

2 Convicted in 1987 Killing Are Expected to Be Set Free

DEXTER FILKINS

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2 Convicted in 1987 Killing Are Expected to Be Set Free

By DEXTER FILKINS

After 14 years of waiting, two Brooklyn families had something to celebrate yesterday. Two men, Anthony Faison and Charles Shepherd, are expected to be released from prison today after being convicted in the 1987 murder of a livery driver, a crime it has become increasingly clear they did not commit.

Ronald L. Kuby, a lawyer for the two men, said yesterday that he had been told by prosecutors in the Brooklyn district attorney's office that Mr. Faison, 35, and Mr. Shepherd, 38, would be freed, following the confession of another man. Mr. Kuby said the man was arrested on Friday in the killing and confessed some time after. The lawyer said the two men had been convicted largely on the testimony of a woman who later admitted lying on the witness stand to get reward money.

Mr. Kuby said he anticipated that the pair would be released today at a hearing in front of Justice Robert S. Kreindler of State Supreme Court. A spokesman for the Brooklyn district

attorney, Charles J. Hynes, declined to comment yesterday but said his office would make a statement today. A police spokesman confirmed the arrest of Arlet Cheston, whom Mr. Kuby said confessed to the murder for which Mr. Faison and Mr. Shepherd served time. Their imminent release was reported yesterday in *The New York Post*.

For the families of the two men, the prospect of being reunited with their loved ones outside prison walls was tempered by the pain of the long wait. "The tears just keep coming, they are tears of joy," said Stacy Shepherd, Mr. Shepherd's mother. "It's so sad that it had to take 14 years for my son to be released. We tried to tell them, but no one would listen."

Mr. Kuby and Mark Race, a private investigator who worked on the case, said the two men's conviction stemmed largely from the false testimony of the prosecution's primary trial witness, Carolyn Van Buren. Ms. Van Buren testified that early in the morning on March 14, 1987, she saw Mr. Faison and Mr. Shepherd surround a livery cab in Crown Heights, Brooklyn, driven by Jean Ulysses, a 46-year-old immigrant from Haiti. Ms. Van Buren testified that she watched Mr. Faison shoot Mr. Ulysses in the head.

But in later interviews, she said she had made up her story to claim \$1,000 in reward money Ms. Van

A man just arrested has confessed to the crime, a lawyer says.

Buren, who said she was a heavy cocaine user at the time, said she had been persuaded to lie by another man who had blamed his failure to get a construction job on the men.

"I never seen them do it," Ms. Van Buren said in a newspaper interview in 1999. "I sent innocent men to jail."

The release of the two men would also be a triumph for Mr. Race, a private investigator who agreed to look into the case two years ago, after receiving a letter from Mr. Faison. In the more than 500 hours Mr. Race said he had spent on the case — at no charge — he documented Ms. Van Buren's new testimony and located Mr. Cheston. Mr. Race said he also tracked down the man who he said had admitted persuading Ms. Van Buren to lie.

Mr. Race said he was convinced by Mr. Faison's letter, in which he said he had written tens of thousands of letters proclaiming his innocence and asking for help. "It was the determination of this kid, how much he believes in what he is doing, how strongly he felt he got railroaded," Mr. Race said. "He just wanted

someone to listen to him." Mr. Faison had been sentenced to 20 years to life for the killing, and Mr. Shepherd 15 years to life.

Mr. Race and Mr. Kuby said that as they looked into the prosecution's case against Mr. Faison and Mr. Shepherd, they determined that Mr. Ulysses' murder had unfolded in a way different from how Ms. Van Buren had described it. On the witness stand, Ms. Van Buren testified that she had seen Mr. Faison walk around to the driver's side of Mr. Ulysses' car and shoot him as Mr. Ulysses climbed back inside.

But Mr. Kuby said the evidence gathered by the police suggested that Mr. Ulysses had been shot from behind by someone who had entered the cab from the rear right door. Mr. Ulysses' bullet wound was on the right side of his head. When investigators looked at his car, all the doors were locked — except for the one on the rear right-hand side. The police recently matched fingerprints found at the scene to those of Mr. Cheston, Mr. Kuby said.

Last evening, the families of Mr. Faison and Mr. Shepherd were preparing for their release. Rudine Faison, who said she never stopped believing in her husband's innocence, said she hasn't decided yet what she will say. "I just want him home," she said.



Michelle V. Agins/The New York Times



Rudine Faison, above, anxiously awaiting the release of her husband, Anthony, from prison. The Faisons are shown in photos taken just before he was sent to prison for the 1987 slaying of a livery driver.

Wrongly Jailed, 2 Clear Last Hurdle Before Freedom

By NICHOLE M. CHRISTIAN

On the day when freedom was supposed to belong to Anthony Faison and Charles Shepherd, when they were supposed to walk quickly out of a Brooklyn courtroom and return to their lives after 14 years in prison, the men found themselves sitting before a judge for nearly an hour before being released. For them, it was justice's final delay.

Mr Faison, 35, and Mr. Shepherd, 38, were convicted in 1987 in the murder of Jean Ulysses, a Haitian livery driver in Brooklyn. Their conviction hinged on the testimony of a witness who later admitted she had lied to collect a \$1,000 reward. On Friday, the police arrested the man they now say was responsible for the killing, Arlet Cheston. Mr Cheston has confessed to the crime, the authorities said.



Charles Shepherd leaving court yesterday.

So yesterday, the families of Mr. Faison and Mr. Shepherd gathered in the courtroom for a hearing that they were told would be just a formality. They wept and shouted "It's about time" as the men were led into the courtroom.

And then they gasped, as the freedom that had seemed so near appeared in jeopardy. Justice Robert S. Kreindler of State Supreme Court, the same judge who presided over the men's trial, began to question prosecutors over and over again as to whether they were certain Mr. Faison and Mr. Shepherd should be exonerated.

