



Debra Brown

On November 7, 1993, 35-year-old Debra Brown went to the Logan, Utah home of her employer, 75-year-old Lael Brown, to check on him because he had been ailing. She found a pot of soup on the front porch that she had left for him a day earlier. When she used her own key to gain entry, she found Brown in his bed, fatally shot three times in the head. She called police, who found her on the front porch in hysterics.

At first, police treated the death as a suicide, although they found no weapon and Brown's wallet—he was known to carry large amounts of cash—was missing. Based on an examination of bullets and bullet casings found at the scene, police then determined that Lael had been murdered with a .22-caliber Colt Woodsman pistol. Lael owned such a gun and it was missing and never found.

Lael, who was not related to Debra, owned rental units in the area and Debra cleaned them and performed maintenance work. Debra performed the same work for Lael's ex-wife, Clara Brown, who also owned rental units there. Over time, Lael and Clara had loaned money to Debra, a single mother of three children, to pay her bills. Lael had given Debra a key to his home.

Within days, Debra took and passed a polygraph examination indicating she had no involvement in Lael's murder. But after investigators discovered that Debra had forged about \$3,600 in checks on Lael's bank account, she became a suspect.

Although he originally set the time of death at between 6:00 pm on Saturday and 3:00 am on Sunday, the medical examiner eventually changed his estimation and said that Lael was murdered sometime between 9 p.m. on Friday, November 5, and 3 a.m. on Sunday, November 7. Debra could not provide an alibi between 6:30 a.m. and 10 a.m. on Saturday, November 6. Thereafter, however, she had evidence of her whereabouts until she discovered Lael's body.

In September 1994, Debra was arrested and charged with aggravated murder. The prosecution at first said it would seek the death penalty, but later withdrew that motion. Debra went to trial in October 1995 and the prosecution claimed that Debra had killed Lael because he had discovered her forgeries.

The medical examiner testified that Lael had been killed at around 7 a.m. on November 6. Police testified that Debra had forged the checks. A witness testified that she heard gunshots coming from Lael's home at about the time that the medical examiner said Lael died of gunshot wounds.

Debra's defense attorneys argued that there was no evidence that Lael had ever received or looked at the bank statement that revealed the forgeries or that Lael knew about the forgeries.

State: Utah

County: Cache

Most Serious Crime: Murder

Additional Convictions:

Reported Crime Date: 1993

Convicted: 1995

Exonerated: 2013

Sentence: Life

Race: Caucasian

Sex: Female

Age: 35

Contributing Factors: False or Misleading Forensic Evidence, Official Misconduct, Inadequate Legal Defense

Did DNA evidence contribute to the exoneration?: No

A jury convicted Debra on October 18, 1995 and she was sentenced to life in prison.

The Utah Supreme Court upheld the conviction and sentence in 1997. In 2002, Debra sought help from the Rocky Mountain Innocence Center. DNA tests were approved and conducted, but were of no value.

In 2008, the Utah Legislature enacted a factual innocence statute and Debra's lawyers filed a petition seeking a hearing. In 2011, a hearing was held and her lawyers presented evidence of her innocence.

Two men testified to seeing Lael alive after 10 a.m. on Saturday, November 6—after the beginning of the period for which Debra had an alibi. One of the men said he had told prosecutors about seeing Lael alive, and he was listed on Debra's trial witness list, but was never called. Debra's trial lawyers said the prosecution had not informed them of the man's statement about seeing Lael alive.

Another man testified that he had told police at the time of the murder that Bobby Sheen, an unemployed former tenant who had been evicted by Lael, had a large amount of cash not long after the murder. The man testified that Sheen had a Colt Woodsman pistol and a large amount of cash shortly after the murder, and that Sheen later said he tossed the gun into a lake. The man also said that when told Logan police about Sheen, the police told him that if he "knew what was good for him," he would "let it go, leave it alone." Sheen later committed suicide.

