

http://articles.cnn.com/1996-10-30/us/9610_30_aids.clemency_1_bryce-waldman-christopher-clugston-ken-kucec?_s=PM:US

Former inmate with AIDS fights to clear name

LAWYER

October 30, 1996

BETHESDA, Maryland CNN No longer behind bars, Christopher Clugston is free to work on his car in his Bethesda driveway.

Just about all of the fruits of life are available to him except for peace of mind.

Despite his freedom, Clugston is waging an unusual legal fight to clear his name, while struggling to overcome the horrors he said he endured during 13 years in prison. He contracted AIDS, he said, after a prison gang rape years ago.

You go to bed at nighttime and its like youre trying to run, but you cant run. Or youre trying to see, but you cant see, Clugston said.

Clugstons troubles date back to 1981, when teenage bouncer Bryce Waldman was killed outside a south Florida nightclub in a driveby shooting. Clugston was identified as the triggerman and, after three mistrials, he was convicted.

In 1994, after Clugston had been in prison 13 years, he was pardoned by Florida Gov. Lawton Chiles.

After a very detailed, thorough, comprehensive investigation, there was substantial doubt that Mr. Clugston committed the crime of which he was convicted, said Mark Schlakman, chief counsel to Chiles.

For some people, such a concession from the state would have been enough, but not for Clugston. He is demanding a new trial to clear his name.

Im willing to fight for my freedom and my rights, whether it kills me or frees me, he said.

Despite the governors pardon, the lawyer who prosecuted Clugston and the family of the dead nightclub bouncer remain convinced of his guilt.

Victims and victims families deserve finality in the criminal justice system, former prosecutor Sam Rabin said. And these people have gotten anything but that.

Clugstons lawyer sympathizes, but insists his client is an innocent man. Imagine living under the stigma of being a convicted murderer when you had nothing to do with the murder, attorney Ken Kukec said.

Given their sons health, Clugstons parents dont look forward to a possible fourth trial, but they know its what he wants.

Chris deserves to have his name cleared, his mother, Peggy Clugston, said.

Win or lose, hell take his chances on a new trial. Otherwise, Clugston says his pardon means nothing.; 1996 Cable News Network, Inc.All Rights Reserved.

Clugston Protests Portrayal In 'Most Wanted'

November 16, 1995|By LARRY KELLER Staff Writer

Christopher Clugston, whose life sentence for murder was commuted after new evidence emerged pointing to his innocence, is protesting the way he may be portrayed on an upcoming segment of America's Most Wanted.

The syndicated television program, with host John Walsh, is scheduled to air a piece on Saturday about Theodore Menut, a former Miramar resident who was convicted with Clugston in the 1981 slaying of a teen-ager outside a Hallandale rock club.

Menut escaped two years ago this month from Polk Correctional Institution and has not been found. Hence the interest by America's Most Wanted, which solicits tips from viewers on the whereabouts of fugitives.

Clugston, his family and his attorney are upset because a preliminary script, obtained by the Sun-Sentinel, contains factual errors they say wrongly portray Clugston as a killer who went free.

"The picture they paint of me is one of a slinking, conniving person," said Clugston from his parents' home in Maryland.

Paul Sparrow, co-executive producer of the program, said the initial script was a "rough document" that has changed, but that Clugston remains prominent in the final version.

"Nothing is being changed as a result of pressure from the outside," Sparrow said. "I don't think they'll be happy with it."

The program airs in South Florida at 9:30 p.m. Saturdays on WSVN-Ch. 7 and WFLX-Ch. 29.

Clugston and Menut were sentenced to life in prison for the drive-by murder of Bryce Waldman, 19, a college student and club bouncer, outside the Agora Ballroom. Menut had argued with another bouncer inside the nightclub, and the shooting was revenge.

At his 1982 trial, Menut testified he drove a car through the parking lot as the club was closing, and Clugston fired a shot that killed Waldman.

Menut, however, refused to testify against Clugston in Clugston's three trials in 1983. The first two juries that heard Clugston's case deadlocked; the third convicted him.

In 1986, Menut recanted his statements and said a friend named Jessie Ziegenhagen, not Clugston, had shot Waldman. Ziegenhagen had accompanied Menut and others to the club and had testified in court that Clugston had admitted to shooting Waldman.

Three weeks after Menut implicated Ziegenhagen, Ziegenhagen was shot dead in an unrelated incident.

In July 1994, Gov. Lawton Chiles commuted Clugston's sentence, citing inconclusive evidence of his guilt and other evidence that pointed to his innocence.

http://articles.sun-sentinel.com/1995-05-31/news/9505300089_1_legal-aid-society-clemency-lawton-chiles

COMMUNITY SAFETY

Lawyer Honored For Providing Distinguished Legal Services.