"I presided at the trial back in '87 and, very frankly, after hearing the testimony I was pretty well convinced both defendants were guilty," Justice Kreindler said.

Prosecutors from the Brooklyn district attorney's

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For Wrongly Jailed Men, One Last Hurdle Before Freedom

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Ruby Washington/The New York Times

Anthony Faison, wearing a cap, greeted family and friends yesterday after he was released. "I have no reason to be bitter," he said.

ton's fingerprints had been found in the car where Mr Ulysses was shot in the head. The witness who initially identified Mr. Faison and Mr. Shepherd as the robbers, Carolyn Van Buren, had testified that she saw them standing outside the cab, with

Mr Faison firing the fatal shot.

"No fingerprints connected Mr Faison and Mr. Shepherd to the case," Mr. Benson told the judge. "But when we specifically compared Arlet Cheston's fingerprints to this case, two of fingerprints from his left

hand matched the glass partition inside the cab."

Justice Kreindler eventually ended his inquiry and offered an apology. "There wasn't anything we could do that would change anything," he said. "I firmly believed Carolyn Van Buren when she testified at the trial. How do you know when someone is lying? It was just the two of you that knew you were innocent. We did what we believed was right."

When the judge gave the order to release Mr. Faison and Mr. Shepherd, the two men bowed their heads in disbelief. And again their families shouted. Eventually, the men made their way out of the courtroom and into a sea of hugs, high-fives and television lights.

Mr. Faison, still dressed in prison togs with his identification number stitched on them, tried his best to handle the emotional reunion and the swarm of reporters.

"I'm very grateful," he said as officers hurried him onto an elevator past reporters and much of his family, including his 14-year-old son. "I have no reason to be bitter."

Mr. Shepherd seemed equally dazed by the attention.

"I prayed about this day, but seeing how the judge was acting, it was hard to take," he said. "He had the evidence right there and he still treated us like we were guilty. I'm just happy to be free."

office spent nearly an hour assuring the judge by recounting new evidence provided by the police, as well as from Ronald L. Kuby, the lawyer for the men, and Michael S. Race, a private investigator. Mr. Race had spent years investigating the case at the request of Mr. Faison.

The new evidence included an affidavit from a woman who said she had received a letter from an ex-boyfriend bragging about there being two men behind bars for a crime he had committed. The letter writer was Mr. Cheston, lawyers said.

Justice Kreindler did not appear convinced. He asked a barrage of questions, sending some family members storming from the courtroom.

"It's hard to believe that a person for a rather small reward would name two innocent people as murderers," the judge said.

Family members said they were outraged.

"If he had taken that much time 14 years ago to check the evidence, we wouldn't be here," said Mr. Shepherd's younger brother, Richard, who left the courtroom in disgust. "They shouldn't have to go through this today."

Mitch Benson, an assistant district attorney, tried to bring the hearing to an end by explaining how Mr. Ches-

State to Give 2 Wrongly Convicted Men \$1.65 Million Each

MICHAEL WILSON

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CITY

State to Give 2 Wrongly Convicted Men \$1.65 Million Each

By MICHAEL WILSON

Two men wrongfully convicted and imprisoned for 14 years in the 1987 shooting death of a livery cab driver in Brooklyn will receive \$1.65 million apiece from the state of New York, the second-highest such settlement.

The men, Anthony Faison and Charles Shepherd, were convicted in 1988 in the murder of Jean Ulysses, largely on the testimony of a woman who claimed to have seen them shoot but later admitted she had lied for a \$1,000 reward. They sued under the state's 1984 law permitting awards in wrongful conviction cases, and a trial was held last month in the New York State Court of Claims before Judge Alan C. Marin. The attorney general's office settled with the two men before a ruling on the judge.

"It's a good day, because the state acknowledges their wrongdoing publicly," said Mr. Faison, 36. In prison he wrote 60,000 letters asserting his innocence, up to 20 a day.

"We both can continue with our lives, right now," said Mr. Shepherd, 40. The men will receive a special untaxed annuity.

The discovery that led to the release of Mr. Faison and Mr. Shepherd came in 2001. After an investigation by a retired police officer working on their behalf, the police matched fingerprints on the liv-



Ruby Washington/The New York Times

Anthony Faison, left, and Charles Shepherd were convicted in a murder on the testimony of a woman who admitted she had lied for a reward.

ery cab to Arlet Cheston, who later confessed and pleaded guilty.

Mr. Faison lives in Queens, has three children and works in automobile sales. "I have a young male son who never got to see me home until he was 14 years of age," he said. "I have a daughter who was 16 when I

got home."

Mr. Shepherd, of Brooklyn, has one daughter and works as a counselor with both the Jewish Board of Family and Children Services and Housing Works.

Ronald L. Kuby, a lawyer for the men, said the wrongful convictions

One inmate wrote 60,000 letters saying he was innocent.

"could have been avoided, with better police work, by not making payments to crack heads who have nothing to lose and everything to gain."

Another lawyer for the two men, Daniel M. Perez, criticized the state for fighting the claim to begin with. "It's unfortunate that the state of New York didn't offer a reasonable amount" before trial, he said.

Brad Maione, a spokesman for the attorney general's office, declined to comment on the settlement.

The largest settlement to an individual in New York State in a case of wrongful conviction was \$2 million. It went to Vincent Jenkins, who served 17 years in prison for a conviction in a Buffalo rape case before DNA evidence helped exonerate him.

The State Court of Claims says it has resolved 175 wrongful conviction suits from 1985 to last December. Of those, 148 were dismissed, 12 ended in awards to plaintiffs and 15 were settled. The amount awarded to those 12 plaintiffs altogether was \$5.5 million.

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