



## Colin Warner

On April 10, 1980, 16-year-old Mario Hamilton was shot in the back of the neck outside of Erasmus Hall High School in Brooklyn, New York.

Thomas Charlemagne, 14, saw the shooting and ran to get Hamilton's 15-year-old brother, Martell. While Mario was taken to a hospital, where he was pronounced dead, Charlemagne and Martell Hamilton went to the 67th Precinct police station.

They were interviewed separately and with no guardian present for six hours. Charlemagne told police that he saw 18-year-old Colin Warner, a native of Trinidad from Crown Heights, step out of a car and shoot Mario, get back in a car driven by 15-year-old Norman Simmonds and leave the scene.

The following day, police spoke with Martell Hamilton and showed him a photo lineup, but he did not identify anyone. He told detectives that two days earlier Simmonds had threatened to kill his brother. A detective then placed a photo of Warner alone in front of Martell and Martell said he may have seen him near the scene of the crime.

Warner was arrested that afternoon. He was indicted on May, 12, 1980 on charges of second-degree murder and second-degree criminal possession of a weapon. Simmons was arrested in October 1980 and charged with murder.

Warner and Simmonds went on trial in March 1982. The trial had been delayed because Charlemagne disappeared. He was arrested on a charge of robbing a restaurant in February 1982 and so was available to testify.

At trial, Charlemagne testified that Mario Hamilton was killed by Simmonds in a drive-by shooting—deviating from his earlier claim that Warner was the gunman who walked up and killed Hamilton.

The trial ended in a hung jury and a mistrial was declared. Warner and Simmonds were tried again in May 1982 and were convicted. Simmonds, a juvenile at the time of the murder, received 9 years to life. Warner was sentenced to 15 years to life.

Simmonds was paroled in 1989.

Carl King, a boyhood friend of Warner's from Trinidad who had reconnected with him on a playground in Brooklyn before the shooting, had followed the case and devoted his life to trying to prove Warner's innocence.

In 1991, Simmonds signed an affidavit saying he was solely responsible for Mario Hamilton's murder, but the affidavit was not sufficient—a motion to overturn the conviction was denied.

Meanwhile Charlemagne was deported to Haiti and was believed to have been killed there.

In 1999, King brought the case to the attention of attorney William Robedee,

**State:** New York

**County:** Kings

**Most Serious Crime:** Murder

**Additional Convictions:**

**Reported Crime Date:** 1980

**Convicted:** 1982

**Exonerated:** 2001

**Sentence:** 15 to Life

**Race:** Black

**Sex:** Male

**Age:** 18

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

**Did DNA evidence contribute to the exoneration?** No  
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who was struck by Charlemagne's change in his account and the lack of physical evidence tying Warner to the murder. King had located witnesses never called by the defense who said Warner was not at the scene of the crime. Mario Hamilton's brother provided an affidavit saying that he only identified Warner because he was pressured by police.

Robedee deposed Simmonds, who said under oath that he alone killed Hamilton. Robedee also presented two witnesses who were friends of Simmonds who said they saw the shooting and that Simmonds acted alone. And Robedee developed evidence from the autopsy findings that demonstrated that the shooting was the result of a drive-by and not someone standing next to Hamilton.

The Kings County District Attorney's Office conducted a reinvestigation, which included polygraph tests of witnesses and agreed not to oppose Warner's release.

Robedee's motion to vacate the conviction was granted on January 31, 2001 and Warner was released on February 1, 2001.

In 2002, Warner filed a civil wrongful conviction lawsuit that was settled for \$2.7 million.

– Maurice Possley

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