May 31, 1995|By MIKE FOLKS Staff Writer

It was through word of mouth that South Florida attorney Ken Kukec learned of the plight of Christopher Clugston, a Hollywood man who claimed he was wrongly convicted of murder in 1981. Kukec, who has law offices in Boca Raton and Miami, took Clugston's case free of charge in hopes of getting him a new trial.

When that failed, Kukec appealed Clugston's conviction, but lost.

Kukec then turned to Gov. Lawton Chiles, hoping the governor would grant Clugston clemency, after the case gained national attention from a television report, and a witness came forward to clear Clugston as the killer.

Kukec's tenacity finally paid off. Chiles granted Clugston clemency in July, freeing him from prison, where he had served nearly 11 years of his minimum, mandatory 25-years-to-life sentence, and had contracted the HIV virus during a prison rape.

On April 30, Kukec once again was rewarded for his tenacity when he became the co-winner of the Criminal Law Award for his pro bono work on the case.

In all, 17 attorneys received the annual awards, which are sponsored by the Legal Aid Society and the Palm Beach County Bar Association.

Bob Bertisch, executive director of the Legal Aid Society, said the awards honor attorneys who provide free legal services to those who can't pay.

"They would have to represent themselves, or not have access to the judicial system," Bertisch said of those who benefit from pro bono work. He said members of the local bar association are encouraged to take at least one pro bono case a year. Those attorneys who are too busy with their practice are asked to donate \$350 to the Legal Aid Society's Pro Bono Department, he said.

Kukec, 42, took on the case after talking with Clugston's family, who had exhausted their assets trying to free him. "It didn't look like Chris got a fair shake out of the Florida justice system," Kukec said. "We decided to take the case pro bono."

The big break came after Clugston's case was featured on a national television news program. A woman viewing the program called to say she witnessed the slaying outside the Agora Ballroom in Hallandale and that Clugston was not the killer. "There were chills running up and down my spine," Kukec said, recalling his first telephone conversation with the woman. "I knew Chris was going to get out." Polygraph tests taken by the woman, and Clugston proved both were telling the truth, Kukec said.

Kukec felt chills again when he was honored for his pro bono work, which totaled about 500 hours over a three-year period. "It was a very rewarding experience," Kukec said of the award.

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Christopher Clugston

In October 1981, a bouncer for a club in Broward, Florida was shot and killed in a drive-by shooting. Police questioned and eventually arrested Jesse Ziegenhagen and Ted Menut, both of whom had been at the club that night, as well as Christopher Clugston, an acquaintance of theirs. Ziegenhagen told police that he had been at the club with friends earlier that night, but some of them had been asked to leave because they were drunk. When one of the women was hurt while being led out of a bar by a bouncer, Menut threatened to kill him. Ziegenhagen said that Menut and Clugston returned to the club, and later confessed to killing someone. Ziegenhagen was offered immunity for any involvement in exchange for his testimony against Clugston. Menut and his wife also implicated Clugston as the shooter, claiming that when Menut returned to the club, Clugston unexpectedly opened fire. No physical evidence connected Clugston to the crime. The juries in Clugston's first two trials deadlocked, but in his third trial in November 1983, he was convicted of murder and sentenced to life in prison. After a woman identified Menut as the driver, he was convicted of first-degree murder in a separate trial and sentenced to life in prison.

In 1986, Menut signed an affidavit stating that Clugston was not the shooter and sent it to Clugston's attorney. He claimed to have fingered Clugston in order to protect Ziegenhagen, the real shooter, at the urging of his attorney, Jeff Smith, who also represented Ziegenhagen in the case. In 1990, Menut's wife also recanted her testimony against Clugston, now saying that it was Ziegenhagen who had returned to the club with her husband. Ziegenhagen had died in 1986, and thus could not be questioned again. Clugston appealed based on this new information, but lost, leaving clemency as his only likely remedy.

While Clugston's attorney was applying to the governor for clemency, stories about the case ran in the South Florida Sun Sentinel and on NBC news. A woman who was at the club on the night of the shooting saw the television broadcast and contacted Clugston's attorney; she identified Ziegenhagen as the shooter. Though she had previously told the manager of the club that she had seen the shooter, he said that the police had lots of witnesses and did not need to speak to her. At the governor's request, the woman and Clugston took lie detector tests. After they both passed, the governor commuted Clugston's sentence in July 1994, and he was released. While in prison, Clugston had contracted HIV as a result of a gang rape.

After his release, Clugston continued to pursue a new trial in order to clear his name, even though a conviction might return him to prison. In August 2000, the Florida Court of Appeals overturned Clugston's conviction and granted him a new trial. In January 2001, before retrial, the prosecution dropped all charges.

- *Stephanie Denzel*

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State: Florida

County: Broward

Most Serious Crime: Murder

Additional Convictions:

Reported Crime Date: 1981

Convicted: 1983

Exonerated: 2001

Sentence: Life

Race: Caucasian

Sex: Male



Age: 20

Contributing Factors: Mistaken Witness ID, Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration?: No

About the Registry

The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

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