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LEARNING FROM ALTON LOGAN

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Alton Logan is a wrongfully convicted innocent person who spent 26 years in prison for a murder he did not commit. The real killer confessed to his two attorneys in March 1982, but they were bound by loyalty to their client, the attorney-client privilege and Illinois ethics rules not to disclose his confession. What finally set Alton Logan free was both the death of the real murderer, Andrew Wilson, and the oral release Wilson gave to his attorneys in 1982 that they could come forward with confidential information in case of his death.¹ A team of lawyers from the Law Office of the Cook County Public Defender, which I led, won a post conviction evidentiary hearing that resulted in granting Alton a new trial. A fair and courageous judge, James M. Schreier, granted Alton a small bond, and on April 18, 2008, Alton's family immediately raised the \$1000 needed to reunite him with his family. Alton had been in custody since February 7, 1982. On September 4, 2008, while the same team, with the addition of First Chair Homicide Task Force attorney Susan Smith, was preparing for trial, the Illinois Attorney General's Office announced they were dropping all charges against Alton, and

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¹ In 2008, the Alton Logan case attracted a great deal of media attention and was covered by 60 Minutes, WBEZ FM, the National Public Radio outlet in Chicago, the Chicago Tribune and the Chicago Sun Times, and also was discussed in the New York Times and in Illinois Legal Publications.

his long nightmare was finally over. This article tells the story of what happened in this case and makes suggestions to prevent future incarcerations of innocent persons.

1. THE CRIME, THE INVESTIGATION, THE TRIALS.

On January 11, 1982, two security guards at a McDonald's restaurant, located at 11421 South Halsted in Chicago, Illinois, were shot at about 8:10 p.m.² Both guards were employees of the Cook County Sheriff's Office. A cashier had signaled the guards when a tall man was changing orders suspiciously. Then, another man burst in with a sawed-off shotgun and fired, killing one guard, Lloyd Wyckliffe. The tall man knocked down the other security guard, Alvin Thompson, straddled him, drew a gun, disarmed Thompson and then fired at close range at Thompson. Luckily, Thompson was closely watching his assailant and moved his head and threw up his arm when the shot was fired and was only wounded. The two assailants ran out, taking only the guns of the security guards.

Less than a month later, Edgar Hope was arrested for the murder of a Chicago police officer on a bus, and Hope was found with the gun that belonged to Alvin Thompson. Hope was identified by McDonald's employees and charged with the murder. Alton Logan was also arrested in early February 1982, based on identifications by McDonald's employees. No physical evidence linked Alton to the McDonald's shootings. In fact, physical evidence linked Andrew Wilson, a known associate of Edgar Hope. When the police were looking for Wilson for the shooting of two police officers in February 1982, they searched a beauty shop, which Wilson had lived above. In the beauty shop they found the revolvers of the two murdered police officers,

² The facts throughout this article are all contained in official documents on file in *People v. Logan*, 92 CR 7265, in the Office of the Clerk of the Circuit Court of Cook County, Criminal Division. Additional portions of the narrative are the author's recollections. *People v. Hope*, has a good summary of the evidence at the first trial. 508 N.E.2d 202, 203-04 (Ill. 1986).

together with a sawed-off shotgun. A ballistics test on February 13, 1982, matched the shotgun to the cartridge shell recovered at McDonald's. The results of that match were reported to Lieutenant Jon Burge, the officer in charge. This was the same Jon Burge who was later fired by the Chicago Police Department for torture of suspects, and who was indicted by the U.S. Attorney's Office in 2008 for giving false testimony under oath when he denied any knowledge of police torture.³ The day after the ballistics report, Burge was busy electric shock torturing Andrew Wilson, who was under arrest for the murder of two police officers.⁴ The ballistics match to Wilson did not spur further investigation of Wilson in connection with the McDonald's shootings by either the police or the Cook County State's Attorney's Office.

