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# A Case of Innocence, With Missteps Seemingly at Every Turn

About New York

By JIM DWYER    JAN. 23, 2014

It began in September 2005 with a man in a hospital bed, just out of a coma but floating on a lake of morphine for the pain from the bullets he took in the stomach during a push-in robbery. A detective asked the man to check his cellphone records because the robbers had made some calls before he was shot.

The victim pointed to a number he didn't recognize.

In fact, it was identical to a number the man himself called regularly, except that the last two digits were transposed. That is: It was a misdial by the victim, not a call by a criminal. But it set off a hunt that led, ultimately, to 40-year prison terms for two young women who had nothing to do with the crime.

Unwinding that calamity took every bit of eight years and four months. Last Thursday, a judge ordered the release from state prison of Latisha Johnson, who turned 27 on Saturday, and Malisha Blyden, 32. Bronx prosecutors agreed that a

Like plane crashes that are almost always caused by multiple failures, the case of Ms. Johnson and Ms. Blyden is a study in a cascade of mistakes, each one reflecting what came before and forcing what followed.

The victim had picked up two young women — neither of them Ms. Johnson nor Ms. Blyden — whom he had met on the street in Harlem and taken to his apartment on Sherman Avenue in the Bronx, where they partied the night away. The women returned the next day, at some point using the man's telephone to make some calls. On a third visit, around 3 a.m., they returned with several men who pushed into the apartment. The victim, George Peseo, was duct-taped, shot twice and dumped in a closet.

Three weeks later, he surfaced from a coma and picked out the unrecognized phone number. It belonged to a man named Tyrone Johnson, the father of Ms. Johnson. Detectives showed Mr. Peseo an array of pictures, and he picked Ms. Johnson. The procedure was not recorded, nor was it administered by a neutral party, steps recommended by social scientists to avoid inadvertent suggestiveness, but which are rarely, if ever, practiced in New York City.

When detectives could not find Ms. Johnson, they filed a “wanted” card. Not long after that, Ms. Johnson and Ms. Blyden were pulled off a train by a transit patrol officer for playing music too loudly. A check of their identification led to the wanted card for Ms. Johnson. And because Ms. Blyden resembled the description of the accomplice, she, too, was taken into custody.

After 22 hours of sporadic interrogation, also not recorded, Ms. Johnson wrote a statement admitting to the crime, but filled with erroneous details apparently provided by the detectives — among them, implicating two men whose numbers also happened to be on the victim's phone. (As it happened, both men were cleared before trial, though one was held at Rikers Island for a year before he was freed.)

Neighbors who had witnessed some of the crime were shown photographs of the two women — this time, not in an array. The witnesses also confirmed that those were the women. When this procedure was challenged as blatantly suggestive, the judge permitted it under an exception to rules that normally would bar such evidence.

The only two people tried for the shooting of Mr. Peseo were the two women. After their convictions, the case was turned over to the Office of the Appellate Defender, where it was flagged for special attention. A senior attorney, Kerry S. Jamieson, dug through the records and, with an investigator and other lawyers, found witnesses who provided them with a road map of how the crime had actually happened, according to Anastasia Heeger, the director of the Reinvestigation Project in the appellate defender's office.

While Ms. Johnson and Ms. Blyden were under indictment, four men — unconnected to them — were arrested in another shooting case, and ultimately pleaded guilty to the shooting of Mr. Peseo.

Ms. Jamieson's investigation led to an apparent female accomplice of the four men. Lawyers for both innocent women presented the new evidence to the Bronx district attorney's office. "To their credit, they took it seriously," Ms. Heeger said. The prosecutors quickly agreed that the convictions should be vacated.

At every step, the case was riddled with what cognitive psychologists called "confirmation bias": The mistaken eyewitness was confirmed by the false confession, which led to more wrong witnesses.

The errors in this case, as in a serious plane crash, are owed the attention of the police, prosecutors and the judiciary. More than two digits in a phone number were misdialed.

"It took three years of my life to take it apart," Ms. Jamieson said.

***Correction: January 23, 2014***

An earlier version of this article misstated the given name of the father of Latisha Johnson. He is Tyrone Johnson, not Leroy.

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