

Ted Bradford in front of the Yakima County jail where he spent six months between his arrest and sentencing; he subsequently spent more than nine years in prison before a judge overturned his guilty conviction last September

At the Innocence Project Northwest, a professor and her law students work to exonerate the wrongly accused

# Finding

Guilty.

THAT LABEL HAS FOLLOWED Ted Bradford for 10 years. It was given to him in 1996 when a Yakima County jury said he was responsible for a brutal rape in Yakima, Washington. It followed him to prisons in Walla Walla, Shelton, Aberdeen and Spokane, where he served nine years and two months behind bars for the crime. And it clung to him after he was released from prison in 2005.

He was a rapist. He was a felon. He was guilty.

It wasn't until last September 12 and 13 that Bradford had an opportunity to shake that label, when the Washington State Court of Appeals ordered a new hearing. On those days, Bradford, 33, arrived at Yakima County Superior Court—an outdated, 40-year-old, three-story building downtown—for a chance to clear his name. While a custody battle waged in a courtroom next door and drivers paid parking tickets at a window downstairs, Bradford, his attorneys—Jacqueline McMurtrie, a law professor at the University of Washington and director of the Innocence Project Northwest, and Felix Luna, a partner at Heller Ehrman in Seattle working on the case pro bono—and a county deputy prosecutor convened in Judge Robert Hackett's courtroom to argue whether or not the judge should deliver a ruling that would establish, according to McMurtrie and Luna, the first postconviction DNA exoneration in Washington state. More simply, it was up to McMurtrie and Luna to prove to Judge Hackett something Bradford had asserted for a decade: He was innocent.

Bradford's mom, siblings, aunts, uncles—even his ex-wife (the mother of his two children)—filled the first two rows of the courtroom to show support. On both days, Bradford arrived early to court, dressed in clean blue jeans and a colored shirt, and sporting a neatly shaved black goatee and buzz haircut. The courtroom environment was staid: a bookcase stretching the length of one wall; two court reporters clicking away on computers; Judge Hackett, a

innocence

By Todd Matthews

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slender man with wire-rimmed glasses, thinning gray hair and tanned skin watching the proceedings intently, pausing to type notes into a laptop.

This hearing was markedly different from Bradford's jury trial. He wasn't worrying about how much time he might have to spend in prison: He'd already served his time. The court had been convened to decide Bradford's guilt in light of new evidence. If he were exonerated, Bradford could clear his criminal record; if not, the state would be comfortable knowing Bradford had gone to prison for a crime he committed.

For Bradford, the drama was high. From his seat behind the defense table, next to McMurtrie and Luna, his face flushed and his body tensed at times as details of the crime, his arrest and the trial were recounted.

On September 29, 1995, an assailant wearing a nylon stocking over his head broke into a Yakima woman's home, handcuffed her, forced a Lone Ranger-style mask over her face (the eyeholes were covered with electrical tape) and proceeded to rape her while her infant child screamed from a crib in a nearby room. Six months later, Bradford was arrested and charged with indecent exposure in an area near the victim's home. While he was held in jail, detectives thought there might be a connection between the rape and his indecent exposure charge.

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Despite his conviction, his confession details never matched details from the crime scene or police report. Bradford said there wasn't a baby in the home; according to the victim, her infant child wailed, and the attacker paused in the middle of the rape to allow her to quiet the child. Bradford said he quickly fled after the rape; the victim said the attacker rifled through her purse afterward and even used a wire hanger to tie her to the baby's crib. The victim claimed her attacker was over 6 feet tall; Bradford stands 5 feet, 7 inches tall. And Bradford's co-workers testified at his trial that he was at work when the assault occurred. In all, more than a dozen details Bradford provided in his confession didn't match evidence collected from the witness and the crime scene.

Bradford had little knowledge of the criminal justice system. A Yakima native and father of two children, his career consisted of manual labor at local manufacturing companies for low pay. At the time of his arrest, Bradford was working at a lumber mill; at the time of his hearing, last September, he was working at a container company repairing and manufacturing pallets.

In 1996, a jury found Bradford guilty and sent him to prison.

During Bradford's hearing last September, an expert witness in interrogation techniques was flown from San Francisco by

wasn't available in 1996. The evidence he found cast doubt on Bradford's guilt. Bradford's DNA was absent from the victim's panties, a coat hanger used to tie the victim, a belt used during the attack and the victim's black jeans. More importantly, the mask placed over the victim's face—a mask presumably prepared by the perpetrator with much precision—didn't contain Bradford's DNA; instead, it contained DNA evidence of a third, unknown person.

"I could not detect through DNA analysis that [Mr. Bradford] contributed any DNA to any evidence," Philip Hodge, the state patrol's forensic scientist, told the judge at the hearing.

Over the past decade, innocence projects—organizations often connected to universities and law schools that work to free wrongly accused inmates—have become a growing part of the criminal justice landscape. According to the Innocence Project at the Benjamin N. Cardozo School of Law in New York City, the first and most well known of these projects, 180 people in the United States have been exonerated thanks to the work of these organizations, including 14 who were at one time on death row.

