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## G58 The Implications of a Guilty Verdict for an Innocent Defendant

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After attending this presentation, attendees will better understand the difficulties facing an innocent defendant in establishing innocence after having been deemed guilty.

This presentation will impact the forensic science community by explaining how a guilty verdict changes the dynamic for a defendant and how difficult it is to reverse a wrongful conviction.

Under the United States criminal justice system, there is (in theory) a presumption of innocence of the accused. What citizens have been told is that they are innocent of the charge until proven guilty. If it has been determined that a case should proceed to trial, the prosecutor is tasked with proving guilt beyond a reasonable doubt; however, the duty of the prosecutor is to seek justice, not merely to convict. It is not (or at least it should not be) incumbent upon a person to prove his or her innocence.

The American legal system, based originally on English common law, is an adversarial system. As such, the parties to the case, the state, and the defendant rely upon their respective advocates, the prosecutor and the defense attorney, to put forth their case. The presentation of evidence is governed by sets of procedural rules as interpreted by the trial judge and some evidence may be proscribed either because of its provenance or because of procedure.

Should a jury return a guilty verdict for a defendant who is, in fact, innocent of the crime with which they have been charged, the path to the truth may be so encumbered that justice is never served. A guilty verdict changes the dynamic for a defendant who is now, in the eyes of the law, the guilty party. Reversing a wrongful conviction is a slow, difficult exercise.

The process is not a simple presentation of facts or recitation of testimony which will result in the exoneration of the innocent. In fact, exculpatory evidence may never be presented at trial and attempts to correct a wrong and present such evidence before the trier of fact might be opposed and thwarted at every turn, post conviction. Additionally, some members of the forensic community may believe that should they, as experts, be presented with additional facts or information regarding a case in which they have testified and should such facts cause them to change their opinion, that they can simply present such revised opinion to the bench, it will be admitted, and justice will be served. It is not so.

When seeking post-conviction relief on the grounds of either manifest injustice or absolute innocence, the burden of proof is now tasked to the convicted individual. He or she must argue that a due process violation occurred or, in states which allow post-trial relief on the basis of newly discovered evidence, that said evidence “makes a different result probable on retrial.”<sup>1</sup> Without considerable resources on the other side of the prison walls (in the form of finances and earnest and dogged legal representation), it is not unreasonable to suggest that this task might well be beyond the means of most convicted individuals.

### Reference:

1. Fabricant, C., Innocence Project, Inc., Memo on litigating post conviction cases.

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### Guilty Verdict, Wrongful Conviction, Post-Conviction Relief