The woman who had testified at Debra's trial that she heard shots around 7 a.m. on Saturday said that it was possible that she actually heard them on Sunday—just a few hours before Debra found the body.

On May 2, 2011, Weber County District Court Judge Michael Direda ruled that Debra was factually innocent. The judge vacated Debra's conviction and dismissed the case. On May 9, 2011, Debra was released from prison.

The prosecution appealed the ruling. On July 14, 2013, the Utah Supreme Court upheld Judge Direda's finding of innocence. Under Utah law, Debra will be eligible for nearly \$500,000 in compensation.

– Maurice Possley

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<http://www.sltrib.com/sltrib/news/51734923-78/brown-case-innocence-judge.html.csp>

Judge: Utah woman imprisoned for nearly 17 years is exonerated

By aaron falk

and Roxana orellana

The Salt Lake Tribune

Published: May 3, 2011 11:14AM

Updated: May 3, 2011 11:14AM

Courtesy photo Lael Brown, right, and family.

In a groundbreaking ruling, 2nd District Judge Michael DiReda on Monday exonerated a 53-year-old Logan woman in the 1993 fatal shooting of her friend and employer — a crime for which she has served nearly 17 years behind bars.

But Debra Brown isn't quite a free woman.

DiReda's ruling, the first-ever case in Utah to be heard under a 2008 state statute that allows convictions to be challenged based on new facts rather than new DNA evidence, is on hold for another five days while prosecutors decide whether to appeal.

But Ryan Buttars, who was 17 when his mother was arrested in September 1994, said he has been waiting half his life for Monday's decision and that another five days won't matter.

"It's surreal," Buttars said during a phone interview from Rigby, Idaho. "I feel like I'm floating. I don't feel like I'm in the world right now."

If the state declines to appeal, the judge's order setting Brown free will go into effect Monday at 2:30 p.m.

"We do not believe she will stay in prison longer than Monday at 2:31," said defense attorney Alan Sullivan.

DiReda found Brown was "factually innocent" based on hearings earlier this year. In his ruling, DiReda noted that the state argued 75-year-old Lael Brown, who wasn't related to her, was murdered on Saturday, Nov. 6, 1993, about 7 a.m. — a time for which Debra Brown apparently had no alibi.

The judge, however, found by “clear and convincing evidence” that Lael Brown was alive later that afternoon. That means Debra Brown “could not have killed Lael on Saturday morning, as the state argued at trial,” DiReda said.

The judge further found that Debra Brown “could not have killed Lael Brown at any other time.”

Sullivan summed up the judge’s ruling by saying DiReda had found Debra Brown was “factually innocent” of the crime, as opposed to not guilty.

Debra Brown’s attorneys and officials of the Rocky Mountain Innocence Center said the woman was “overwhelmed “ when they broke the news to her at Utah State Prison on Monday afternoon.

“She was emotionally overwhelmed and very grateful for this ruling,” Sullivan said. “Deb Brown is a remarkable person in that she is extremely self-possessed, and she has been a comfort to all of us during this process.”

Utah Assistant Attorney General Scott Reed said after Monday’s ruling that his office is carefully considering its next move.

“This case is pretty significant,” Reed said. “It’s going to become the template for all the future cases that come down the pike.”

An unsuccessful appeal by the state would mean Brown would be set free, while a successful appeal would keep her in prison. A new trial isn’t an option, according to attorneys.

Sullivan said that, in the event of an appeal, he will attempt to secure Brown’s release in the interim.

Rocky Mountain Innocence Center Director Kathryn Monroe told The Salt Lake Tribune: “My sincere hope is the state will accept the ruling and not push for more litigation in this case. I think, when a court corrects a miscarriage of justice, that it’s not important just for the person and their family but for all of us. I think it would be a miscarriage of justice to tie this up in litigation for years.”

The facts of the case against Debra Brown have been under scrutiny for nearly a decade by the innocence center.

