

Armstrong Gets New Trial In 1981 Rape, Murder Case

Court Action May Make It Easier For Inmates To Get New Trials

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The historically high hurdle Wisconsin inmates with new evidence must overcome before earning a new trial was lowered a bit Tuesday.

The state Supreme Court reversed Ralph Armstrong's 1981 conviction in the grisly rape and murder of a UW-Madison student.

It's among the oldest convictions in the nation overturned using new DNA evidence, said Armstrong's attorneys, Jerome Buting of Brookfield and Barry Scheck of The Innocence Project in New York.

Armstrong was 27 when he was arrested in June 1980 and later charged with the murder of his friend, Charise Kamps, 19.

Kamps spent part of the evening of June 23 with Armstrong and other friends. A friend and coworker at the Pipefitter, Jane May -- also Armstrong's fiancée -- went to Kamps' apartment at 134 W. Gorham St. to check on her in the early afternoon after her phone had been busy overnight.

May found her mutilated body face down on the bed with a bathrobe tie draped across her back. A medical examiner said she likely died between midnight and 3 a.m. June 24. She had been strangled and repeatedly raped.

Armstrong, a UW-Madison graduate student at the time of Kamps' murder, was on parole from New Mexico after being released from prison in June 1979 on a sodomy conviction and four rape convictions.

He admitted at the murder trial he had spent some time alone with Kamps the evening she died but has maintained his innocence.

The evidence in question is two hairs found on the robe tie and semen on the pink bathrobe itself. In 1991 and 2001, after new ways to pinpoint DNA were discovered, analyses found the semen and the hair were not Armstrong's. Some of the semen was from Kamps' fiancée. The hairs are from neither Kamps nor the fiancée.

Using new evidence

In May 2004, the 4th District Court of Appeals upheld a ruling by Dane County Circuit Judge Patrick Fiedler, saying the DNA findings alone wouldn't be enough to cause a new jury to discredit circumstantial and eyewitness evidence against Armstrong.

"It is easily possible that a new jury could reach a different verdict, but Armstrong must prove more than a possibility," the court wrote.

But on Tuesday, the state Supreme Court overturned Armstrong's conviction in a 4-3 ruling.

State courts have historically required inmates seeking new trials using new evidence -- including DNA -- to show "clear and convincing evidence of a reasonable probability" that a jury would now find them innocent, said John Pray, co-director of the Wisconsin Innocence Project.

According to Pray, the court's decision means the evidence of innocence need not be "clear and convincing."

The Wisconsin Innocence Project did not represent Armstrong but did file a supporting brief with the court. Pray said the group's brief does not purport Armstrong's innocence, only that the new evidence indicates that his first trial was not fair.

In most of Wisconsin's overturned cases, such as those of Steven Avery and Fredric Saecker -- both men were falsely convicted of rape -- DNA evidence proved they were innocent of the crime and, in Avery's case, identified another person who likely was the rapist, Pray said.

But in this case, the justices said that the semen and hairs presented as possibly Armstrong's was a strong enough factor in the case to convince a jury he was guilty. The three dissenting justices said the evidence was only a piece of a larger pool of evidence which would still render Armstrong guilty.

Kamps' family also believes Armstrong will be found guilty, despite the new DNA evidence.

"We're disappointed," said the slain woman's father, Kenneth Kamps, 71, of Platteville about the court's decision. "I guess we have to respect the judges' decision. It's unfortunate that they couldn't have relied on his prior record."

Assistant Attorney General Sally Wellman has maintained that even in light of the DNA evidence, the state still has a strong case based on witness Riccie Orebia, a neighbor of Kamps, who said he saw Armstrong run between Kamps' apartment and a parked car three times the night of the murder.

She also listed other evidence against Armstrong. Armstrong had loaned Kamps \$400, but police did not find it in her apartment. Police later learned Armstrong made a \$350 bank deposit the day after Kamps' murder.

Also, Armstrong's alibi for the time of the murder was "completely demolished" during the trial, Wellman said. There also was fingerprint evidence to show that Armstrong was in the apartment, though he had never been there before that night. Police also found blood under Armstrong's fingernails when they arrested him, although not enough was found to allow further testing.

Pray said a new trial would be difficult for everyone involved given the time that has elapsed.

"But I think the court decided that despite those things, it's of paramount importance in the criminal justice system that we get it right," he said. "And if we have reasonable doubt that we

didn't get it right, then we have to do it again."

What's next

Armstrong, now 52, is at Columbia Correctional Institution in Portage. He's been in prison since March 27, 1981, when Dane County Circuit Court Judge Michael Torphy sentenced him to life plus 16 years.

He won't be released until the Department of Corrections receives an order from the court notifying them of a change in Armstrong's status -- probably in about a month, said John Dipko, department spokesman.

Even then, it's likely he would be taken to Dane County Jail to await a new trial, attorney Buting said.

Dane County District Attorney Brian Blanchard is not sure yet if he will retry Armstrong.

"Our job now is to carefully review the evidence and to see what a retrial would look like," Blanchard said. "It's currently our intent to retry him, but that's subject to the evidence and what the applicable law would be. It's a very unusual situation. It's a very old case."

Blanchard also didn't know if Armstrong would be extradited to New Mexico for possibly violating his parole, but his office has been in touch with parole officers there.

Buting spoke to Armstrong on the phone Tuesday after the Supreme Court decision came out.

"He was just overwhelmed. Emotionally overwhelmed. Finally after 25 years of fighting for this • it's hard to sink in."

His client knows the decision was not a finding of innocence.

"Technically yes, but really we think his case should be viewed that way," Buting said. "The only difference in this case is they haven't matched the DNA yet with the real perpetrator, but only because they aren't trying. I hope the community will put some pressure on the police to start looking ... at other suspects."

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