

STATE OF NEW YORK  
COURT OF CLAIMS

CARLTON LEWIS,  
Claimant,

-against-

THE STATE OF NEW YORK,  
Defendant.

Claim No. \_\_\_\_\_

**VERIFIED CLAIM**

Claimant CARLTON LEWIS, by and through his counsel, Emery Celli Brinckerhoff Abady Ward & Maazel LLP and Cambareri & Brenneck, hereby makes a claim against the State of New York for money damages pursuant to Court of Claims Act Section 8-b. In support of his claim, Mr. Lewis alleges upon knowledge as to himself, and otherwise upon information and belief, as follows:

**PRELIMINARY STATEMENT**

1. Carlton Lewis was wrongfully convicted and imprisoned at the age of 23 for a murder he did not commit. Mr. Lewis spent over 31 years in prison, deprived of his liberty and denied his fundamental right to live freely. For three decades, he maintained his innocence—from the initial investigation, through two trials and two appeals, while incarcerated, and after release on parole. In August 2023, newly discovered DNA evidence proved that Mr. Lewis was innocent, and his conviction has been vacated and his indictment dismissed.

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2. On February 20, 1990, Mr. Lewis was wrongfully charged and arrested for the murder of Cheryl Coleman in Syracuse, New York. Ms. Coleman had been beaten repeatedly on the head and died from blunt force trauma two weeks earlier, on February 6, 1990.

3. In November 1990, after trial, a jury found Mr. Lewis guilty of one count of Murder in the Second Degree, and he was sentenced to 20 years to life in prison. Mr. Lewis's conviction was reversed on appeal and the judgment was remanded for a new trial. At a second trial, Mr. Lewis was again found guilty of one count of Murder in the Second Degree. On October 27, 1992, Mr. Lewis was sentenced to 20 years to life in prison.

4. Mr. Lewis maintained his innocence for over three decades, seeking post-conviction relief and requesting additional forensic testing that would prove his innocence.

5. Additional DNA testing was eventually conducted at Mr. Lewis's insistence, which showed that Mr. Lewis was innocent of Ms. Coleman's murder.

6. On August 10, 2023, based on the newly discovered DNA evidence establishing Mr. Lewis's innocence, Judge Theodore Limpert of the Onondaga County Supreme Court vacated Mr. Lewis's conviction and dismissed the indictment. The Order Vacating the Conviction was Amended on March 29, 2024, to clarify that the conviction was vacated pursuant to CPL 440.1(1)(g) and (g-1).

7. Mr. Lewis's liberty was denied for more than 31 years of wrongful imprisonment and 21 months on parole. Even now, after having been exonerated, Mr. Lewis continues to suffer financially, mentally, and emotionally from the toll of his unjust conviction and incarceration.

8. Nothing can restore to Mr. Lewis the life he had before his wrongful conviction and incarceration. Nothing can give Mr. Lewis back the years he lost—the years he spent unable to form a family, unable to spend time with his wife before her death, unable to spend time with his mother, siblings, nieces, and nephews, unable to hold gainful employment, and unable to enjoy life as a free man.

9. Mr. Lewis can establish by clear and convincing evidence that he committed none of the acts attributed to him in the indictment, that he is actually innocent of the crime for which he was convicted, and that he did not by his own actions bring about his own conviction. He is due substantial damages from the State of New York under Section 8-b.

### **PARTIES AND PROCEDURAL HISTORY**

10. Claimant Carlton Lewis is a citizen of the State of New York, residing in Syracuse, New York. All correspondence regarding this claim can be sent to Mr. Lewis's attorneys: Emery Celli Brinckerhoff Abady Ward & Maazel LLP, 600 Fifth Avenue, 10<sup>th</sup> Floor, New York, NY 10020.

11. Mr. Lewis was indicted for one count of Murder in the Second Degree, in violation of New York Penal Law Section 125.25[1], and one count of Criminal Possession of a Weapon in the Fourth Degree, in violation of New York Penal Law Section 265.01[2], on April 27, 1990. (Exhibit A; Certificate of Indictment and Indictment Sheet).

12. Mr. Lewis was tried before a jury with a co-defendant on November 8 through November 16, 1990. The jury found Mr. Lewis guilty of one count of Murder in the Second Degree and failed to reach a verdict on the count of Criminal Possession of a Weapon.