The notion that innocent people serve time in prison for crimes they didn't commit has received mainstream attention through a number of movies and television

**"Why confess to a crime you didn't commit?" asked McMurtrie during Bradford's hearing. "I've been asking myself that for a long time," he replied. "I didn't know what else to do. I thought for sure the DNA evidence would clear me. I thought the DNA evidence would speak for itself."**

Over a nine-hour period, Bradford was questioned about the earlier rape. He claimed officers provided him one bathroom break, no food and little water during the interrogation. When officers claimed to have DNA evidence that would tie him to the scene, an exhausted and famished Bradford confessed to the crime.

"Why confess to a crime you didn't commit?" asked McMurtrie during Bradford's hearing.

"I've been asking myself that for a long time," he replied, twisting his hands nervously as he sat in the witness stand. He choked up a moment before composing himself. "I didn't know what else to do. I thought for sure the DNA evidence would

McMurtrie and Luna to support the defense's claim that police effectively bullied Bradford into a confession (only the last 38 minutes of the nine-hour interrogation were recorded, when Bradford confessed). And Bradford's chief interrogator, a former detective (now police officer) with the Yakima County Police Department, had a difficult time at the hearing recalling specifics of how Bradford was questioned and eventually confessed.

But the key witness at the hearing was a forensics scientist for the Washington State Patrol crime lab who told the judge how he conducted a DNA test in 2004 on evidence originally collected at the crime scene. The technology used in that test

shows. *Paradise Lost*, a 1996 documentary about the so-called West Memphis Three, is a film that people associated with innocence projects often point to as an example of a failure in the criminal justice system and a reason why innocence projects are important. In that film, three teenagers from West Memphis, Arkansas, are sentenced to life in prison (one receives the death penalty) for the brutal mutilation and murders of three boys in the backwoods of Arkansas—even though no physical evidence tied the defendants to the scene. The three men are still in prison. A grassroots organization called Free the West Memphis Three has provided legal resources to the trio with the help of



Jacqueline McMurtrie, center, with Matt Ficaglia and Theresa Connor, 2006 law school grads who worked on the Bradford case. They're standing outside the William H. Gates Hall at the UW

celebrities such as Eddie Vedder, Tom Waits, Henry Rollins, Winona Ryder, Steve Earle and Jack Black.

In 2005, an Oscar-nominated documentary entitled *After Innocence* followed several wrongly convicted men freed by DNA evidence after many years in prison, showing some of the difficulties these people face as they reenter society. And a short-lived ABC television show last year, *In Justice*, followed attorneys at a fictional innocence project as they freed wrongly accused individuals.

"[In the TV show], they would get a case and, at the end of the hour, the person would be released," says McMurtrie, shaking her head, amused by such swift justice. Speaking just weeks before Bradford's hearing from her office inside the William H. Gates Hall, home to the law school on the UW campus, she notes, "It's much less glamorous than it appears on television. First of all, it's really difficult to overturn a conviction. Courts are very reluctant to overturn convictions. The work on cases can go on for years and years. And the likelihood that students here are going to see somebody walk out of prison during their year [here] is not good. It's probably not going to happen."

A former staff attorney and supervising attorney for the Seattle-King County Public

Defender Association who joined the UW School of Law in 1989, McMurtrie remembers being moved by the issue after watching a 1997 PBS documentary entitled *What Jennifer Saw*. In the documentary, an inmate named Ronald Cotton is exonerated for the rape of Jennifer Thompson and released from prison, with help from innocence projects at the University of North Carolina and Cardozo School of Law. "The amazing thing about this case was that there was nobody that actually did anything wrong in the case," she recalls. "The police did a good job investigating the case. There wasn't misconduct. Cotton had a great trial attorney. But he was convicted and served a substantial amount of time in prison before post-conviction DNA testing exonerated him. It not only exonerated him, but it identified the true perpetrator."

The documentary prompted McMurtrie to look into creating an innocence project in the Pacific Northwest. In 1997, over dinner one night with Barry C. Scheck, co-founder of the Innocence Project at the Cardozo School of Law; attorney John Rapp; and DNA expert Fred Leatherman, McMurtrie decided to start a project here with their help. The upstart program launched by McMurtrie, Rapp and

Leatherman was truly grassroots for its first few years. It was little known by inmates and handled very few cases. "But that all changed when we got involved in the Wenatchee sex investigation," says McMurtrie.

In 1994, after a wide-ranging and extensive investigation, a police detective in Wenatchee arrested parents, foster parents, parishioners and the pastor of a local church for the rape and molestation of 60 children in Wenatchee. Forty-three people were arrested in a case that received national attention. Eventually, 26 were convicted and sent to prison. But in 1997, an investigative series by the *Seattle Post-Intelligencer* revealed misconduct by police, judges, defense attorneys and state child services workers.

The case troubled McMurtrie.

Through the Innocence Project, she gathered 40 lawyers and more than 25 law students to examine the cases and represent 13 people in prison. McMurtrie and her colleagues found that many defendants were illiterate or developmentally disabled, with poor English skills. They also found evidence that many defendants were pressured into pleading guilty by a Wenatchee police detective. Between 1997 and 2000, McMurtrie and her team of

