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Erick Daniels

On September 21, 2000, two adolescents wearing bandanas over their faces broke into Ruth Brown's house in Durham County, North Carolina and robbed her of over \$6000 cash she had on hand because of an illegal gambling operation she ran out of her house. Brown provided descriptions to police and then looked at a middle school yearbook. After 30 minutes studying the yearbook she settled on Erick Daniels as one of the young men who robbed her. She did not, however, get a good look at either of the men and her initial descriptions did not match Daniels.

Daniels, who was 14 years old at the time, was pulled out of class and questioned by police without his parents' permission. The only evidence against Daniels was Brown's identification and the procedures used in procuring the initial identification have since been abandoned by the Durham police as unreliable. Nonetheless Daniels was convicted of armed robbery and burglary in December 2001 by a jury in Durham County Superior Court, and sentenced to 10 to 14 years in an adult prison.

Daniels' mother continued to work on his behalf and eventually was able to find new counsel, who obtained an evidentiary hearing for him in 2008. At that hearing Daniels' new lawyer presented evidence that another man, Samuel Strong, who was in federal prison following an unrelated bank robbery conviction, had confessed to the crime. Durham County prosecutors were informed of this confession about a year after Daniels' trial but made no effort to investigate Strong's claim or tell Daniels' new lawyer about it. Strong closely matched the original description provided by Brown while Daniels did not, and he was known to have committed robberies with the other suspect in the Brown robbery.

Daniels' lawyer also argued that his conviction should be reversed because of ineffective assistance of his trial counsel. His original attorney had not objected when the prosecution presented evidence that Daniels had a juvenile marijuana conviction, even though the lawyer knew such evidence is inadmissible. He also failed to seek exculpatory evidence indicating that other suspects had actually committed the crime. And, most important, he represented Samuel Strong, the actual criminal, continued to represent both of them after he learned that Strong was the real criminal, and – because of his attorney-client relationship with Strong – failed to take any action to help Daniels when Strong confessed to him shortly after Daniels was convicted.

On September 19, 2008, Durham County Superior Court judge Orlando Hudson found that Daniels had received constitutionally deficient representation from his trial lawyer, and that Daniels was innocent. He dismissed the charges against Daniels and ordered his immediate release. Daniels has since sought a pardon and compensation, but his application for a pardon was denied in February 2011.

— *Michael S. Perry*

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About the Registry

State:	North Carolina
County:	Durham
Most Serious Crime:	Robbery
Additional Convictions:	Burglary/Unlawful Entry
Reported Crime Date:	2000
Convicted:	2001
Exonerated:	2008
Sentence:	10 to 14 years
Race:	Black
Sex:	Male
Age:	14
Contributing Factors:	Mistaken Witness ID, Inadequate Legal Defense
Did DNA evidence contribute to the exoneration?:	No

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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Attachment 11

Davenport Associates

P.O. Box 5785
Cary, NC 27512-5785
(919) 387-3533

CLIENT: Robert Harris
Attorney At Law
315 E. Chapel Hill Street, Suite 208
Durham, NC 27701

SUBJECT: Erick Lavon Daniels
2910 Beechwood Drive
Durham, NC 27707

SOCIAL SECURITY #: Unknown

DATE OF EXAMINATION: March 11, 2003

PLACE OF EXAMINATION: Morganton
North Carolina

ISSUE: Armed Robbery

EXAMINER: Steve Davenport
333-P

FILE NUMBER: 03333476

At the request of Robert Harris, Attorney At Law, I administered a polygraph examination to ERICK LAVON DANIELS March 11, 2003, in Morganton, North Carolina. Prior to the examination Mr. Daniels signed a Consent and Release Agreement giving me his permission to administer the examination and then release the results to Mr. Harris. All questions asked Mr. Daniels during the in-test phase of his examination were reviewed with him before any attachments were placed on his person.

The purpose of this examination was to determine Mr. Daniels' truthfulness regarding his denial that he had robbed Ruth Brown, a crime that he was convicted of having committed.

EXAMINATION RESULTS:

I asked Mr. Daniels the following relevant questions on multiple tests during the in-test phase of his examination, and he gave the indicated answers:

-Did you rob Ruth Brown?

Answer: NO

-Did you point a gun at Ruth Brown?

