

SNOW NOTES

THE WRONGFUL CONVICTION OF JAMIE SNOW AND HOW THEY GOT AWAY WITH IT

Defense Attorney, Frank Picl Perspective:

(pronounced *Pit-sul*)

SNOW TRIAL

SOURCES:

Pretrial Status Hearing, 1/13/2000, 2/17/2000, & 2/25/2000

Pretrial Hearing to Disqualify Defense Attorney 3/2/2000

Pretrial Hearing to Appoint Defense Counsel, Pro Se, 3/10/2000

Snow Letter to Judge Bernardi, 1/21/2001

Petition for Post Conviction Relief, Pro Se, 1/2/2008

Federal Habeas Corpus, No. 13 C 3947, 2/05/2016

The original public defender, Amy Davis, was recused from Jamie Snow's case and replaced on by Patrick Riley March 10, 2000, a death penalty qualified public attorney who was also recovering from a stroke. Amy was an eager and supportive public defender, who vowed to interview every single witness and believed in Jamie's innocence. The State's Attorney objected to her representation because she had previously twice represented a jail house informant testifying against Jamie, Ed Palumbo, for an armed robbery and residential burglary. Frank Picl was brought on the defense counsel team in April 2000, to help Patrick Riley, as he was also death penalty qualified.

Riley sat in on Jamie's co defendant, Susan Claycomb's trial. He was paid thousands of dollars to observe. During Jamie's trial, he left out critical witnesses and issues that got her acquitted. Frank's investigator interviewed one person, and no critical crime scene witnesses.

During this time, Jamie wrote numerous letters to the judge expressing his concern that his counsel was not prepared. A hearing was held on December 20, 2000, and he asked that his trial be continued. The judge questioned Picl and Riley, who stated that they were prepared to go forward. The judge denied Jamie's request for a continuance.

The trial began in January 2, 2001 and lasted for nine days. In all, the state called forty-three witnesses, and the defense called fifteen. The defense failed to comply with discovery which limited their ability to call witnesses, failed to make critical objections at trial, and failed to preserve issues for appeal.

On January 16, 2001, after deliberating for two days, the jury found Jamie guilty of first degree murder.

POST-CONVICTION

SOURCES:

Snow Letter to Judge Bernardi, 1/21/2001
Petition for Post Conviction Relief, Pro Se, 1/2/2008
Federal Habeas Corpus, No. 13 C 3947, 2/05/2016

After the conviction, but before sentencing, Jamie contacted the judge to request Picl and Riley be removed before sentencing. He reported they were unprepared for trial, had failed to call important witnesses, and that Picl had been intoxicated on a number of occasions. They claimed Jamie was a difficult client and asked to be withdrawn from the case.

The judge ruled that counsel would continue to represent Jamie through sentencing. He found that the defense spent hundreds of hours preparing for trial, excellently cross examined every state's witness, and explained their strategic reasons for not calling others. The judge stated that there was no negligence or impairment by Picl.

Jamie was sentenced to natural life in prison without the possibility of parole on May 10, 2001. He has since been incarcerated in the Illinois Department of Corrections.

APPEALS

SOURCES:

Petition for Post-Conviction Relief, Pro Se, 1/2/2008
Amended Petition Post-Conviction Relief, 1/27/2010
Federal Writ of Habeas Corpus, No. 13 C 3947, 2/5/2016
Petitioner's Reply Brief In Support of Petition for Writ of Habeas Corpus,
No. 13 CV 3947, 6/3/2016
Order Denying Federal Writ of Habeas Corpus, No. 13 CV 3947, 12/20/2016
US Court of Appeals Decision Affirming Denial of Federal Writ of Habeas Corpus,
No. 17-1113, 1/25/2018

Jamie continued to file appeals for ineffective assistance of counsel, until the Exoneration Project (EP) began his representation in 2008. The EP filed an amended petition in 2010, citing new evidence, noting that in 2006, Picl plead guilty to Financial Exploitation of an Elderly Person and had subsequently been disbarred. He was sentenced to ten years in prison. Evidence from his own sentencing hearing stated that he suffered from mental illness, a gambling addiction, and alcoholism, that affected his professional work since 1999.

