



E10 Where Eyewitness Identifications Go Wrong and Where We Go From Here: Case Study of Uriah Courtney

Alissa L. Bjerkhoel, JD, 225 Cedar Street, San Diego, CA 92101*

After attending this presentation, attendees will have a brief overview of the history of eyewitness testimony, its scientific validity, and cases where an eyewitness got it wrong. This presentation will use the case example of Uriah Courtney, whose conviction was based upon a bad identification.

This presentation will impact the forensic science community by serving to identify the very serious and continued implications of flawed eyewitness evidence as well as providing those in law enforcement and the legal community with guidelines to minimize misidentifications and prevent wrongful convictions.

Eyewitness identifications are the single leading cause of wrongful convictions.¹ There is almost nothing more convincing than a live human being who takes the stand, points a finger at the defendant, and says, "That's the one!"² Yet decades of research have proven that eyewitness identifications are often unreliable. Many times, the identifications are unreliable because of the methods traditionally employed by law enforcement when obtaining identifications. For example, studies show an increase in misidentifications where the investigating officer administers the identification procedure.^{3,4}

The exonerations of hundreds of American citizens prove, without a doubt, stranger eyewitness identifications are far from perfect. Of the nation's 311 documented DNA exonerations, 221 (or 71%) involved eyewitness misidentification.⁵ Roughly 35% of those exonerations involved misidentifications by more than one eyewitness.⁶ Between January and June of 2013 alone, DNA has proved the innocence of Garry Diamond, Joseph Frey, Jerry Jenkins, Robert Nelson, Bennie Starks, and Johnnie Williams. The most recent exoneration — Uriah Courtney — is a classic misidentification case.

November 24, 2004, would turn out to be no ordinary day for 16-year-old Erika. As she walked to her friend's house in broad daylight, a man came up from behind her, grabbed her, and told her not to scream. The man lifted her skirt and ripped her underwear. Erika fought vigorously with her attacker and broke free. The man caught her again, grabbed her, and threw her down in some bushes near a stoplight. There, he started to sexually assault her, but she eventually managed to escape into a passing car. She turned her clothing over to police and identified Uriah from a six-pick lineup as her attacker. The Sheriff's Department performed DNA testing on the victim's fingernail scrapings and her underwear, but did not obtain any meaningful results. Uriah was subsequently convicted and sentenced to life in prison.

The California Innocence Project started investigating Uriah's case and, due to recent understandings about the reliability of eyewitness identifications, garnished the cooperation of the San Diego District Attorney's Office. The victim's clothing was re-submitted for DNA testing and that testing revealed a male profile. That male profile was run through CODIS and a match was obtained to a local man who lived near the crime scene and had a striking resemblance to Uriah. Based on this new evidence, the parties agreed that Uriah should be freed.

In the United States, "[t]he vagaries of eyewitness identification are well known and the annals of criminal law are rife with instances of mistaken identification."⁷ The use of eyewitness identification evidence remains a crucial, yet troublesome, part of our criminal justice system. That being said, studies have shown ways in which errors can be minimized. Suggestions will be discussed.

References:

1. Rob Warden. How Mistaken and Perjured Eyewitness Identification Testimony Put 46 Innocent Americans on Death Row. May 2, 2001.
2. *Watkins v. Sowders* (1979) 449 U.S. 341, 352 [101 S.Ct. 654, 66 L.Ed.2d 549].
3. California Commission on the Fair Administration of Justice. Report and Recommendations Regarding Eyewitness Identification Procedures. April 13, 2006.
4. John Wilkens. Reforms Aim to Reduce Faulty IDs by Eyewitnesses. San Diego Union Tribune. July 14, 2013.
5. National Registry of Exonerations. Exonerations in the United States, 1989-2012. 2012, Ann Arbor, MI & Chicago, IL.
6. Brandon L. Garrett. Convicting the Innocent: Where Criminal Prosecutions Go Wrong, p. 279. 2011.
7. *United States v. Wade* (1967) 388 U.S. 218, 228 [87 S.Ct. 1926, 18 L.Ed.2d 1149].

Eyewitness Identifications, Post-Conviction DNA Testing, Wrongful Conviction