Answer: NO

-Were you present when Ruth Brown was robbed?

Answer: NO

At the conclusion of all testing I conducted an analysis and numerical evaluation of Mr. Daniels' physiological reactions when he answered the above questions as shown. Based on that evaluation it is my opinion there were no reactions indicative of deception to those relevant questions.

If you have any questions about this examination or need any additional information, please do not hesitate to call me.

Sincerely,


Steve Davenport, Examiner

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until the complex was destroyed in 2003. Brown made the connection that led to Erick Daniels' consideration as a suspect.



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Delois West

The investigator with the Durham Police Department's violent crimes division who investigated the robbery. She was a friend of Ruth Brown's and built the cases against Erick Daniels and Khalid Abdallah.



[click to enlarge](#)

Robert Harris

Erick Daniels' defense attorney in Superior Court.



[click to enlarge](#)

Freda Black

The assistant district attorney (and friend of Ruth Brown's) who prosecuted Erick Daniels and Khalid Abdallah. When told someone else wanted to confess, she didn't pursue it.



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Karen Daniel

Erick Daniels' mother. Since his conviction, she has mounted a campaign to get justice for her son.

Doreal Henderson

After Ruth Brown was robbed, rumors spread around Few Gardens that Henderson was the getaway driver. Henderson denies that, but



click to enlarge

admits driving people to Brown's house on another night. He says Erick Daniels was not involved.

Carlos Mahoney



A lawyer in Durham's Glenn, Mills & Fisher law firm, took over Erick Daniels' case in late 2004. Working through the state appellate defender's office, Mahoney filed and lost an appeal on Daniels' behalf, and is now working on a motion in which he will present new evidence and argue that Daniels' trial attorney, Robert Harris, provided ineffective assistance.

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by Billy Ball

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Photo by Derek Anderson

Click for larger image · Erick Daniels with his attorney, Carlos Mahoney, following the decision by Durham Superior Court Judge Orlando Hudson to dismiss all charges against Daniels.

About four hours earlier, Durham Superior Court Judge Orlando Hudson had declared Daniels innocent, wrongly convicted of robbing a police department employee, for which he had been sentenced to 10 to 14 years in prison. In his ruling, Hudson admonished local police and prosecutors for their shoddy investigative work, which, along with other botched cases, has tarnished the reputation of the Durham justice system.

After seven years and several unsuccessful appeals, Daniels did not expect to go free that day. Hudson had granted Daniels, who was in the Warren County Correctional Institute, a hearing to determine whether he should have a new jury trial. Dismissing the charges was an option, albeit an unlikely one.

But armed with a new strategy, Daniels' attorney, Carlos Mahoney, spent nearly two days dismantling the shaky evidence presented at the original trial. He unveiled new evidence that showed Daniels was innocent, and further demonstrated that Daniels' original attorney, Robert Harris, had not represented him effectively. A 2007 investigation by the *Indy*, "Stolen youth," supported Daniels' claims of innocence, revealed flaws in the original trial and uncovered new evidence in the case.

Daniels had so much faith in Mahoney that he rejected a last-ditch plea agreement offered by Durham County Prosecutor Mitch Garrell that would have freed him. Under the terms, Daniels would have denied his involvement in the crime but acknowledged the existence of incriminating evidence, in exchange for time served. However, Daniels would have forever been branded a felon.

"I didn't do it," Daniels said later in an interview. "Worst-case scenario, I serve three more years. I knew I could do three more years. I said, 'Let's see if I can make it to trial.'"

In the end, there was no trial. Hudson was convinced that Daniels should be exonerated.

"I would order a new trial if I were satisfied that this defendant committed this crime and the state could prove it," Hudson told the court. "I have no confidence the defendant committed these charges."



Photo by Derek Anderson

[Click for larger image](#) • Denise Spivey holds onto her sister, Erick's mother Karen Daniel, during the judge's ruling.

When Daniels entered the courtroom Thursday morning, his wrists and ankles shackled, it was the first time he had been in the Durham County Courthouse since his conviction in 2001. At the original trial, Freda Black, then an assistant district attorney, built her case on the testimony of the victim, Ruth Brown. Brown, a police department employee, had picked Daniels' face from among 105 photos in a junior high yearbook based on, she said, the shape of his eyebrows.