Specifically, the EP cited that Jamie was denied effective assistance of counsel under the Sixth and Fourteenth Amendments because his trial counsel:

a) a. failed to use Jeffery Pelo's interview transcript, the police reports concerning Danny Martinez, and testimony from Dennis Hendricks and William Hendricks as guides to elicit testimony from Pelo and to discredit Martinez's testimony that Mr. Snow came out of the gas station;

- b) failed to subpoena the police radio tapes, which support Pelo's version of events and which, considered with Pelo and Officer Paul Williams' testimony, establish that Martinez's testimony is incredible;
- c) c. failed to call Thomas Sanders, whose testimony was readily available, to discredit Carlos Luna's "identification" of Mr. Snow;
- d) failed to interview Steve Scheel, who told investigator Larry Biela that if counsel had spoken to him in advance, he would have told them that he had been provided information by the prosecution and been pressured to testify falsely against Mr. Snow;
- e) failed to file a motion to suppress arguing that Danny Martinez's identification of Mr. Snow was unreliable and the product of inherently suggestive tactics;
- f) failed to investigate the report from Randall Howard that someone on the jury knew Mr. Snow and had a reason to have animus against him;
- g) failed to investigate Karen Strong's reasons for providing false testimony against Mr. Snow;
- h) failed to investigate available evidence that witnesses in this case received deals in exchange for their testimony, and to use that evidence to impeach those witnesses. Counsel also failed to develop evidence that would have impeached the witnesses who claimed Mr. Snow confessed to them while they were incarcerated together;
- i) failed to investigate and present evidence that would have contradicted Dawn Roberts' testimony about Mr. Snow making a toast to William Little after his death;
- j) failed to use the testimony of Charlie Crowe to impeach Martinez by explaining how many other people he'd identified for this crime, and clearly explaining that when given the perfect opportunity to identify Mr. Snow as the person he claimed he saw, he was unable to do so;
- k) failed to expose evidence that the victim's mother had been contacting the key witness in this case, Danny Martinez, possibly at the behest, direction, or with the consent of the Bloomington Police Department;
- l) failed to use available discovery to impeach testimony by Detectives Thomas and Bernardini, who had falsely implied that Mr. Snow had admitted some involvement in the crime;
- m) failed to investigate and present evidence from Darren Smart impeaching Mary Jane Burns;
- n) Frank Picl was an alcoholic, intoxicated at the time of trial and during pretrial proceedings, and was beset by significant personal and professional problems which caused him to provide objectively unreasonable representation to Mr. Snow.

In April 2011, the circuit court denied the postconviction petition.

In January 2012, the appellate court affirmed the circuit court

In May 2012, the Illinois Supreme Court denied the petition for leave to appeal.

In May 2013, an instant petition was filed, and stayed until 2015, while other post-conviction petitions were decided.

In February 2016 Judge Bucklo ruled on Jamie's Federal Habeas claims and responded to these ineffective assistance of counsel claims. She ruled that alcoholism, mental illness, and other conditions are not enough to show ineffective assistance of counsel that violates the 6th amendment, without demonstrating deficient performance resulting from these conditions, even though Picl was inebriated at certain times during the trial. She ruled that Jamie had a second attorney, Riley, who should have corrected Picl, and that suffering a stroke does not make him ineffective. She said that these issues added "nothing to the other allegations of ineffectiveness."

In June 2016, The EP responded to this ruling, argued that the courts have ignored the veracity of Jamie's claims, and recommended he be given a new trial or an evidentiary hearing. They requested the court grant a certificate of appealability.

In 2016, five days before Christmas, Judge Bucklo responded, and stated that Jamie "failed to show that any of his counsel's purported errors amounted to ineffective assistance." She denied his request to issue a certificate of appealability.

In December 2018, the Federal Supreme Court denied Jamie's writ of habeas corpus. The court argued that Jamie did not identify specific instances where Picl made errors during his trial that would have changed the outcome. The court ruled that the cumulative evidence does not sufficiently demonstrate a constitutional violation and Jamie is not entitled to their relief.

