

THE WARREN HERBERT CASE

LIFEX3--HARD LABOR--NO PAROLE

ANGOLA PRISON

LOUISIANA

WRONGFUL CONVICTION

1985

I am a volunteer with Rittenhouse that is working on the case of Warren Herbert, a man in Louisiana who is serving three life sentences and 169 years for crimes he never committed. Some of you may have seen the documentary "The Farm" last year, this is about Angola prison where Warren is serving his time. This is his story:

On May 30, 1984 at approximately 1:57 am while enroute to his place of employment Warren was stopped by the police on what they later said was a routine traffic stop. They ran his license plate # through the computer and found that the car was registered to him and that he had no criminal record. The two officers demanded that Warren hand over his keys so they could search the car, when he refused they handcuffed him and placed him in the back seat of their car and brutally beat him. An hour or more later off duty policewoman Jacqueline Davis arrived on the scene to id Warren as the man who had attempted to rob and murder her two weeks previous, which had resulted in her being shot in the leg. (This incident had occurred when she was off duty and attired in civilian clothes). After being removed from the car three times for Officer Davis identification, she erroneously identified him as the culprit. Following the misidentification Warren was arrested and booked for armed robbery and attempted murder. When he was brought to central lock-up they refused to accept him in the condition that he was in, therefore the officers were required to take him to the hospital. Shortly after the DA's office refused to accept the charges of attempt murder or armed robbery against Officer Davis. It is also important to note that no traffic charges were ever lodged against Warren.

Though neither the Davis matter or the traffic incident merited prosecution, the officers used the opportunity afforded by Warren's arrest to obtain a photograph of him which in turn were used in a photographic line up to secure identification from victims of several rape cases. Based on those photo ids Warren was indicted on a seventeen count indictment. The indictment consisted of five different victims. Three of whom encountered a full bearded perpetrator driving a brown vehicle, and two of whom encountered a clean shaven perpetrator on foot.

How can four individuals be wrong about what they actually observed? For instance three of the victims stated that the assailant drove a four door car, including Officer Davis. Warren's car was a two door. The discrepancy over the car was never manifested because defense counsel failed to cross examine the victims on their description made to police. And of course it was never brought up by the DA, since it would've weakened the State's case. This distinction was an important one because the jury needed to understand why the police decided to show Warren's picture to the victims of the perpetrator on foot. In the state's theory the perpetrator in the brown four door vehicle and on foot were one and the same, because the crimes contained the same MO. Therefore one can conclude if Warren did not commit the crimes by the person in the four door vehicle, he did not commit the crimes by the clean shaven perpetrator on foot because he owned a gold two door automobile and had a moustache and goatee.

Moreover the state's case was based solely on identification testimony--unreliable, and essentially illegal photographic line up which gave birth to mistaken identification. There were no DNA tests or a physical lineup, though Warren was in custody at the time making a physical lineup a reasonable thing to do as it is legally considered more reliable than photographic line ups.

The victim in the first trial was raped late at night at gunpoint and was repeatedly threatened not to look at the perpetrator's face. At trial she was unsuccessful at making an in court identification. She had to request the judge to ask Warren to stand up so she could know where he was. The judge allowed this and defense counsel failed to object.

In the second trial the victim was forced at gun point in the storage room of a laundromat and raped. She testified that the assailant was clean shaven, in his late teens or early twenties. In contrast Warren was arrested two days later at the age of 28 with a moustache and goatee.

On August, 1985 and June 1986 Warren was convicted of 2 counts of aggravated rape, 1 count of aggravated kidnapping, 2 counts of crimes against nature and 2 counts of armed robbery. He was sentenced to serve three life sentences and 169 years at Angola prison.

After the convictions Warren's family gathered what little revenues they could and hired a lawyer for \$4000.00 to file an appeal. The lawyer took the money and never filed the appeal. The lawyer was eventually disciplined and the money returned to the family, but by that time it was too late to file the necessary appeal, the opportunity was lost.

At this time Warren is waiting for a response from the Supreme Court on an appeal.

Warren has been held for 15 years on this wrongful conviction. The words justice definitely don't come to mind when hearing of the facts in this case. Here is a citizen of the United States, with no criminal history, who worked as a professional baker, had his own car and place to live, but still got caught up in a nightmare of injustice. The facts of the case are ridiculous, various rapes, different descriptions, a photographic line up, which is essentially illegal when you have the person in custody. Victims who could not identify the accused in court and asks the judge for the person to stand up, and its allowed. This all started with the police supposedly stopping him because his car fit the description from Officer Davis, who identifies him at the scene (which is also essentially illegal) and all the charges against her are not accepted by the DA. You know the situation has to be pretty bad for the DA's office not to accept the charges on an attempt murder charge on the police. As Warren told me, at the point the officers had paraded the information in the press that they had caught the man who had tried to kill the cop, once that didn't work out who was going to admit they had screwed up, especially considering that he had to be taken to the hospital the night he was picked up before the police station would take him.

Police incompetencies and injustice has resulted in an innocent man being locked up for over 15 years while at the same time another person or person's roam free who raped atleast 5 woman in 1984, and who knows how many since?

In Warren's own words:

"The constitutional law of the United States is just on its face, but unjust in its application. Let me candidly express from my experience that it is a greater injustice to convict an innocent person than to let a guilty one go free. I am indeed an innocent man.

It has been a difficult struggle during my odyssey through the criminal justice system. I am not stressed, wearied, or depressed. However, my indignation will not allow the flames inside me to be extinguished or my many endeavors to evaporate until some sweet justice emerges.

Therefore, I make an earnest plea to all of you attentive and concerned members of this audience to help support me by submitting monetary contributions to help finance my legal fee, and give moral support on my behalf by writing to the governor of Louisiana, senators, court officials or anyone in the US who might exercise some kind of authority or influence to bring this nightmare of injustice to a conclusion.

One doesn't have to be a lawyer, or someone with money to help in this case, you just need some concern, motivation and commitment. I believe we as individuals can make a change, we can help this man to get out of prison and get his life back.

Are you interested in more information on Warren's case? You can write to him directly:

Warren Herbert
116388
Camp J Shark, 4-L-4
Louisiana State Pen.
Angola, Louisiana
70712

He would greatly appreciate letters of support or encouragement from anyone who is interested. Or you can call RoseMary at Rittenhouse at (416) 972-9992, e-mail james.delaney@utoronto.ca