Alton Logan and Edgar Hope were tried together in 1983. Both were convicted of murder; Hope received the death penalty, and Alton received life when two jurors held out against the death penalty. Both were granted new trials because of prosecutorial error in using victim impact evidence at the guilt/innocence stage. Hope received his new trial first, as a result of direct appeal. Alton had to wait until a post conviction petition appeal to receive a new trial for the same reason.⁵ Both were again convicted at their separate second trials and received the same sentences as they had originally. Alton's lawyer at the first trial was barred from presenting evidence that the shotgun used at McDonald's was found with the guns of the police officers Andrew Wilson killed. At the second trial that evidence was al-

³ See generally, Mike Robinson, *Former Chicago Cop Accused of Lying About Torture*, CHI. TRIB., Oct. 21, 2008; *Burge Indictment Is A Good Day for Justice*, CHI. SUN-TIMES, Oct. 22, 2008; *Burge v. Police Bd. of Chicago*, No. 93 CH 2265 (Circuit Court of Cook County, Feb. 10, 1994); *In re Commander Jon Burge*, No. 91-1856 (Chicago Police Bd., Feb. 11, 1993) (on file with author).

⁴ Wilson much later won a federal civil rights lawsuit based on Burge electroshock torturing him. See generally *Wilson v. City of Chicago*, 900 F. Supp. 1015 (N.D. Ill. 1995).

⁵ See generally *People v. Logan*, 586 N.E.2d 679 (Ill. App. Ct. 1991).

lowed (thanks to the efforts of Assistant Appellate Defender Barbara Kamm, who raised that issue at post conviction and on the post conviction appeal), but other evidence linking Wilson and Hope was kept out, as was one of the McDonald's witness's testimony at the first trial that a photo of Andrew Wilson closely resembled Alton.

After his direct appeal of the second trial was unsuccessful, Alton filed another post conviction petition. The Cook County Public Defender's Office was appointed to represent him, and Assistant Public Defender Erica Reddick was assigned to be his attorney.

2. THE POST CONVICTION INVESTIGATION 1998-2007⁶

As Erica Reddick became familiar with the facts, she became convinced Alton was innocent. It made no sense for Alton to have been involved in a crime with Edgar Hope; Alton and Hope did not know each other and it made much more sense that Andrew Wilson would have been in a shooting with his friend Hope. In early 2000, Professor Richard Kling of Chicago-Kent Law School won a remand of Hope's post conviction petition from the Illinois Supreme Court, claiming there was new evidence of Hope's innocence. Most of this evidence was not helpful to Logan, although one important witness did state the man with the shotgun was Andrew Wilson, not Alton. After that remand, Erica asked me, the Post Conviction Unit Supervisor, to act as co-counsel with her, and I agreed. Meeting Alton in Stateville prison, I was impressed with his good humor and his belief that he would be exonerated of this crime.

Our office launched a thorough investigation, including locating and interviewing all the employees at McDonald's on Janu-

⁶ Under the Illinois Post Conviction Hearing Act, 725 ILCS 5/122-1 et seq., a petitioner can submit affidavits from witnesses, including witnesses who did not testify at trial, and records to demonstrate his rights under the federal and Illinois constitutions were violated at trial.

ary 11, 1982, trying to find any possible new witnesses, obtaining reports from the police and McDonald's and reviewing the trial files of Alton's prior attorneys. Our team included investigator Noel Zupancic and paralegal Christine Komperda. We met with Alton's former attorneys, we interviewed the favorable witness Professor Kling had found, a McDonald's employee named Gail Hilliard, now a bus driver, and we interviewed a detective on the case, Tom Bennett, who had since become first an Assistant State's Attorney and then a defense attorney. Tom Bennett informed us that Charles Grunhard, also a detective on the case, had told Bennett in the 1990s, when Grunhard was dying in Arkansas, that one night Jon Burge told Grunhard that the police got the wrong man on the McDonald's case and the right man was Andrew Wilson. We obtained Bennett's affidavit as an exhibit. We also interviewed the former boyfriend of a McDonald's cashier who had identified Alton. That former boyfriend gave us an affidavit contradicting the testimony of that cashier at trial about how she came to identify Alton. That cashier, one of the State's three identification witnesses at both trials, had originally told the police she did not recognize either of the shooters. At the first two trials (the joint trial and Edgar Hope's second trial), she never testified that she had seen Logan and Hope together before the shootings. However, at Alton's second trial, the cashier not only claimed to have seen Hope and Alton together on a number of occasions but also claimed she had previously testified to that "fact."

