

# In murder case, who listens to the voiceless?

## Man spends year in jail only to have court dismiss murder case after 30 seconds in court

It took the Baltimore City State's Attorney's Office 30 seconds in court recently to dismiss my client's murder case after he spent nearly a year in jail for no good reason.

The case against my client, "Mr. Y," hinged on two pieces of evidence: a cigarette butt with DNA on the sidewalk near the deceased's body; and a vague, hearsay statement from a certifiable lunatic. It's a tale that I'm all too familiar after being a public defender in Baltimore for 11 years.

My client's story begins in late August 2013, when a homeless man was stabbed to death at night on a well-traveled downtown Baltimore street. Police found three cigarette butts, a liquor bottle and a bloody mess. Police that night interviewed four men found near the body, all with criminal records, and decided they were not suspects. A fifth man was later taken in for questioning. His explanation was that he goes for walks and "talks to himself." He was released.

The police finally got the DNA results for the three cigarette butts in July 2014. One matched my client based on a previous arrest, despite him living in a different area from the crime scene. As for the other two cigarette butts, one was the victim's and one was an unknown person (not my client).

### Downward spiral

The downward spiral for my client began in August 2014, when police brought him in for questioning. He denied committing the murder, but labored through a two-hour drill session. Undereducated and suffering from mental health problems, Mr. Y was crushed by the interrogation. It also proved to be the last breath of free air he would taste for the next year.

Simultaneously, detectives went to his assisted living facility and found a "witness." Apparently, a Ukrainian woman, speaking little English, said that my client told her in passing, on their first meeting, that, "he killed a man" without other specifics. Mr. Y was charged.

A judge set Mr. Y's bail at a typical "no bail." Later, after his arraignment, we set a trial date for early December. However, the prosecutor announced her unavailability due to a previously

TODD

## OPPENHEIM

Commentary

scheduled trial. We could have no other date. I soon got the state's discovery, and there were just two "real" pieces of evidence. Plus, I could not believe the vagueness of the mystery woman's statement, so I filed a request for more details. I got nothing.

At the first trial date, we were ready, but no prosecutor appeared and a judge postponed the case to March 2015 over my objection.

In January, I visited the "star" witness with an investigator and a clerk who spoke some Russian. The witness refused to wear pants, instead hiding her legs under a sheet. She accused people in the facility of plotting against her. She rambled on and on in two languages. We even met her psych nurse. The woman seemed to enjoy our company, but was and will never be a credible or competent witness. We knew it instantly. I immediately contacted the prosecutor's office to express my concerns. I heard nothing.

As I worked the case, Mr. Y was continually harassed and assaulted in jail. In January, after a bad attack, he was moved into solitary confinement for his own protection. While he was now removed from physical harm, his mental health conditions worsened.

### Anti-climactic ending

In March, at the second trial date, the prosecutor showed up in court and finally revealed that the Ukrainian woman was a delusional, paranoid schizophrenic. The witness was now committed to a hospital. The prosecutor, once again, asked for and got a postponement over my objection. A judge reset the case for May but it was another day the prosecutor already had scheduled for a different trial. Livid, I filed a motion to reconsider my client's bail. Two weeks later, a judge denied the motion without a hearing.

So, a few days later, we filed a habeas corpus motion alleging illegal detention. We actually got a hearing in April, but lost. No change.

A month later, at the third trial date, the prosecutor asked for a postpone-

ment due to being in trial in another case, without mentioning the witness. Over my objection, a judge again rescheduled us to the end of July. The next day, I filed another request for a bail review, which was promptly rejected without a hearing.

The day before trial, on a whim, I called the Ukrainian woman. Now, she believed the detectives were trying to kill her. The next day in court, the prosecutor dismissed the case without any prior notice. The lone triumph of this fight was anti-climactic, but Mr. Y was free.

How does a person move on from a year in jail for nothing? Mr. Y lost his housing. His disability benefits are no longer set. He has new physical problems from being in prison. The system failed him not only in his prosecution but also by rendering him mute. I could only object for him so many times. Public defenders will continue to speak for the voiceless, but we can only be heard if someone listens.

**Todd Oppenheim is an assistant public defender in the Baltimore City Felony Trial unit. He can be reached at [toppenheim@opd.state.md.us](mailto:toppenheim@opd.state.md.us).**



How does a person move on from a year in jail for nothing? Mr. Y lost his housing. His disability benefits are no longer set. He has new physical problems from being in prison. The system failed him not only in his prosecution but also by rendering him mute. I could only object for him so many times. Public defenders will continue to speak for the voiceless, but we can only be heard if someone listens.

### ANNOUNCEMENT

Appellate Judicial Nominating Commission  
Court of Special Appeals of Maryland  
(At Large)

Due to the retirement of the Honorable Robert A. Zarnoch on September 19, 2015, a vacancy exists on the Court of Special Appeals (At Large). This vacancy is to be filled by appointment of Governor Hogan.

Any judge or lawyer interested in appointment to this vacancy should complete the personal data questionnaire which is available as a downloadable document on the Judiciary's website at [www.mdcourts.gov](http://www.mdcourts.gov). Any applicant who reapplies to a commission with whom they have filed a personal data questionnaire within the past twenty-four months need not file a new questionnaire. The candidate may submit a letter stating that he or she is reappllying and submit any changes that have occurred since the submission of the earlier questionnaire. Any questions about the application process should be directed to Debra L. Kaminski or Connie Winkel at the Administrative Office of the Courts at (410) 260-1271/(410) 260-1275 or via the Maryland Relay Service (TTY/Voice) 1-800-735-2258.

**Judges or lawyers who plan to apply for a vacancy on the appellate courts have the option of submitting copies of their personal data questionnaire and writing samples in paper format or on CDs (please see application on the website for instructions).**

The completed personal data questionnaire and five writing samples (at least 20 copies – see questionnaire as to additional copies) must be received by Debra L. Kaminski or Connie Winkel in the Administrative Office of the Courts, Human Resources Department, Maryland Judicial Center, 580 Taylor Avenue, Building A-1, Annapolis, Maryland, 21401, by the close of business at 4:30 p.m. on Thursday, October 8, 2015. Late applications will not be accepted. Please note our new address.

# FIND THE True You at SU

Salisbury University offers valuable knowledge and experience to prepare students for any goal in life. Our excellent academics come with an affordable price tag, too.

There is no better way to learn about SU than to visit!

Contact us at: 410-543-6161  
[admissions@salisbury.edu](mailto:admissions@salisbury.edu)  
[www.salisbury.edu](http://www.salisbury.edu)

Follow SU on Twitter @FlockToSU

*A Maryland University of National Distinction*

## FOLLOW US ON

Visit

### TheDailyRecord.com

and click on the link to get our tweets.