Public Records, Illinois Attorney Registration and Disciplinary Commission

Complaint, Neglect of Criminal Appeal, 8/26/2002

Thomas Rice was convicted in 1996 of first degree murder. Picl was his attorney in 1997 and agreed represent him in post -conviction hearings. He was paid \$10,000 by Rice's family. Between May and August 2001, Picl filed five requests for extension of time to file his briefs. He previously missed a July deadline and filed nothing. By August, the court was not willing to grant his fifth request. Rice's appeals were dismissed. Picl did not file a dismissal appeal or notify Rice of the dismissal. He did not respond to Rice's status inquires. Rice represented himself pro se in October 2001, until the Illinois Supreme Court reinstated his appeals in April of 2002. The disciplinary commission cites Picl engaged in misconduct for failing to act with reasonable diligence, failing to keep his client informed or allow him to make informed decisions, failing to expedite litigation, and engaging in prejudicial and defeating conduct against the administration of justice.

Picl cited the breakdown of his twenty year marriage in 1999 and the 2001 World Trade Center attacks where is daughter lived in NYC as mitigating factors. He refunded 25% of Rice's payment and agreed to never represent an individual at appellate level again. On May 22, 2003, Picl was officially censured for incompetently representing a defendant in post-conviction appeals.

Statement of Charges and Discipline, 11/17/2006

On March 31, 2005, Picl was charged with three counts of financial exploitation of an elderly person and three counts of theft, and plead guilty, but mentally ill, on June 28, 2006.

Between January 2003 and March 2005, Picl stole \$278,200 from his 85 year old elderly client who he had power of attorney. He used the money for personal reasons and gambling.

The disciplinary commission cites Picl engaged in misconduct by committing crimes, fraud, and deceit, and conduct prejudicial and defeating to the administration of justice.

He was disbarred on November 17, 2006.

**Sentencing Hearing, Tenth Judicial Circuit of the State of Illinois, Peroria County, IL
9/25/06 – 9/27/06**

On September 27, 2006, Picl was sentenced to 10 years in prison to three counts of theft and three counts of financial exploitation of the elderly. He plead guilty and waived his mentally ill basis. He was facing up to 30 years in prison for theft with due to his deception of an elderly person. His sentencing hearing lasted three days.

He called twelve witnesses to the testify on his behalf. An expert witness psychiatrist testified that he treated Picl, who he claims was a chronic gambler and an alcoholic, suffering from mental disorders such as attention deficit disorder, major depression, and bipolar II disorder. Picl also had personality disorders such as obsessive compulsive disorder and narcissistic personality disorder. Picl was not always compliant with his treatment and lived chaotic lifestyles. His poorly controlled bipolar disorder contributed to his poor judgement. He relented under cross examination that Picl could have continued to work if he took medication, went to counseling, and stopped his alcoholism and gambling. He agreed the Picl knew the difference between right and wrong when he cashed his client's stolen checks, and being an alcoholic does not make you steal.

Picl spoke in length before sentencing. He said he represented thousands of guilty clients, where everyone knew they were factually guilty, but reveled in cases where the verdict did not match the facts, because his persuasive powers, charisma, and agile mind worked over the system. He said he was delusional and struggled to get through every day as a gambling addict. He was undisciplined at work. He became an alcoholic when his wife left him due to his behavior. He said he closed his office and worked from home because he could not stand to see his undone work. He then only went to trial or the tavern, and people were puzzled how he could still do a good job arguing to the juries, and it made him proud. He said he died inside when he started taking his clients money, and was relieved when he was caught. He said he is not a bad man, he is not lazy, his life just went wild. He said he was drinking up to 10 hours a day. He said all he was required to do as a defense attorney was react, and he had been blessed with a quick mind, and he did not need to study. He said everything about his life became a lie, his house of cards came down. He said he has completed treatment programs and will make full restitution. He apologized to the victim, citizens of Peoria, and his family, then thanked his doctors, his attorneys, and the prosecutors. He said he did not have a drink in the past 18 months.

Judge Kouri began his sentencing speech and reported he received 60 letters of support for Picl. Some of the letters from his family moved him. He said this is not a misdemeanor offense and Picl must know what's coming, the price must be paid for his conduct. He said he does not see evil when he looks into his eyes, he sees demons. The demons resulted in unlawful conduct, but they are no excuse. He does not think Picl will commit another crime, and he does not believe he can make full restitution, since he owes an estimated \$400,000 in debts. He said that Picl did a lot of good out in the world though, and he was moved by letters and testimony. He said the many people that were found innocent thanks to him would probably not been found innocent with a lesser attorney. He sentenced him to 10 years with time served to be applied, and recommended him for minimal security prison.