsequently reprimanded numerous times for misconduct and failure to provide effective representation in other cases and on three different occasions had his law license revoked.

### Mr. Swift’s exoneration

Both the Michigan Court of Appeals and the Michigan Supreme Court rejected Mr. Swift’s appeals. In the late 1990s, Mr. Swift contacted The Innocence Project in New York City who agreed to take on his case. After conducting its own investigation, the Project uncovered the various deficiencies in Mr. Swift’s prosecution and made them known to the Wayne County Prosecutor. In 2008, the Prosecutor and the Innocence Project jointly moved to have Mr. Swift’s conviction set aside.

Because of his 26 years in prison, Mr. Swift missed the childhood of his only daughter, Audrey Mills, who was one year old when her father was imprisoned. After her father’s release, Ms. Mills noted: “I have always wanted my father with me. So, to not have him home has been sad. You see people and they get to spend Father’s Day with their father. You are reminded that your father was taken away from you for no good reason.”

*“I’m angry that this is supposed to be a justice system, and it’s nothing even close to a justice system.”*

- Audrey Kelly Mills, Mr. Swift’s daughter

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## Failed justice: DAVID TUCKER

### David Tucker:

- Spent more than five years in prison after being wrongfully convicted in Wayne County of a crime he did not commit.
- Was represented at trial by a public defense attorney who failed to prepare.
- Was released in 1997, after the United States District Court for the Eastern District of Michigan concluded that he had been deprived of his 6<sup>th</sup> Amendment right to counsel.

### The charges against Mr. Tucker

In 1991, Mr. Tucker was arrested and charged with severely beating a co-worker, ten months earlier, in or near the restaurant where they both worked. On the day of the assault, Mr. Tucker had found the co-worker lying unconscious outside the restaurant's bathroom, reported the co-worker's injuries to his supervisor and called 911. The co-worker suffered a serious head injury and spent several weeks after the attack in a comatose state in a local hospital. Initially, the co-worker identified a Mr. Wiley and another man as his assailants. The Detroit police department arrested the two but dropped the charges against them when the co-worker changed his story and claimed that Mr. Tucker was responsible.

### Mr. Tucker's public defense attorney

Without the financial means to hire a lawyer, Mr. Tucker was assigned a public defense attorney. Insisting that he was innocent, Mr. Tucker refused to plead guilty and the case was set for trial. His attorney, however, did nothing to prepare for that trial. *He wrongly assumed that the co-worker would not testify against Mr. Tucker and failed to:*

- Obtain the co-worker's medical records to establish that the co-worker's injuries had adversely affected his memory;
- Bring to court a letter from the co-worker's attorney attesting to the fact that the co-worker did not remember the assault or the events leading up to it; and
- Obtain the police reports establishing that the co-worker had initially identified Mr. Wiley as one of the perpetrators.

When the attorney learned that the co-worker would testify, he did not ask the court for more time to prepare. Although he cross-examined the co-worker, he did not ask him about his head injuries, misstatements he had made while testifying about the nature and extent of those injuries, or his initial identification of Mr. Wiley.

Mr. Tucker's trial lasted just 45 minutes. Because counsel had permitted Mr. Tucker to waive his right to a jury trial, the trial judge decided the case.

### Mr. Tucker's release

On appeal, all three state courts found that defense counsel's failure to prepare for trial was not enough to prove he was ineffective. The United States District Court for the Eastern District of Michigan, however, disagreed and concluded that Mr. Tucker had been deprived of the effective assistance of counsel and ordered that he be released. The U.S. Court of Appeals for the Sixth Circuit affirmed this.

*"I was naïve. I didn't know anything about the courts. I'd never been in trouble before.  
I'd never even been to the police station."  
- David Tucker*

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## Failed justice: Karl Vinson

### **Karl Vinson:**

- Was wrongfully convicted in Wayne County in 1986 of criminal sexual conduct.
- Is currently in prison, having spent 24 years there for a crime he did not commit.
- Was found guilty based on erroneous scientific evidence.
- Has recently filed an appeal based on newly developed forensic evidence that completely exonerates him.

### **The case against Mr. Vinson**

In January 1986, an assailant broke into a home and raped a nine-year-old girl. The girl could not identify the attacker until her mother suggested Karl Vinson, the ex-husband of the girl's former babysitter. There was no physical evidence linking Mr. Vinson to the crime. In fact, blood type testing of semen found on the victim's bed sheet revealed that the perpetrator had type O blood; Mr. Vinson's blood-type was AB. Yet, Mr. Vinson was arrested and charged. At trial, the prosecutor erroneously told the jury that the blood-type testing did not prove Mr. Vinson was not the perpetrator, because Mr. Vinson had certain enzymes in his blood that made his bodily fluids impossible to detect forensically.