Lael Brown owned rental units around the valley, and Debra Brown cleaned them and performed maintenance work. The two became close friends, family members said. They met regularly for coffee, and Lael Brown helped the single mother of three children with her bills. He also gave her a key to his home.

Logan police zeroed in on Debra Brown as a suspect, in part, because there were no signs of forced entry into the victim’s home. Also, Lael Brown had caught Brown forging about \$3,600 of his checks for herself.

Prosecutors asserted Debra Brown killed the man and stole his wallet to cover up her fraudulent activity. A jury convicted her of aggravated murder in 1995, and she was sentenced to prison for up to life.

Logan Assistant Police Chief Jeff Curtis said his department was “surprised” by the ruling and said it stands by its investigation in the case.

Buttars, Debra Brown’s son who is now 35, said: “We always knew that she didn’t do it.”

Buttars recalled his mother spending time with her children at a city league basketball game at Sky View High School in Smithfield the morning after the murder was believed to have been committed.

“There’s no way she would have been able to do something like that and then come home and be her normal self,” he said.

Monday’s ruling brought a rush of emotions to others who continued to stand behind Debra Brown.

“I had to pinch myself to make sure I was hearing everything [her attorneys] were saying,” said Dave Scott, Debra Brown’s brother. “It’s almost unbelievable. We’ve waited a long time for this, as a family.”

When Buttars heard the news Monday, he said he broke down in tears while at work. As he drove through town on his way home, he thought of his mother.

“Everything I passed, I thought, ‘My mom’s going to be able to do this,’” Buttars said. “She’s going to be able to go to the grocery store, go through the drive-through to get something to eat.”

Buttars and his siblings grew up without their mother.

“When it first happened, it was really devastating,” Buttars said. “When we finally allowed ourselves to become numb, we just accepted it.”

The Rocky Mountain Innocence Center took up the case in 2003.

“It kind of renewed some hope,” Buttars said. “That was a blessing and a curse, but we just thrived on that hope.”

On Monday, Buttars thanked God, the innocence center and the judge.

“He made a decision that a great man would make,” Buttars said of DiReda.

The ruling came as a shock to Lael Brown’s family.

Jennifer Nielsen remembers driving past her grandfather’s home on the morning a neighbor would later report hearing gunshots. She wanted to borrow a drill, but she stopped when she saw Debra Brown’s truck in front of the house because she didn’t want to disturb them.

“About an hour passed, and we went by and her truck was still there,” she said Monday. “In my mind, I always thought she was there.”

For Nielsen, Monday's ruling is bothersome on several levels.

"If it wasn't her, I would like to know who it was," she said. "Who would want to kill him, especially in his sleep and the way it was done? It always made me wonder what type of person would do that."

Until Monday, Nielsen said she thought she knew.

"You think you have [resolution], and then you find out later that maybe you don't," she said. "If she was innocent all this long, it was the loss of not only his life, but hers."

Scott, Debra Brown's brother, said he bought a blue bicycle for his sister two years ago, after she told him she had dreamed of one.

He said he will believe in his sister's freedom only when he sees her riding that bike.

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Reporter Sheena McFarland contributed to this report.

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Debra Brown case— a time line

Nov. 7, 1993 • Debra Brown finds the body of Lael Brown, 75, as he lay dead, shot three times, in his Cache County home.

Sept. 12, 1994 • Prosecutors charge Debra Brown with one count of aggravated murder.

Oct. 18, 1995 • A jury convicts Brown on the murder charge. During the trial, prosecutors pointed to the woman's lack of a corroborated alibi for the time Lael Brown was believed to have been killed and the fact that Debra Brown had been caught forging about \$3,600 of the victim's checks for herself.

Dec. 11, 1995 • Brown is sentenced to life in prison.

Oct. 24, 1997 • The Utah Supreme Court affirms Brown's murder conviction.