Brown testified that Daniels was one of two masked gunmen who walked into her home and stole a purse containing thousands of dollars in cash. However, there was no physical evidence. At the time of his conviction, Daniels tried to escape after the guilty verdict was announced, and screamed "Mommy" as deputies escorted him away.

Seven years later, Daniels, with a close-cropped beard and mustache, is no longer a boy. And Mahoney was nothing like his original lawyer at trial. In a carefully worded opening statement, Mahoney asked Hudson to grant Daniels a new trial, not dismiss the charges, because that's what he thought the evidence would support. But there were surprises in the testimony that followed.

Mahoney thought his strongest argument was that Harris provided ineffective counsel to Daniels at the original trial. Almost everything Harris had done was on the record, in the trial transcript and in appeals documents, so Mahoney directed the court to Harris' numerous legal errors.



Photo by Derek Anderson

[Click for larger image](#) • Daniels' former defense attorney, Robert Harris, testifies that his representation of Daniels was flawed.

For example, Harris had allowed Daniels' juvenile record—a marijuana possession conviction—into evidence, which is not allowed.

"You're aware that juvenile adjudications are not admissible under the laws of evidence?" Mahoney asked Harris, who was on the stand.

"Yes."

"Did you object?" Mahoney asked.

"No."

That was only the beginning. For more than an hour, grilled by Mahoney, Harris testified that his representation of Daniels was flawed. Combined, the errors painted a false picture of Daniels as a violent delinquent capable of anything.

But the bombshell landed when Mahoney sought to prove the second claim of his appeal: There was new evidence proving Daniels' innocence.

Harris had represented another man, Samuel Strong, who, shortly after Daniels was convicted, confessed to Harris that he'd robbed Brown. But Harris never confirmed Strong's confession, citing attorney-client privilege. The allegation had never been entered into evidence.

Shortly before last week's hearing, Harris and his attorney, Ralph Frasier, filed a last-minute motion to quash Harris' subpoena, citing attorney-client privilege, a legal move that, if successful, would have released Harris from

his obligation to testify about Strong's confession. Hudson overruled the motion.



Photo by Derek Anderson

[Click for larger image](#) · Erick and his mother, Karen, embrace in the courtroom.

"Attorney–client privilege is sacred—there is no question about that," Hudson said later. "The bottom line is the interest of justice. I felt like he had information that was pertinent to whether Mr. Daniels was going to finish his sentence."

Mahoney asked Harris under oath if he had received information that could exonerate Daniels. Hudson ordered Harris to answer.

"Yes," Harris said. "I encouraged the source of that information to come forward. I encouraged him to get an attorney. The information I had was that Sam Strong committed this robbery and Freda Black knew about it."

Mahoney addressed the circumstantial evidence linking Strong to the robbery. Strong was best friends with Daniels' codefendant, Khalid Abdallah. Strong and Abdallah had committed a string of armed robberies together.

Mahoney also introduced a document showing that Strong is 5–feet–4–inches tall, has light skin and wore his hair in cornrow braids. At 145 pounds, he had a slight build. That fits Brown's description of the first gunman to enter her home—the gunman she swore was Daniels.

Moreover, Brown testified at trial that the first gunman attacked her with a silver .22 revolver. Mahoney introduced evidence that Strong was later arrested with a silver revolver in his possession. Strong is in federal prison on bank robbery charges.

Black took the stand and testified that she knew about Strong's involvement in the crime, which Hudson would rule was tantamount to withholding exculpatory evidence—the third claim in Mahoney's appeal.

"Some time after his conviction, somebody came to me and said there's somebody that was in federal prison that confessed to robbing Ruth," she said. Yet, she tried to justify her withholding of the evidence. "I wasn't given a name. If you show me a notarized affidavit, I will look into getting the case reopened. I didn't consider it evidence because I never saw it in writing."

Garrell attempted to minimize the weight of the new evidence about Strong, arguing that it had not been considered by a jury. He also tried to poke holes in Mahoney's arguments about ineffective counsel. "Attorneys are not required to make all decisions right," Garrell said. "They are required to meet the standard of effective assistance of counsel"—a standard, he argued, that Harris had met despite the legal missteps.