Because the shooting victims were off-duty sheriff's employees, there should have been thorough police reports and street files (interview reports) for the entire period from the shootings to the arrests. However, the police reports that the defense attorneys and the State had included numerous gaps. Both the Logan team and Professor Kling tried to bring Jon Burge back from Florida to be deposed about the missing reports, but three times the attempt at deposing Burge was denied, even though former Police Superintendent Richard Brzezcek testified at a

hearing that there should have been street files in this case and that Burge should have known where any police reports were. Also, the State furnished grand jury transcripts and interview reports on three brothers who had been relocated in 1982 indicating that they heard statements by Edgar Hope, and others soon after the McDonald's shootings, implicating Andrew Wilson in the shootings.

Then, the case slowed down. The judge recused himself and a motion before the Chief Judge removed the Cook County State's Attorney's Office from this case because the head of that office, Richard Devine, had previously represented Jon Burge. The Illinois Attorney General's Office was assigned to prosecute the case, the Special Prosecutor investigation into Burge and his detectives was in progress, and the judge on the case changed a number of times before it was reassigned to James M. Schreier, another very experienced judge. Meanwhile, our team was interviewing former and current Chicago Police officers trying to track down the missing police reports. During 2006 and 2007, pleadings were filed, at Alton's request, for forensic DNA testing of the shotgun shell found at McDonald's, in the hope that Andrew Wilson's DNA would be found. Assistant Public Defender Brendan Max of the Forensic Science Division joined the Logan team to work on these pleadings and argue the motion. Argument was set for December 2007, when a new development changed the landscape of the case.

3. A NEW DEVELOPMENT: A 1982 CONFESSION

During the investigation, I had been told that when Andrew Wilson died, we needed to contact his 1982 attorneys, Dale Coventry and Jamie Kunz. I had been warned by one of Wilson's later attorneys not to speak to Wilson, who was in Illinois Department of Corrections (IDOC) custody serving a life sentence he had received after his second trial. On November 29, 2007, while taking the train home from work, I opened the *Chicago*

Reader and found Andrew Wilson's photo on the front page and an announcement that he had died earlier that month. The next morning, I left a voice message for Dale Coventry and was getting ready to call Jamie Kunz when a call came through for a supervisor from a past attorney in our office. I took the call and it was Jamie Kunz, calling me from the Cook County Criminal Courthouse at 26th and California in Chicago about another matter. I told Jamie that we needed to talk in person because Andrew Wilson died. He agreed we needed to talk, and we met that afternoon at his house. When I reached Dale Coventry by phone a few days later, he notified me that before he could make a public statement, he wanted me to motion up the case before Judge Schreier and request that an order be entered granting disclosure of what Wilson had told him. Dale indicated that Wilson had given him an oral release to disclose the information after Wilson's death, but Dale believed the proper way for a public disclosure was a court order, and Kunz agreed.

In December 2007, I served the Attorney General's Office with a "Motion to Authorize or Order Disclosure"⁷ and then brought both Coventry and Kunz to the courthouse. Judge Schreier met with everyone in chambers and requested that the Illinois Attorney General's Office file a response to our motion. He set the date for our next court session as January 11, 2008, exactly 26 years after the McDonald's shooting.

On January 11, 2008, the Attorney General filed a response that basically said that any disclosure should be made to them as

⁷ Illinois Rule of Professional Conduct 1.6 permits disclosure after consent or by court order. ILL. R. PROF'L CONDUCT 1.6. In *Swidler & Berlin v. United States*, 524 U.S. 399 (1998), the Supreme Court held that the attorney-client privilege survives a client's death. However, Justice O'Connor, joined in dissent by Justices Scalia and Thomas, maintained that "the paramount value that our criminal justice system places on protecting an innocent defendant should outweigh a deceased client's interest in preserving confidences." *Id.* at 413 (O'Connor, J., dissenting). The majority responded in a footnote, stating that they were not dealing with that issue. *Id.* at 409 n.3. The *Swidler* case involved the Special Prosecutor's request to obtain notes from Deputy White House Counsel Vincent Foster's attorney after Foster's death.

well as to the defense. We agreed. Dale Coventry and Jamie Kunz testified first as to their contacts with Andrew Wilson in 1982 and that Wilson had twice given Dale oral releases to disclose what Wilson told the attorneys about McDonald's after Wilson died. Judge Schreier ordered that disclosure could proceed. An affidavit signed by Coventry and Kunz, on March 17, 1982, kept sealed in a locked box under Coventry's bed for almost 26 years, was revealed for the first time to our team and to the Attorney General. That affidavit stated: "I have obtained information through privileged sources that a man named Alton Logan . . . who was charged with the fatal shooting of Lloyd Wickliffe at on or about 11 Jan. 82 is in fact not responsible for that shooting that in fact another person was responsible."⁸ It was notarized by Andrea Lyon, now a Professor at DePaul Law School.