13. On December 5, 1990, Mr. Lewis was sentenced to 20 years to life in prison by Judge Patrick J. Cunningham.

14. On appeal, the Appellate Division, Fourth Department, reversed and remanded the judgment for a new trial, and vacated the Criminal Possession of a Weapon count. (Exhibit B; Order and Decision, *People v Lewis*, 182 AD2d 1093 [4th Dept 1992]).

15. A second trial was held on October 14 through October 19, 1992. A jury found Mr. Lewis guilty of Murder in the Second Degree. (Exhibit C; Verdict and Trial Transcript). On

October 27, 1992, Judge Patrick J. Cunningham sentenced Mr. Lewis to 20 years to life in prison. (Exhibit D; Sentencing Record and Sentencing Minutes).

16. Mr. Lewis was innocent, but he served over 31 years in prison and was on parole for over 21 months, all for a crime he did not commit. (Exhibit E; NYDOC Record of Time Served).

17. On March 28, 2023, Mr. Lewis moved to vacate his conviction pursuant to Criminal Procedure Law 440.10(1)(g-1) based on newly discovered forensic DNA evidence that proves his innocence.

18. On August 10, 2023, Judge Theodore Limpert granted Mr. Lewis's Motion to Vacate the Conviction and Dismiss the Indictment under CPL 440.10(1)(g-1), vacating his conviction and dismissing indictment No. 90-399-1. (Exhibit F; Order Vacating Conviction and Dismissing Indictment).

19. The Order was subsequently amended on March 29, 2024, to reflect that Mr. Lewis's conviction was vacated and the indictment dismissed pursuant to CPL 440.10(1)(g) and (g-1). (Exhibit G; Amended Order Vacating Conviction and Dismissing Indictment).

## **FACTUAL BACKGROUND**

### **I. THE UNDERLYING CRIMINAL OFFENSE, THE SYRACUSE POLICE DEPARTMENT'S INVESTIGATION, AND CLAIMANT'S TRIALS**

20. On February 6, 1990, a woman named Cheryl Coleman was murdered in an unoccupied apartment at 2862 South Salina Street in Syracuse, New York. The Onondaga County Medical Examiner concluded that Ms. Coleman died of blunt force trauma to the head and neck after being beaten with a two-by-four piece of wood.

21. The medical examiner collected a sexual assault evidence kit from Ms. Coleman's body. Semen samples were recovered from the sexual assault kit vaginal smear and vaginal



swab from Ms. Coleman's pants.

22. The Syracuse Police Department ("SPD") recovered a blood smear from the hallway wall, hair samples from the scene, and latent fingerprints from various places in the apartment, including fingerprints from the two-by-four piece of wood.

23. After interviewing dozens of potential suspects seen with Ms. Coleman the night that she was murdered, the Syracuse Police Department ("SPD") was repeatedly directed to three individuals as potential suspects, none of whom was Mr. Lewis. Mr. Lewis had an alibi for the night in question: he was at home with his wife. However, disregarding those facts, SPD targeted Mr. Lewis as a suspect.

24. Based solely on conflicting witness statements, SPD investigators interrogated Mr. Lewis in the middle of the night on February 19, 1990. The SPD's interrogation lasted from approximately 12:30am until after 10am the next morning. Mr. Lewis was only 23 years of age. He was also illiterate and unable to read.

25. The SPD investigators manufactured a statement regarding Mr. Lewis's presence at the crime scene and coerced him into signing it, although Mr. Lewis could not read it.

26. Mr. Lewis was in an interrogation room, without an attorney present, with three different investigators in the middle of the night. These investigators used coercive interrogation tactics against him, including threatening Mr. Lewis and claiming they knew he was lying.

27. The statement elicited from Mr. Lewis while he was in SPD custody, in which he falsely stated he had been present at the scene of the incident, was involuntarily made and the result of unlawful police coercion. SPD investigators used psychological coercion calculated to force and manipulate Mr. Lewis into making a statement that they manufactured and knew was false.

28. SPD investigators then obtained a statement from 16-year-old Willie McKee Jr. McKee admitted that he had murdered Ms. Coleman but, in exchange for a lighter sentence, McKee falsely implicated Mr. Lewis in the crime.

29. On February 20, 1990, Mr. Lewis was placed under arrest for the murder of Ms. Coleman. Mr. Lewis was tried by a jury as a co-defendant with another individual in November 1990.