Photo by Derek Anderson

[Click for larger image](#) • Durham County Assistant District Attorney Mitch Garrell speaks with Ruth Brown, a Durham Police Department employee who identified Erick Daniels as one of two gunmen who robbed her Sept. 21, 2000.

Garrell also asked Black if anything happened at trial that led her to believe Harris' representation fell outside a broad definition of effective assistance.

"I thought he did a very good job," she replied.

Garrell asked Hudson to only consider one of Mahoney's claims—that Harris provided ineffective assistance.

Instead, Hudson strongly rebuked Durham police and prosecutors. "People are starting to question in Durham the degree to which the prosecutor's

office and the police department are tracking down cases where there are leads for other people in the crime. That's a serious problem when the court has to deal with it. If you don't turn over these leads and find out what's under them, sometimes they lead to the wrong people. I don't want that to be a problem in the Durham Police Department or in the prosecutor's office."

With those words, people in the courtroom began to cry, as they sensed where Hudson was going.

Garrell argued that the new evidence about Strong should be presented in front of a jury and subject to cross-examination, but Hudson broke in again.

"That newly discovered evidence is really supplemental evidence that shows Daniels did not commit this crime and someone else did. Erick Daniels did not look anything like the person Ruth Brown describes. Sam Strong did. The description fits perfectly."

The sobs grew louder. Daniels buried his head in his arms, as if he could not bear to watch.

"Unfortunately for the state," Hudson continued, "Ms. Black had nothing in this case except for the identification based on a sixth-grade yearbook. My finding is going to be that Mr. Mahoney has proven his case. He prevails on every single ground."

Hudson ordered Daniels' release. People in the courtroom erupted, shouting. Still shackled, Daniels leaned over the railing and hugged his family.



Photo by Derek Anderson

Click for larger image · Still shackled, Daniels leans over the railing to hug his mother, Karen Daniel, and aunt, Denise Spivey.

After the trial, Garrell relayed the news of Hudson's judgment to Brown, who did not attend the second day of the proceedings. "She was not pleased with this, but whether pleased right now or not, at least there would be no continuing controversy," Garrell said later.

Brown had agreed to the plea agreement. "The plea was something I had thought about as I reviewed the materials," Garrell said. "The recognition on my part and the district attorney's office was that it was not a trial that did not have problems. I wouldn't offer it if I didn't think it was the right result. Given what's happened, it's clear he made the right decision."

Former prosecutor Black stood by her conviction. "Twelve people found him guilty," she said. "I don't like questioning the jury's verdict. But I don't think I'm in a position to question Hudson's decision."

For now, Daniels' legal battles are over. "At this point it's premature to talk about continuing legal actions," Mahoney said about the possibility of pursuing compensation for Daniels' wrongful conviction. "The most important thing is for Erick to get adjusted to his new life and get back in touch with his family."

It took the Department of Correction and the county jail several hours to process Daniels' release. He left the jail defiantly, pushing past television cameras and reporters, holding his jacket over his face until he climbed into his sister's car. He went home to a dinner of grilled chicken with brown rice and salad. After a couple of restless nights, he woke up Monday morning feeling refreshed. "It's not a dream," he said. "I'm really free. I'm really home."



Photo by Derek Anderson

Click for larger image · Erick and his sister, Erika, embrace as he leaves the Durham County Jail a free man.

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PRISONER CONTROL RECORD					
Name (Last, First Middle Initial) STRONG, SAMUEL ALLEN					
Race B	Sex M	Date Of Birth 10/10/1979	Place Of Birth NY	Height 504	Weight 145
Eyes BRO	Hair BLK	Complexion	Built MED		
Social Security # 100-64-0000	Driver's License #	State	Occupation		
Fingerprints On File			Agency		
Address 2713 FAYETTEVILLE ST DURHAM, NC				Date 03/12/2002	
Charges 14-87 ROBBERY WITH DANGEROUS WEAPON; 14-2.4(A) FELONY CONSPIRACY; 20-105 POSSESS STOLEN AUTOMOBILE; 14-33(C)(1) ASSAULT WITH A DEADLY WEAPON; 14-415.1 POSSESSION OF FIREARM BY FELON					
Misc I.D. / Type		Next Of Kin		Address	
				Telephone	

ALLEN "TROC"

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become entangled with the law, and some say, try to confess to his involvement in Ruth Brown's robbery—and clear Erick Daniels.