We then called Coventry and Kunz to testify at a discovery deposition, since Coventry was about to leave the country for a month. They confirmed that in March 1982, they had received information that Andrew Wilson was the man with the shotgun at the McDonald's shootings, that they had asked Andrew Wilson about it, and that Wilson confirmed he was the man and seemed pleased another person had been arrested for a crime Wilson had committed. Their main concern at the time, as Wilson's attorneys, was to fight on his behalf to prevent Wilson from receiving the death penalty. Therefore, they advised Wilson not to say anything about this to anyone else. Both stated they had agonized because Logan was being charged with a capital crime and could get the death penalty for a crime he did not commit. They decided to prepare the affidavit so that if this information could later be released they could not be accused of making it up. Coventry confirmed that at two separate times, both in Cook County Jail in 1982 and later at Pontiac Prison,

⁸ Affidavit, filed as Exhibit 35 in *People v. Logan*, in the office of the Clerk of the Circuit Court of Cook County, Criminal Division. *People v. Logan*, 92 CR 7265 (2002) (on file with *DePaul Journal for Social Justice*).

Andrew Wilson had agreed that the information about McDonald's could be released upon Wilson's death.⁹

On March 10, 2008, Marc Miller, who had been Edgar Hope's lead attorney in 1982, testified at a similar deposition, over the objections of the Attorney General and of Hope's current attorney. Miller testified that in March 1982, Hope had told him that Logan had nothing to do with the McDonald's shooting, that Hope did not know Logan until they were arrested, that Miller should inform Logan's attorney of these facts and that everyone knew Andrew Wilson was Hope's right hand man. Additionally, Miller testified that Hope had told him that Hope's friends in the neighborhood would confirm all of this, that Hope gave Miller nicknames of some of his friends and Miller found one of them who agreed that everyone knew Wilson was Hope's right hand man.¹⁰ After Miller's testimony, Judge Schreier decided to hold an evidentiary hearing on Logan's actual innocence on April 18, 2008, and announced he would write into court both Logan and Hope.

4. THE MEDIA AIDS ALTON

Media coverage of this case began with an article by veteran crime reporter Maurice Possley in the Chicago Tribune on January 19, 2008, and radio coverage on the same date by John Conroy of WBEZ FM, the Chicago Public Radio outlet. Both reporters had contacted me that week and both were two of the top names in Chicago criminal law journalism: Possley had helped expose prosecutorial misconduct cases and Conroy had

⁹ In my opinion, Coventry and Kunz should be commended for their foresight in drafting the affidavit and Coventry, again, for obtaining the oral releases from Wilson. By contrast, in a North Carolina case, where no affidavit was drafted and no oral releases were obtained, the client's admission was barred by the judge at a post-conviction hearing. See Adam Liptak, *When Law Prevents Righting a Wrong*, N. Y. TIMES, May 4, 2008, at 4.

¹⁰ Marc Miller believed he could not come forward until Wilson's death because Miller had signed the same affidavit as Coventry and Kunz.

been the first to publicize the torture by Jon Burge and his detectives with numerous stories in the Chicago Reader. Possley's article, *Inmate's Freedom May Hinge on Secret Kept For 26 Years*, ran at the top of page one of section one of the Tribune,¹¹ and attracted the attention of the public, the media and a new witness.

It included photos of Logan, Wilson, Coventry, and Kunz and a report on the testimony by Coventry and Kunz, as well as a statement by Logan's 1982 lawyer, Jack Rimland, that Logan always told Rimland that he was innocent.¹² The Tribune article led to an appearance by Coventry, Kunz and me on the Star Jones Show on Tru TV on January 25, 2008, and telephone calls from producers of ABC's and CBS' national television shows, with Bob Anderson of "60 Minutes" telephoning me four times in four days. Erica Reddick and I decided that "60 Minutes" was important enough to be a powerful force on Alton's behalf and after conferring with Alton, we agreed to let "60 Minutes" interview Alton in Stateville Prison. Originally "60 Minutes" agreed to our condition that I would be present for the interview, but the prison refused to let me be present during the interview and we decided to trust "60 Minutes." Reporter Bob Simon taped interviews with Alton, Coventry, Kunz, me and with Alton's two brothers. "60 Minutes" flew in Alton's brother Eugene from Oregon to Chicago for the taping. The Logan segment was shown on March 9, 2008, the night before Marc Miller was scheduled to testify. The next day the Chicago media, which had not been present when Coventry and Kunz testified, were out in force. News stories ran about Miller's testimony, the Chicago Reader ran an article on the "60 Minutes" show that sparked lots of