March 4, 2009 • The Rocky Mountain Innocence Center files a petition for post-conviction relief under a new factual-innocence statute.

Jan. 17, 2011 • Brown becomes the first person to receive a hearing under the 2008 factual statute.

May 2, 2011 • Second District Judge Michael DiReda finds Brown innocent — as opposed to not guilty — in the slaying of Lael Brown.

JUDICIAL CODE AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Douglas C. Aagard

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill clarifies which provisions of Rule 65C of the Utah Rules of Civil Procedure apply to a petition for a determination of factual innocence.

Highlighted Provisions:

This bill:

- provides that, except for the notice and answer provisions, Rule 65C of the Utah Rules of Civil Procedure apply to petitions to determine factual innocence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-9-402, as enacted by Laws of Utah 2008, Chapter 358

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-9-402** is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim.

As used in this part:

(1) "Factually innocent" means a person did not:

(a) engage in the conduct for which the person was convicted;

30 (b) engage in conduct relating to any lesser included offenses; or

31 (c) commit any other felony arising out of or reasonably connected to the facts
32 supporting the indictment or information upon which the person was convicted.

33 (2) (a) A person who has been convicted of a felony offense may petition the district
34 court in the county in which the person was convicted for a hearing to establish that the person
35 is factually innocent of the crime or crimes of which the person was convicted, if the person
36 asserts factual innocence under oath and the petition alleges:

37 (i) newly discovered material evidence exists that establishes that the petitioner is
38 factually innocent;

39 (ii) the petitioner identifies the specific evidence the petitioner claims establishes
40 innocence;

41 (iii) the material evidence is not merely cumulative of evidence that was known;

42 (iv) the material evidence is not merely impeachment evidence;

43 (v) viewed with all the other evidence, the newly discovered evidence demonstrates
44 that the petitioner is factually innocent; and

45 (vi) (A) neither the petitioner nor petitioner's counsel knew of the evidence at the time
46 of trial or sentencing or in time to include the evidence in any previously filed post-trial
47 motion or postconviction motion, and the evidence could not have been discovered by the
48 petitioner or the petitioner's counsel through the exercise of reasonable diligence;

49 (B) a court has found ineffective assistance of counsel for failing to exercise
50 reasonable diligence in uncovering the evidence; or

51 (C) the court waives the requirements of Subsection (2)(a)(vi)(A) or (2)(a)(vi)(B) in
52 the interest of justice.

53 (b) A person who has already obtained postconviction relief that vacated or reversed
54 the person's conviction may also file a petition under this part if no retrial or appeal regarding
55 this offense is pending.

56 (3) If some or all of the evidence alleged to be exonerating is biological evidence
57 subject to DNA testing, the petitioner shall seek DNA testing pursuant to Section 78B-9-301.

58 (4) [~~The~~] Except as provided in Subsection (6), the petition shall be in compliance
59 with and governed by Rule 65C, Utah Rules of Civil Procedure, and shall include the
60 underlying criminal case number.

61 (5) After a petition is filed under this section, prosecutors, law enforcement officers,
62 and crime laboratory personnel shall cooperate in preserving evidence and in determining the
63 sufficiency of the chain of custody of the evidence which is the subject of the petition.

64 (6) (a) [~~A~~] Notwithstanding paragraphs (g) and (h) of Rule 65C, Utah Rules of Civil
65 Procedure, a person who files a petition under this section shall serve notice of the petition and
66 a copy of the petition upon the office of the prosecutor who obtained the conviction and upon
67 the Utah attorney general. The attorney general shall, within 30 days after receipt of service of
68 the notice, or within any additional period of time the court allows, answer or otherwise
69 respond to all proceedings initiated under this part.

70 (b) (i) After the time for response by the attorney general under Subsection (6)(a) has
71 passed, the court shall order a hearing if it finds there is a bona fide issue as to whether the
72 petitioner is factually innocent of the charges of which the petitioner was convicted.