In July 2001, Samuel Strong masterminded the heist of a Central Carolina Bank branch on Roxboro Road in Durham. Unable to make bond after his arrest, he remained in the Durham County jail for several months. In December 2001, just as Erick Daniels was going to trial for robbing Brown, Strong hired Robert Harris to represent him on the bank robbery charges. Harris also was representing Daniels.

Interviews suggest that some time after Erick Daniels was convicted, Strong attempted to confess to robbing Ruth Brown in an attempt to exonerate Daniels and make a deal on the bank robbery charges. Karen Daniel, Erick Daniels' mother, recounts a conversation she says she had with Robert Harris. "He said in January of 2002, maybe a couple weeks after Erick's trial, Strong came to him and said, 'The kid didn't do the robbery. I did it.'"

Harris disputes the timing and, citing attorney–client privilege, says he will not say what Strong told him. "When Erick's trial was going on, I never heard one thing or the other from Samuel Strong," Harris says. "He never said anything then or immediately after. If he did, I would have withdrawn."

Kam Russell, a suspect in Brown's robbery, also got word that Strong confessed. "When Khalid [Abdallah] got out on bond, he told me Doc was trying to say he did the shit to get out of the bank robbery," Russell says. "If they would have let Doc do it, he was going to testify against Khalid to get a plea."

Shannon Tucker, Abdallah's attorney, says she heard no such thing. "I don't recall anyone ever wanting to testify against my client and clear Erick," Tucker says. "My client has maintained his innocence throughout this entire procedure and he has never told me anything different."

Freda Black, who prosecuted Daniels and Abdallah, says she recalls getting word that Strong wanted to come forward. "I remember hearing that there was a man in federal prison who wanted to suggest that he was a perpetrator," Black says about Strong, who was convicted in federal court on the bank robbery charges. "It might have been Robert Harris who told me. There was an affidavit in which he was prepared to present that information, but it was never presented to me."

But Harris denies that. "I went to Freda to find out if there were any confessions out there and she never got back to me," Harris says. "But we never discussed the person's name. If she's saying somebody's name, that should be looked into."

Carlos Mahoney, Daniels' appellate defender, is sifting through the jumble of hearsay to find facts he can use in court. He says Black's failure to tell him about the attempted confession may be tantamount to withholding exculpatory evidence. In 2004, the U.S. Supreme Court ruled that

prosecutors have an ongoing duty to disclose such evidence, even after conviction. Mahoney is also exploring whether Harris' concurrent representation of Daniels and Strong—two clients with diametrically opposing interests—qualifies as ineffective assistance of counsel.

The circumstantial evidence linking Strong to Ruth Brown's robbery rises above mere talk. As the prisoner control report created after Strong's bank robbery shows (below), Strong is 5-feet-4-inches tall, has light skin, and wore his hair in cornrow braids. At 145 pounds, he had a slight build. That fits Brown's description of the first gunman. Moreover, Brown testified at trial that the first gunman attacked her with an old, silver .22 revolver. **The warrant for Strong's arrest** in the bank robbery shows that he was apprehended with a silver revolver in his possession.

Strong's track record bolsters the notion that he could have been involved in Brown's robbery. He was released from a North Carolina prison three days before Brown was robbed. Twenty-two at the time, he had just served almost three-and-a-half years for involvement in a rash of armed carjackings in Raleigh. Strong confessed to those charges—he was the principal gunman—as did his accomplice and longtime friend, Khalid Abdallah. The two served time together, and the photographs from Abdallah's arrest show they remained close when they left prison. The pictures are not dated, but they must have been taken between Sept. 18, 2000, when Strong was released from prison, and January 26, 2001, when officers found them.

Samuel Strong is now serving 14 years and five months in federal prison on the bank robbery charges; he is due for release in 2014. One of his accomplices, Aminah Abdallah, Khalid Abdallah's sister, has already been released.

Strong did not respond to letters seeking permission to visit and talk to him about the Daniels case. Khalid Abdallah denies that his friend Strong was involved in Ruth Brown's robbery. A jury acquitted Abdallah of those charges in 2003.

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