30. Prior to the trial, the Onondaga County District Attorney's Office extended a plea agreement to Mr. Lewis. In exchange for a guilty plea, Mr. Lewis was offered an indeterminate 5 to 15-year sentence. Mr. Lewis refused this agreement and maintained that he was innocent.

31. On November 16, 1990, the jury found Mr. Lewis guilty of Murder in the Second Degree. On December 5, 1990, Judge Cunningham sentenced Mr. Lewis to 20 years to life in prison.

32. On December 20, 1991, Mr. Lewis appealed. The Appellate Division, Fourth Department reversed and remanded Mr. Lewis's conviction for a new trial.

33. Mr. Lewis was tried a second time as the sole defendant in a three-day jury trial in October 1992. The prosecution's key witness was McKee, who agreed to testify for the prosecution in exchange for pleading guilty to manslaughter, avoiding a possible life sentence.

34. The prosecution's case against Mr. Lewis relied on (1) McKee's perjured testimony given in exchange for a favorable plea deal, (2) the manufactured, coerced, and false statement obtained from Mr. Lewis by the SPD, and (3) a forensic chemist's testimony based on a now-discredited forensic methodology called "hair microscopy."

35. The prosecution had no other physical evidence connecting Mr. Lewis to the crime scene.

36. For example, McKee falsely testified that both Mr. Lewis and another individual struck Ms. Coleman on the head with the two-by-four piece of wood. Yet latent fingerprints collected from the piece of wood were tested, and Mr. Lewis's fingerprints could not be matched to any fingerprints on the wood.

37. McKee had also told investigators that he, along with Mr. Lewis and a third individual, had sexual intercourse with Ms. Coleman before killing her. The SPD collected a sexual assault evidence kit, including semen samples, but the semen was not tested to determine whether any of these individuals were a match.

38. On October 19, 1992, the jury found Mr. Lewis guilty of one count of Murder in the Second Degree, in violation of New York Penal Law Section 125.25(1).

39. Mr. Lewis continued to maintain his innocence at his second sentencing.

40. On October 27, 1992, Judge Cunningham sentenced Mr. Lewis to 20 years to life in prison.

41. The conviction was affirmed on appeal in May 1994. (Exhibit H; Order and Decision, *People v Lewis*, 204 AD2d 1025 [4th Dept 1994]).

## **II. MR. LEWIS MAINTAINED HIS INNOCENCE POST-CONVICTION**

42. Mr. Lewis never stopped asserting his innocence, filing motions and appeals, requesting assistance from numerous attorneys, and denying any involvement in Ms. Coleman's murder.

43. On May 1, 1997, Mr. Lewis filed a writ of habeas corpus challenging his conviction on six grounds, including the fact that the verdict was not supported by the weight of the evidence and that his guilt had not been proven beyond a reasonable doubt.

44. On February 2, 1998, Mr. Lewis moved to vacate his sentence based on an affidavit of a previously unidentified witness who had information about McKee's relationship

with the victim and McKee's motive to commit the crime. His motion was denied on March 17, 1998.

45. Mr. Lewis was denied parole seven times before being released on November 23, 2021.

46. In 2009, Mr. Lewis was denied parole because of his insistence that he was innocent.

47. In 2019, Mr. Lewis was denied parole in part because he "accepted no responsibility" for the crime.

### **III. NEWLY DISCOVERED DNA EVIDENCE PROVES MR. LEWIS'S INNOCENCE**

48. In 2009, Mr. Lewis began working with the Innocence Project.

49. In April 2011, the Innocence Project, on Mr. Lewis's behalf, sought consent from the Onondaga County District Attorney's Office to pursue multiple types of DNA testing on evidence found at the crime scene.

50. The Onondaga County District Attorney's Office agreed to conduct some testing, including DNA testing on the vaginal swabs and fingernail scrapings from the sexual assault kit, and on sperm samples collected from Ms. Coleman's shirt, sweater, and pants. The District Attorney's Office also agreed to examine blood stains collected from the two-by-four piece of wood and the hair samples from the crime scene to determine whether further DNA testing would be effective.

51. On October 27, 2016, the Innocence Project, on behalf of Mr. Lewis, requested further DNA testing on additional probative items.

52. In April 2019, the Innocence Project, on behalf of Mr. Lewis, filed a Motion for Post-Conviction DNA Testing pursuant to CPL 440.30(1-a). The motion requested DNA testing

of evidence from the crime scene using methodologies that were not available at the time of Mr. Lewis's trial, including STR, Y-STR, and mitochondrial DNA testing.