### **Mr. Vinson's public defense attorney**

Mr. Vinson's court-appointed trial attorney did not retain her own experts to test Mr. Vinson's blood, the stained bed sheet or the rape kit from the hospital. In fact, she never asked for the results of the rape kit. In addition, she failed to cross-examine the prosecution's witnesses on the presence of type O blood antigens on the bed sheet and the fact that their presence indicated that the rapist had type O blood, while Mr. Vinson had type AB blood. The only witnesses she called on Mr. Vinson's behalf were his mother and stepfather, both of whom provided an alibi for Mr. Vinson but were harshly cross-examined by the prosecutor.

### **Newly developed exonerating evidence**

As confirmed by recent tests, Mr. Vinson's blood does not and never did contain the enzymes referred to above, which means that he could not have been the rapist. Had he been, AB antigens would have been detected in the semen on the bed sheet. The prosecution experts who testified at trial now admit that their analysis of Mr. Vinson's blood was wrong. Although Mr. Vinson repeatedly tried to obtain the bedsheet to perform DNA testing on it, he was informed by the police, five years after his first request, that the sheet had been destroyed.

### **Mr. Vinson now**

Mr. Vinson is currently represented by the Innocence Clinic at University of Michigan Law School and has sought a hearing based on the exonerating evidence described above. He has exhausted all other avenues of appeal.

He is now 54 and has been in jail for 24 years. When his son was murdered in 2001, he was not allowed to attend the funeral. Mr. Vinson and his family have maintained his innocence since his incarceration.

*"My brother is innocent. It has taken 23 years for people to listen."*

- Robert Vinson, Karl Vinson's brother

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## Failed justice: HAROLD WELLS

### Harold Wells:

- Was only twenty-one years old, with no prior record, when he was convicted.
- Wrongfully convicted in Wayne County in 1992 of receiving and concealing stolen property for allegedly driving a stolen car.
- Spent eighteen months in prison for a crime he did not commit before the prosecutor dropped the charges.

### The arrest

Harold Wells was walking home from a friend's house when he was suddenly arrested. The police officers believed he was the driver that ran away from a traffic stop a quarter mile away, fifteen minutes earlier. The stop was made at 5 a.m. and it was dark outside.

***The two passengers who remained in the car told the police at the police station that Mr. Wells was not the driver.***

### The trial

Mr. Wells' attorney first tried to convince him to plead guilty in order to get probation. Mr. Wells refused, knowing he was innocent.

*"He wanted me to say I did it and I'll get probation and I said, 'No, no, I'll have to live with that the rest of my life. I won't say it, because I didn't do it,' I was up there crying because I had never been through anything like this before. I was very, very scared." – Harold Wells*

The trial lasted less than a half hour. The only witnesses called by the prosecution were the two police officers. Mr. Wells' attorney failed to call either of the two passengers as witnesses, although Mr. Wells informed him they told police he was not the driver. The trial attorney never contacted the witnesses who later said in a sworn statement that she had been willing to testify on Mr. Wells' behalf.

### Mr. Wells' release

Later, Mr. Wells' appellate attorney spoke with one of the passengers. She submitted a sworn statement that she had told the police when Mr. Wells was arrested that he was not the driver.

The judge granted a new trial after the passenger's sworn statement was presented. The prosecutor dropped the charges.

Mr. Wells later sued the City of Detroit; the suit was settled for \$20,000.

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## Failed justice: KEN WYNIEMKO

### Ken Wyniemko:

- A son, a father, and a friend to many.
- Wrongfully convicted of rape in Macomb County in 1994.
- Sentenced to 40-60 years.
- Spent over eight years in prison for a crime he did not commit.
- Exonerated on June 17, 2003.



### The composite sketch

The victim told investigators that she saw a few glimpses of the attacker before she was blindfolded. She described him as a white male between 6' and 6'2" tall, weighing about 200-225 pounds, about 20-25 years old. Later she described the composite sketch created by the police as only about 60 percent accurate. Mr. Wyniemko was 5'11", weighed 198 pounds, and was 43 years old.

### The trial (1994)

Mr. Wyniemko was certain his attorney would challenge the evidence in court. But that didn't happen. His public defense attorney did not answer numerous phone calls, and then quit. The judge appointed a new attorney that Friday, and set the following Monday as the date for jury selection. That gave the new attorney just *two* days to examine the facts of the case. In addition:

- Biological evidence that would have proven his innocence was never analyzed.
- The attorney did not challenge the police informant's testimony that was evidence.
- The attorney did not adequately question the reliability of the composite sketch used as evidence against Mr. Wyniemko.

### Mr. Wyniemko's exoneration (2003)

- DNA testing in June 2003 did not match Mr. Wyniemko's DNA.
- His conviction was overturned on June 17, 2003.
- Mr. Wyniemko recalls that there was not a single cloud in a sky that day.
- The person who likely committed the crime has recently been identified through a DNA match - more than thirteen years after the crime was committed.

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