73 (ii) If the parties stipulate that the evidence establishes that the petitioner is factually
74 innocent, the court may find the petitioner is factually innocent without holding a hearing.

75 (7) The court may not grant a petition for a hearing under this part during the period in
76 which criminal proceedings in the matter are pending before any trial or appellate court, unless
77 stipulated to by the parties.

78 (8) Any victim of a crime that is the subject of a petition under this part, and who has
79 elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any
80 hearing regarding the petition.

H.B. 377 Judicial Code Amendments (Aagard, D.)

Date	Action	Location	Vote
2/6/2009	Bill Numbered by Title Without any Substance	LRGC	
2/7/2009	Numbered Bill Made Available for Public Distributi	LRGC	
2/7/2009	Bill Numbered by Title Without any Substance	LRGC	
3/2/2009	Bill Numbered but not Distributed	LRGC	
3/2/2009	Numbered Bill Made Available for Public Distributi	LRGC	
3/2/2009	House/ read 1st time (Introduced)	HSTRUL	
3/2/2009	LFA/ bill assigned to staff for fiscal analysis	HSTRUL	
3/3/2009	LFA/ bill sent to agencies for fiscal input	HSTRUL	
3/4/2009	LFA/ fiscal note sent to sponsor	HSTRUL	
3/4/2009	LFA/ fiscal note sent to floor	HSTRUL	
3/4/2009	House/ to Printing with fiscal note	HSTRUL	
3/4/2009	House/ received bill with fiscal note from Print	HSTRUL	
3/6/2009	House/ read 2nd time (Under Suspension)	H3RDHB	
3/9/2009	House/ read 3rd time	H3RDHB	
3/9/2009	House/ passed 3rd reading	SSEC	74 0 1
3/9/2009	House/ to Senate	SSEC	
3/9/2009	Senate/ received from House	SINTRO	
3/9/2009	Senate/ read 1st (Introduced)	SSTRUL	
3/12/2009	Senate/ from Rules Committee to 2nd	S2ND	
3/12/2009	Senate/ read 2nd & 3rd (Suspension)	S2ND	
3/12/2009	Senate/ circled	S2ND	
3/12/2009	Senate/ uncircled	S2ND	
3/12/2009	Senate/ read 2nd & 3rd (Suspension)	S2ND	
3/12/2009	Senate/ pass 2nd & 3rd (Suspension)	SPRES	24 0 5
3/12/2009	Senate/ signed by President to House	HSPKR	
3/12/2009	House/ received from Senate	HSPKR	
3/12/2009	House/ signed by Speaker sent for enrolling	LRGCEN	
3/12/2009	Bill Received from House for Enrolling	LRGCEN	
3/17/2009	Draft of Enrolled Bill Prepared	LRGCEN	
3/19/2009	Enrolled Bill Returned to House or Senate	HCLERK	
3/19/2009	House/ enrolled bill to Printing	HCLERK	
3/20/2009	House/ to Governor	EGOV	
3/25/2009	Governor Signed	ELTGOV	

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H.B. 377 Enrolled

1

JUDICIAL CODE AMENDMENTS

2

2009 GENERAL SESSION

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STATE OF UTAH

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Chief Sponsor: Douglas C. Aagard

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15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **78B-9-402**, as enacted by Laws of Utah 2008, Chapter 358

22

23 *Be it enacted by the Legislature of the state of Utah:*

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 26 **allegations -- Notification of victim.**

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45 (vi) (A) neither the petitioner nor petitioner's counsel knew of the evidence at the time
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 47 motion or postconviction motion, and the evidence could not have been discovered by the
 48 petitioner or the petitioner's counsel through the exercise of reasonable diligence;

49 (B) a court has found ineffective assistance of counsel for failing to exercise
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51 (C) the court waives the requirements of Subsection (2)(a)(vi)(A) or (2)(a)(vi)(B) in
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