53. As a result of Mr. Lewis's and the Innocence Project's requests, new DNA testing of evidence (referred to hereinafter as the "Newly Discovered DNA Evidence") from the crime scene was eventually conducted on: (1) semen recovered from the vaginal swab and vaginal smear taken of the victim; (2) scrapings taken from the victim's fingernails; (3) hair recovered from the crime scene; (4) sperm recovered from stains on the victim's pants; and (5) blood stains collected from the two-by-four wood used as a weapon in the crime.

54. All the post-conviction DNA testing definitively excluded Mr. Lewis as the source of any DNA collected from the crime scene.

55. The Newly Discovered DNA Evidence proves that Mr. Lewis is innocent of the crime for which he was convicted.

**A. Post-Conviction DNA Testing Proves That Mr. Lewis Was Not a Source of Any DNA Recovered from the Crime Scene**

56. In March 2012, forensic scientists at the Wallie Howard Jr. Center for Forensic Sciences conducted DNA testing of the semen recovered from the vaginal swab and vaginal smear. DNA samples from a male source were also taken from scrapings of Ms. Coleman's fingernails and tested.

57. In April 2012, a search of the New York State DNA Index System revealed a DNA match between the sperm tested from the vaginal swab and McKee's DNA.

58. In September 2012, the results of Y-STR DNA testing definitively ruled out Mr. Lewis as a source of the DNA recovered from the vaginal swab or the scrapings taken from Ms. Coleman's fingernails.

59. In May 2013, the Wallie Howard Jr. Center for Forensic Sciences conducted DNA testing on the sperm recovered from the stains on Ms. Coleman's pants. The lab also conducted DNA testing on the non-sperm fraction of the samples collected from the stains.

60. As a result of the testing, Mr. Lewis was definitively ruled out as a source of the sperm found on Ms. Coleman's pants. Mr. Lewis was also definitely ruled out as a source of the DNA found in the non-sperm fraction samples from the stains.

61. These results all show that McKee was the only source of sperm recovered from the crime scene and that Mr. Lewis did not have sexual intercourse with Ms. Coleman as alleged by McKee.

62. In September 2021, DNA samples collected from bloodstains on the two-by-four piece of wood were tested using Y-STR DNA testing and compared to Mr. Lewis's DNA.

63. As a result of the testing, Mr. Lewis was definitively excluded as a possible donor of DNA in the bloodstains on the wood. This result confirmed the fingerprint analysis that had been conducted prior to Mr. Lewis's conviction, which had excluded Mr. Lewis as the source of latent fingerprints taken from the wood.

**B. Post-Conviction DNA Testing Proves That Mr. Lewis Was Not a Source of Hair Recovered from the Crime Scene**

64. In the years following Mr. Lewis's conviction, the hair microscopy methodology used at Mr. Lewis's trial was discredited.

65. In 2015, the Federal Bureau of Investigation ("FBI") and the Department of Justice ("DOJ") issued a statement about hair microscopy, which acknowledged that the probative value of hair examination was frequently overestimated in criminal trials.

66. In 2016, then-Director of the FBI James Comey sent a letter to state Governors, explaining that the FBI and the DOJ had been reviewing reports and testimony about

microscopic hair comparison. The letter stated that “we have discovered that the examiners made statements that went beyond the limits of science in ways that put more weight on a hair comparison than scientifically appropriate. . . . Unfortunately, in a large number of cases, our examiners made statements that went too far in explaining the significance of hair comparison and could have misled a jury or judge.”

67. The letter encouraged Governors to reach out to prosecutors and request that they review transcripts from any trials in which an FBI hair examiner testified, and to take corrective action if necessary.

68. In 2021, an accredited private laboratory specializing in mitochondrial DNA testing (mtDNA) tested eleven samples of hair recovered from the crime scene. mtDNA has proven useful in testing hair in decades-old cases.

69. Ten out of eleven samples generated results that definitively excluded Mr. Lewis as a source of the hair samples recovered at the crime scene.

70. The Newly Discovered DNA Evidence proves that Mr. Lewis was not the source of any hair samples recovered from the crime scene.

71. All of the results from the post-conviction testing on the Newly Discovered DNA Evidence definitively rule out Mr. Lewis as the source of any DNA or hair collected from the crime scene.

72. All of the results from the post-conviction testing, which could not have been produced by Mr. Lewis at trial even with due diligence on his part, prove that Mr. Lewis is innocent.