¹¹ Maurice Possley, *Inmate's freedom may hinge on secret kept for 26 years*, CHI. TRIB., Jan. 19, 2008, available at <http://archives.chicagotribune.com/2008/jan/19/news/chi-secretjan19> (last visited May 5, 2009).

¹² *Id.*

letters and the Chicago Sun Times ran an editorial on March 11, 2008, urging Alton's release from prison.¹³

I had been concerned that the media attention could boomerang and lead to jailhouse snitches coming forth and making up stories that Logan had confessed to them so the snitches could get help with their own sentences. None did, as far as I know. Instead, the publicity brought us four new witnesses for Logan, including three inmates and one English teacher. The teacher, Joe Prendergast, had read the Possley article and seeing the words "Andrew Wilson," "shotgun" and "McDonald's" jarred a memory he had long forgotten. Prendergast had been trying to teach Wilson to read and write in 1982, as a favor to Dale Coventry, an old friend. His meetings with Wilson were all similar, except one time when Wilson came back very upset. When Prendergast asked why, Wilson explained he had to testify about being electro-shocked by Jon Burge, and took off his clothes to show where all the electrodes had been put. As Wilson was dressing, Prendergast tried to calm him by telling Wilson he believed Wilson was innocent of his current charges (the murder of two police officers). Wilson responded that he was a very bad person, who had fired a shotgun in a McDonald's when children were present. Erica and I decided we would call Prendergast at the hearing and drafted an affidavit Prendergast signed that we served on the State.

Investigator Noel Zupancic and I traveled to three different state prisons to interview the three prison witnesses. Two signed affidavits stating that Hope and/or Wilson had informed them Logan was innocent, and one that Wilson had told him that Logan was doing time for a crime that Wilson committed. The third

¹³ Michael Miner, *The Greater of Two Evils*, CHI. READER, Jan. 30, 2008; Michael Miner, *The Stories Behind the Stories: 60 Minutes on Alton Logan*, CHI. READER, Mar. 13, 2008, at 8; *Attorney-Client Secrets Need Some Exceptions*, CHI. SUN-TIMES, Mar. 11, 2008, at 23. The ABC Evening News had a segment on Alton on April 18, 2008, and there was another on "Good Morning America" on April 19, 2008. See also Wendell Hutson, *Living Again, After 26 Years Behind Bars*, CHI. DEFENDER, May 21-27, 2008, at 3.

stated Wilson had a change of heart in 1999, and Wilson requested the prisoner draft an affidavit stating Wilson fired the shotgun at McDonald's and Logan was innocent. He said Wilson had signed the affidavit and taken it. On first hearing about this, I drafted a motion for preserving the possessions Andrew Wilson had in the Illinois Department of Corrections and the State agreed. The agreed order provided for transportation of Wilson's sealed belongings to Chicago, where Logan's attorneys and the Attorney General's attorneys would open the boxes and catalogue what was in the boxes. That took place on April 7, 2008; however, a thorough examination lasting three hours, in which then Deputy Attorney General, now Judge Ellen Mandeltort participated, did not reveal any such affidavit.¹⁴ On April 15, 2008, at a meeting in chambers, Judge Schreier ruled that: (1) he would not hear prison witnesses, other than Hope on April 18, 2008; (2) he would hear our McDonald's employee witness and Joe Prendergast; and (3) with both parties' agreement, the previous testimony of Coventry, Kunz, and Miller would be included in the hearing and not have to be repeated.

