



## AH LEE

### Other Pennsylvania Cases with Mistaken Witness Identifications

At about 4:30 a.m. on August 14, 1983, three Asian men entered Ho Sai Gai restaurant in the Chinatown section of Philadelphia. They ordered food, complained about it, refused to pay the bill, and then announced they were gang members from New York City. They demanded “lucky money,” a term for protection payments, from the restaurant manager, 25-year-old Jade Wong.

When Wong attempted to call the police, she was fatally shot in the head.

Three weeks later, according to Philadelphia police, an informant reported that one of the three men was nicknamed Aaron or Allen. Philadelphia police asked New York police for information and they were provided with photographs of Ah Thank “Allen” Lee, a member of an Asian gang in New York. At the time, Lee was under indictment in New York for attempting to extort money from a restaurant in New York’s Chinatown.

Police prepared a photographic lineup containing Lee’s photo and showed it to Wong’s sister, Janice Wong, who was at the restaurant at the time of the shooting, and Phong Ngo, a waiter. Both identified Lee as one of the three men.

Lee was arrested in New York City in September 1983 and a lengthy extradition battle ensued. Meanwhile, over the next several months, other gang members told New York police detective Joseph Fasano, a member of a unit that focused on Asian youth gangs, that Lee was not involved. The gang members said that one of the three was named Kwa Jai and that after the crime, Jai fled to Georgia for several months before returning in January 1984. Almost immediately upon his return, Jai was murdered in a Manhattan restaurant. Fasano passed the information to Philadelphia detectives.

In August 1985, a New York City police informant named Wing Tsang told Philadelphia detectives that the three men involved in the crime were Cam Ly, Benson Luong and Kwa Jai. Tsang told the detectives that Cam Ly confided that he shot Jade Wong and that Luong and Jai were with him. Tsang identified photographs of all three and passed a polygraph test.

Two days after Tsang gave his statement, Philadelphia police presented a series of photographic lineups to Janice Wong. She identified Cam Ly as the man who shot her sister. When shown the lineup containing the photograph of Jai, who bore a striking resemblance to Lee, she said she had already identified him, apparently believing it was a photo of Lee.

<b>State:</b>	Pennsylvania
<b>County:</b>	Philadelphia
<b>Most Serious Crime:</b>	Murder
<b>Additional Convictions:</b>	Robbery, Illegal Use of a Weapon, Conspiracy
<b>Reported Crime Date:</b>	1983
<b>Convicted:</b>	1988
<b>Exonerated:</b>	2004
<b>Sentence:</b>	Life
<b>Race:</b>	Asian
<b>Sex:</b>	Male
<b>Age:</b>	20
<b>Contributing Factors:</b>	Mistaken Witness ID, Official Misconduct
<b>Did DNA evidence contribute to the exoneration?:</b>	No

Ly was arrested and charged with murder while Luong remained a fugitive. In December 1985, Lee was finally extradited to Philadelphia. Lee and Ly went to trial separately in 1988. Ly was convicted of first-degree murder and sentenced to death (a sentence later commuted to life in prison). Lee was convicted of second-degree murder, conspiracy, robbery and illegal use of a weapon. He was sentenced to life in prison.

Janice Wong testified at Lee's trial and despite identifying Jai in 1985, she told the jury she was sure that Lee was one of the three men. Phong Ngo, the waiter, was unable to identify Lee at trial.

The defense sought to call Detective Fasano as a witness to testify that he believed Lee was innocent, but the trial judge barred that testimony as inadmissible hearsay. The judge refused to allow the defense to present the identification of Jai, Ly and Luong by Tsang, the police informant. The judge also prohibited the defense from calling Jai's brother, who would have testified that Jai had admitted being involved in the crime.

In April 1989, Philadelphia police finally arrested Luong, who admitted he and Cam Ly and Kwa Jai were at the Ho Sai Gai restaurant on the night of the crime. Luong told detectives that he rode from New York City to Philadelphia in a van driven by Jai. He said they went to the restaurant and ordered food. When all the other customers were gone, Jai demanded money. When Jade Wong refused to pay, Luong said he and Ly drew handguns and herded everyone into the kitchen. Luong said that when he went to get money from the cash register, he heard a gunshot. When he returned, Jade Wong was lying on the floor with the telephone in her hand. Luong was later convicted of third degree murder and sentenced to prison.

Based on Luong's statement, Lee's lawyer filed a motion for a new trial. At a hearing in 1994, Lee's lawyer presented evidence that the initial informant's tip was not that one of the three men was named Aaron or Allen (which police said led them to Lee), but just the name Aaron and that he was from China. In fact, Lee was not from China, but Jai was and he was known as Aaron.

In August 1994, the motion for a new trial was denied. Another motion was filed after Lee's lawyer, now assisted by Detective Fasano who had retired as a New York police detective and was working as a private investigator, alleged that the prosecution had failed to disclose to Lee's defense that Jai had been identified as a suspect as early two weeks after the murder.

At a hearing on the motion in 2000, the defense presented evidence that at the time of Lee's trial, the Philadelphia police failed to disclose that shortly after Jade Wong's killing they had received information pointing to Kwa Jai as one of the three assailants. Further, Lee's lawyer presented Philadelphia police reports showing that police in Washington, D.C. provided information to Philadelphia detectives that they had questioned Jai before Jade Wong's murder as a suspect in the extortion of Asian restaurants in Washington, D.C.

On April 14, 2004, Common Pleas Court Judge David Savitt vacated Lee's conviction and ordered a new trial. The prosecution immediately dismissed the charges and Lee was released.

Lee later filed a federal civil rights lawsuit against the city of Philadelphia that was settled for more than \$3 million.

– *Maurice Possley*

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