#### **CAUSE OF ACTION**

73. Mr. Lewis repeats the allegations in 1 through 72 above and incorporates them here and in all following paragraphs by reference.

74. Mr. Lewis was indicted for and convicted of one count of Murder in the Second Degree and sentenced to 20 years to life in prison.

75. Mr. Lewis was wrongfully imprisoned for over 31 years. His liberty continued to be restricted for over 21 months on parole. He has thus been convicted of one or more felonies against the state, been sentenced to a term of imprisonment, and served all of the sentence imposed.

76. Mr. Lewis's conviction was vacated and his indictment (No. 90-399-1) dismissed, pursuant to CPL 440.10(1)(g) and (g-1) because new DNA evidence was discovered since the entry of a judgment, which could not have been produced by Mr. Lewis at trial even with due diligence on his part, and the evidence is of such a character as to create a reasonable probability that had such evidence been received, the verdict would have been more favorable to Mr. Lewis.

77. Mr. Lewis did not commit the act charged in the indictment and did not by his own conduct cause or bring about his own conviction.

78. The claim is timely under the Court of Claims Act because it is being presented within two years of the vacatur of the conviction and dismissal of the indictment.

#### **SCHEDULE OF DAMAGES**

79. By reason of the foregoing, Mr. Lewis is entitled to reasonable and fair damages, the particulars of which are set forth in the following schedule of damages:

- a. Damages for emotional, physical, and psychological pain and suffering associated with over 31 years of wrongful imprisonment and over 21 months on parole, including but not limited to: mental and emotional suffering, permanent mental and emotional harm, loss of family contact and consortium, loss of personal development, loss of liberty, and loss of reputation.



- b. Damages for past lost wages, future lost wages, plus lost benefits and pensions, all incidental to wrongful incarceration, in an amount to be determined at trial.

WHEREFORE, Claimant respectfully claims judgment against the State of New York and damages under the Unjust Conviction and Imprisonment Act of 1984 totaling no less than \$62,000,000.

Dated: August 15, 2024  
New York, New York

EMERY CELLI BRINCKERHOFF  
ABADY WARD & MAAZEL LLP



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Julia P. Kuan  
Katherine Rosenfeld  
Earl S. Ward  
Rachael Wyant

600 Fifth Avenue, 10<sup>th</sup> Floor  
New York, New York 10020

(212) 763-5000

CAMBARERI & BRENNECK, PLLC



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Melissa K. Swartz  
300 S. State Street, 1<sup>st</sup> Floor  
Syracuse, New York 13202

*Attorneys for Claimant*

STATE OF NEW YORK  
COURT OF CLAIMS

CARLTON LEWIS,  
Claimant,

-against-

THE STATE OF NEW YORK,  
Defendant.

**VERIFICATION**

State of New York )  
                          )  
County of Onondaga )     ss.:

CARLTON LEWIS, being duly sworn, deposes and says as follows:

I am the Claimant herein. I have read the foregoing Claim for Damages against the State of New York and know its contents. The same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, I believe them to be true.



CARLTON LEWIS

Sworn to me before this

15<sup>th</sup> day of Aug, 2024



MICHELE L. PREVITE  
Notary Public, State of New York  
No.: 01PR6316625  
Qualified in Onondaga County  
My Commission Expires Dec. 15, 2024

## CARLTON LEWIS EXHIBIT LIST

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>A</b>	Certificate of Indictment and Indictment Sheet
<b>B</b>	Order and Decision, <i>People v Lewis</i> , 182 AD2d 1093 [4th Dept 1992]
<b>C</b>	Verdict and Trial Transcript
<b>D</b>	Sentencing Record and Sentencing Minutes
<b>E</b>	NYDOC Record of Time Served
<b>F</b>	Order Vacating Conviction and Dismissing Indictment
<b>G</b>	Amended Order Vacating Conviction and Dismissing Indictment
<b>H</b>	Order and Decision, <i>People v Lewis</i> , 204 AD2d 1025 [4th Dept 1994]

# **EXHIBIT A**

**Certificate of Indictment and Indictment Sheet**

OFFICE OF THE DISTRICT ATTORNEY  
OF ONONDAGA COUNTY

RE: PEOPLE V. Carleton E. Lewis  
INDICT. # \_\_\_\_\_ INDEX # 90-0538

CERTIFICATE PURSUANT  
TO CPL § <sup>190</sup>~~160~~.80

This is to certify that the Grand Jury of Onondaga County  
has voted an indictment in regard to the case of the People  
of the State of New York against Carleton E. Lewis,  
as a result of the defendant's arrest on 2/20/90,  
for Murder in the Second Degree.