On the ethics front, Judge Schreier had requested memoranda of law from both sides about the admissibility of the testimony of Coventry, Kunz, and Miller. With the help of another new team member, DePaul law student with a 711 license, Elizabeth Turillo, we filed two memoranda, one concerning Coventry and Kunz, and one on Marc Miller's testimony. We argued that under the United States Supreme Court decision in *Chambers v. Mississippi*,¹⁵ refined by the Illinois Supreme Court decision in *People v. Bowel*,¹⁶ the statements of Andrew Wilson were admissible as statements against penal interest because they were made under trustworthy circumstances and were reliable.¹⁷ We

¹⁴ I requested the Illinois Department of Corrections (IDOC) to search for other boxes of Andrew Wilson's possessions. IDOC agreed to check, but none were located.

¹⁵ *Chambers v. Mississippi*, 410 U.S. 284, 300-01 (1973).

¹⁶ *People v. Bowel*, 488 N.E.2d 995, 999 (Ill. 1986).

¹⁷ See *People v. Swaggirt*, 668 N.E.2d 634, 640 (Ill. App. Ct. 1996).

also argued that under Illinois law, when Edgar Hope instructed Marc Miller to tell other people certain information, such as Logan's attorney or his friend in the neighborhood, confidentiality no longer attached to such statements.¹⁸ While Erica Reddick and Noel Zupancic were preparing one of our witnesses to testify, Brendan Max was preparing his cross of State occurrence witness Alvin Thompson, I was preparing a series of arguments and Elizabeth Turillo reviewed all the cases cited in the State's memo on admissibility and had comments ready for me by email the next morning.

5. THE HEARING AND THE END OF THE NIGHTMARE.

On April 18, 2008, Judge Schreier's courtroom at the Criminal Courts Building in Chicago was packed when the Logan case was called at 11:00 a.m. We filed the additional prison witness affidavits and other supporting materials as exhibits. Edgar Hope refused to testify. Erica Reddick gave an excellent opening statement and then called two powerful witnesses, a McDonald's employee who saw the shooting and was sure the man with the shotgun was Andrew Wilson, and Joe Prendergast, who testified about Wilson's admission to firing a shotgun in a McDonald's. The State cross-examined both our witnesses. We then rested, with the testimony of Coventry, Kunz, and Miller included in our case in chief along with relevant exhibits. The State called wounded security guard Alvin Thompson, who insisted Logan was the man with the shotgun. However, on skilled cross-examination by Brendan Max, Thompson admitted he only saw the man with the shotgun for "more than one second" before being knocked flat by the other man, who then pointed a gun at his head. Thompson was concentrating so hard on the man with the gun to his head that Thompson was able to throw

¹⁸ *People v. Werhollick*, 259 N.E.2d 265 (Ill. 1970); *People v. Harris*, 570 N.E.2d 593 (Ill. App. Ct. 1991); *People v. Adams*, 451 N.E.2d 1351 (Ill. App. Ct. 1983).

up his arm and move his head to avoid being killed when the shot was fired at him by that man. I argued that all our evidence of statements by Wilson and Hope was admissible under *Chambers* and Illinois law, and Judge Schreier agreed. I further argued that taking all this new evidence into account, if a retrial was held, the jury would not convict, and Judge Schreier agreed to that as well.¹⁹ He granted Alton a new trial and set bail at \$10,000, meaning posting 10% would get Alton out of custody. Alton broke into tears. The 50 members of Alton's family who were present in the courtroom immediately raised the bond and by around 6:00 p.m., Alton was released from prison for the first time since February 1982.

We had come a long way, but needed to end Alton's nightmare by getting the charges dropped. On the next court date, in May, the Illinois Attorney General's Office, after trying to get off the case, announced they would not appeal. That was a big step forward. The prosecutors announced they needed more time to investigate to determine whether they would proceed with a third trial for Alton. Continuances were taken, first to July, then to August, when Logan's team, now headed by Susan Smith of the Homicide Task Force, demanded trial. The Logan team had started its trial preparations. Judge Schreier gave the State one more continuance to September 4, 2008, to make a decision. On that date, Assistant Attorney General Richard Schwind announced that the State had determined it could not prove its case and was dropping the charges. Judge Schreier eloquently told Alton that his "long nightmare is over."²⁰ It had taken many years, but justice was finally done for Alton Logan.

¹⁹ The standard for actual innocence claims in post-conviction cases was set by *People v. Washington*, 665 N.E.2d 1330 (Ill. 1996). Such a claim asserts a due process violation under Article 1, section 2 of the Illinois Constitution.

²⁰ Matthew Walberg, *South Side man finally free after 26 years*, CHI. TRIB., Sept. 5, 2008, available at <http://archives.chicagotribune.com/2008/sep/05/local/chi-alton-logansep05>.

