



June 2, 2022

Contact: Claire Crouch
Dallas County District Attorney's Office
214-653-3600 (Office)
Claire.Crouch@DallasCounty.org

For Immediate Release: Dallas County DA John Creuzot Moves to Exonerate Mallory Vernon Nicholson

(DALLAS) - The Dallas County District Attorney's Office is exonerating Mallory Nicholson of his 1982 convictions after an exhaustive re-investigation by the Conviction Integrity Unit (CIU), which concluded that Nicholson is actually innocent. Today, District Attorney John Creuzot announced that the District Court is signing the orders on the State's motions to dismiss the two indictments of sexual abuse of a child, as well as an indictment of burglary of a habitation.

Mallory Vernon Nicholson, 75, was convicted in September 1982 of burglary of a habitation and two counts of aggravated sexual abuse of a child. Nicholson was released from prison in June 2003 after serving 21 years of his 55-year sentence but remains on sex-offender parole.

Nicholson's case was brought to the CIU by the Innocence Project.

He was accused of sexually assaulting two boys, which Nicholson denied. He had attended his wife's funeral 35 miles away a few hours before the attack and multiple friends said he was with them after the funeral and into the night. His defense attorney argued during his trial that he was mistakenly identified. No physical evidence linked him to the crimes.

The suspect was consistently described in initial investigative documents as a 14-year-old male nicknamed "CoCo" who lived across the street from the offense location. In contrast, Nicholson was 35 years old at the time of the offense.

In the Spring of 2021, after review by the CIU, the Dallas County District Attorney's Office agreed to habeas corpus relief for Nicholson because the State, in 1982, failed to turn over exculpatory evidence to the defense – namely, the original description and identification of an alternate perpetrator. The CIU concluded that the State failed to investigate this alternate perpetrator in 1982; instead relying upon the eyewitness identification of Nicholson. Prosecutors and defense attorneys submitted agreed findings in the case, which a state district judge signed in 2021. The case was sent to and reviewed by the Texas Court of Criminal Appeals. The Court of Criminal Appeals reversed the convictions and remanded the cases back to Dallas County in November 2021. Their decision became final in December 2021.

Upon remand, the CIU continued their investigation and ultimately concluded that Nicholson is innocent.

“I’ve said it before, there’s no time limit on seeking justice,” said Creuzot. “We owe it to Mr. Nicholson to clear his name fully and completely. Our job at the district attorney’s office is not just to seek convictions but to ensure that justice is done. I am proud to say that today justice has, in fact, been done in the case of Mallory Nicholson – who is an innocent man.”

CIU Chief Cynthia Garza said the 1982 case is a “clear-cut” example of a *Brady* violation.

In 1982, the gold standard of prosecutions was eyewitness testimony. Nicholson was convicted solely based on such testimony.

On June 12, 1982, a male approached a 9-year-old boy and his 7-year-old cousin outside their grandmother’s apartment. The male offered the boys money to help him break into a nearby apartment. He lifted the boys into an adjacent apartment through a window and kicked through drywall to get into the unit.

Once inside, the male stole items such as raw and cooked food, clothes and a TV. He went in and out the front door carrying the stolen items in a number of trips before going back inside, where he sexually assaulted the boys. After the assailant left the apartment for the last time, the boys were able to escape, and told their aunt, who called police. They boys were taken to Parkland Memorial Hospital for sexual assault exams, where the suspect was described as a 14-year old male.

Two days later, the detective took the 9-year-old boy and his mother in a patrol car to look at the crime scene. While driving, the boy saw Nicholson sitting on a porch and said he was the attacker. Nicholson was arrested, and his photo was placed in a six-picture lineup and shown to the 7-year-old boy, who did not pick out Nicholson. The boy’s mother later called the detective and said the boy recognized his attacker but was afraid to pick him out. The next day, the boy picked Nicholson in a live lineup. Notably, Nicholson was the only person who was present in both lineups.

Before trial, defense attorneys for Nicholson requested to review any evidence of innocence, known in legal terms as exculpatory evidence. The court granted the defense motion, but there is no record that prosecutors turned over the information about an alternate suspect.

During the post-conviction investigation, the lead prosecutor said he does not recall whether the reports were turned over to the defense. He said that because of his practices and understanding of *Brady* at that time, it’s likely that any information about the 14-year-old suspect was ignored or not provided to defense attorneys.

“It is our job as prosecutors to turn all evidence of innocence over to the defense counsel. And it remains our job to correct our past wrongs,” Creuzot said. “Thanks to legislation like the Michael Morton Act, and more recently the Richard Miles Act, we are working to ensure these mistakes are fewer and fewer.”

The CIU was established in 2007 and primarily reviews cases involving allegations of actual innocence but also investigates possible wrongful convictions in instances where such claims are connected to claims of actual innocence. The investigation into Nicholson’s conviction was funded by a federal post-conviction grant, which helped expand the CIU in 2019 and also funds DNA testing.

This is the 30th exoneration since the CIU's creation in 2007 and the first major actual innocence exoneration case for the CIU in Dallas County, and Criminal District Attorney John Creuzot, since late 2019, when Quintin Alonzo was exonerated on the basis of actual innocence.

"I continue to be extremely proud of the work the CIU is doing, especially throughout the past two years while working through a pandemic. These men and women remain committed to seeing that justice is done, and when another individual is exonerated like this, it means we are doing the right thing in pursuing justice for everyone, including rectifying wrongful convictions," said DA John Creuzot.

This marks the 42nd overall exoneration (cases of actual innocence) for Dallas County since 2001 when the post-conviction DNA statute went into effect.