6. WHAT LESSONS CAN WE LEARN FROM LOGAN?

I believe there are three important lessons this case teaches us. First, the police and the prosecutors need to be careful never to neglect any evidence, especially if the evidence is obtained after the arrest of suspects and the evidence points at a new suspect. The ballistics test on February 13, 1982, pointed the finger squarely at Andrew Wilson. This was highly probative physical evidence. The shotgun that matched the cartridge shell found at McDonald's was located together with the guns of the two police officers Andrew Wilson was accused of shooting. The shotgun was found in the beauty parlor Andrew Wilson lived just above. The shotgun pointed towards the guilt of Andrew Wilson, just as the finding of the revolver of the wounded security guard on Edgar Hope, when Hope was arrested, pointed at Hope. The police reports and prosecutor's files²¹ showed no sign of reopening of the investigation with Wilson as target, and there is no excuse for the investigation not being reopened. If it had been, Alton could have been spared 26 years of jail and prison. Both police and prosecutors must be ready, willing and able to investigate new evidence in the future. The Cook County State's Attorney's Office and the Chicago Police Department should both have devil's advocates, or "Completeness Coordinators," who should review all evidence in the most serious crimes to make certain all leads were appropriately pursued.²²

Second, we should look anew at our ethics rules. No one should have to spend 26 years in jail and prison for a crime they did not commit. Alton could have been killed in prison or died from inadequate medical care. Unlike Illinois Rule of Professional Conduct 1.6, the Massachusetts version allows attorneys

²¹ My paralegal and I carefully inspected the prosecutor's files. We were not allowed to view the "blueback," the log sheet maintained by the prosecutors, but from what we did see, there was nothing about reopening an investigation.

²² This suggestion and the suggestion to change the ethical rules that follow are my own opinions; I am not speaking for my office.

to come forward to “prevent the wrongful . . . incarceration of another.”²³ Under this rule, an attorney can come forward to prevent a prison sentence for a felony. At least one commentator has endorsed the Massachusetts rule.²⁴ Illinois should adopt this rule with a corollary that the statement could not be used directly against the maker. That corollary would allow the prosecution indirect fruits of knowing the right target to investigate.

Third, this case shows the value of a team approach. The Law Office of the Cook County Public Defender assembled an excellent team of attorneys, investigator, paralegal and law students. While Elizabeth Turillo played the most important student role, many other law students volunteering as interns assisted in assembling and copying exhibits and preparing documents for filing in court. Too often prisoners feel that any private attorney is better than a public defender, but the Logan saga demonstrates this is untrue. Logan had private attorneys at both his trials.

Also, the Illinois Attorney General’s Office should be commended for not appealing, which would only have delayed final resolution of this matter, and for dropping the charges against Alton Logan. In both these actions, the Attorney General’s Office sought justice, not convictions, as our ethical rules command.²⁵

Finally, it is important, on post conviction petitions in particular, to have a judge dedicated to getting at the truth and willing to stand up for what he believes. I greatly respect the dedication to justice displayed by Judge James M. Schreier in this case.

As a fitting coda, two events in April 2009 should be mentioned. Investigator Noel Zupancic received an Investigator of the Year Award from the National Defense Investigator Associ-

²³ ILL. R. PROF’L CONDUCT R. 1.6 (2008); MASS. R. PROF’L CONDUCT R. 1.6 (b) (1) (2006).

²⁴ See Roger Crampton & Lori P. Knowles, *Professional Secrecy and Its Exceptions: Spaulding v. Zimmerman Revisited*, 83 MINN. L. REV. 63, 109-121 (1998).

²⁵ ILL. R. PROF’L CONDUCT R. 3.8 (a) (2008).

ation, due primarily to her work on the Logan case. Finally, on April 17, 2009, almost a year to the date from Alton's release from custody, Alton was granted a certificate of innocence by Judge Paul Biebel, so Alton can now apply for compensation for his wrongful imprisonment to the Illinois Court of Claims. Alton's civil attorney, Jon Loevy, obtained the certificate of innocence.²⁶

²⁶ Order granting Certificate of Innocence, *People v. Logan*, 92 CR 7265 (Apr. 17, 2009) (on file with the Office of the Circuit Court Clerk of Cook County, Criminal Division).