Robert J. Donley

FOREMAN  
ONONDAGA COUNTY GRAND JURY

Subscribed and sworn to before me  
this 19<sup>th</sup> day of April, 1990.

Michael A. Puce  
NOTARY PUBLIC, ONONDAGA COUNTY, NY  
COMMISSION EXPIRES: 2/28/91

DATED: 4/19/90

TO: CLERK, LOCAL CRIMINAL COURT  
ONONDAGA COUNTY CLERK  
DEFENDANT'S ATTORNEY

  
Doc ID: \*037048180001 Type: COU  
Kind: CRIMINAL  
Recorded: 04/19/1990 at 12:00:00 AM  
Fee Amt: Page 1 of 1  
Transaction: CONVERTED  
Onondaga County, NY  
Lisa Dell County Clerk  
**CO-1990-000538**

# County Court,

COUNTY OF ONONDAGA

THE PEOPLE OF THE STATE OF NEW YORK  
AGAINST

CARLTON LEWIS, WILLIE MCKEE AND  
GREGORY BROWN

Indictment No. 90-399-1, 2, 3

Index No. 90-538

The Grand Jury OF THE COUNTY OF ONONDAGA by this indictment accuse

CARLTON LEWIS, WILLIE MCKEE AND GREGORY BROWN

of the crime of

MURDER IN THE SECOND DEGREE

*7/26/90 PJC  
Manslaughter 1st  
per McKee*

in violation of Section 125.25(1)  
of the Penal Law of the State of New York

*7/26/90  
125.20*

committed as follows:

The said

CARLTON LEWIS, WILLIE MCKEE AND GREGORY BROWN

on or about the 6th day of FEBRUARY nineteen hundred and

NINETY at the CITY of SYRACUSE in this county,

*w/ intent to cause serious physical injury PJC*  
intentionally caused the death of Cheryl Coleman, to wit: the defendants repeatedly beat Cheryl Coleman about the head and neck with a piece of wood approximately three (3) feet long by two (2) inches by four (4) inches.

### SECOND COUNT

AND THE AFORESAID GRAND JURY by this indictment further accuse the defendants of the crime of CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE in violation of §265.01(2) of the Penal Law of the State of New York committed as follows:

That on or about the 6th day of February, 1990, at the City of Syracuse, in this county, the defendants possessed a dangerous instrument, to wit: a piece of wood of approximately three feet long by two inches by four inches, intending to use the same unlawfully against Cheryl Coleman.

*Anthony J. DiGirollo*  
District Attorney

"THE PEOPLE HEREBY ANNOUNCE READY FOR TRIAL ( ) / / ."



No. 90-399-1, 2, 3

County Court  
ONONDAGA COUNTY

THE PEOPLE

vs.

CARLTON LEWIS, WILLIE MCKEE AND  
GREGORY BROWN

INDICTMENT  
FOR

MURDER 2nd (1CT)  
CPW 4th (1CT)

ROBERT E. WILDRIDGE  
District Attorney

A TRUE BILL

*Robert Dinsley*  
Foreman

Filed County Court

1990 JUN 12 10 00 AM  
1990 JUN 12 10 00 AM  
1990 JUN 12 10 00 AM

*Robert Insdell*  
Counsel for Defendant  
*Cham*  
Arraigned the 1 day of May 19 90  
Pleaded not Guilty  
Tried the 7, 9, 9 day of Nov 19 90  
13, 14, 15, 16  
Verdict: Guilty. Murder 2nd  
Defendant.  
*Carlton Lewis*

*Cham*  
Convicted by Verdict  
Stated under oath before judgment was pronounced that he was by occupation a  
that he was years of age  
that he was born in  
5/29/40 *Hastings*  
and that he was before convicted of a felony.  
Sentence: That he be imprisoned in the NYSCF  
at Elmira  
for the term of 20 - Life

*7102 S/c Wounded*  
Dated at Syracuse, N. Y., Dec 5 19 90  
*Marlene O'Hara*  
Special Deputy Clerk.

*William Rose*  
Counsel for Defendant  
*Cham*  
Arraigned the 1 day of May 19 90  
Pleaded not Guilty  
Tried the 26 day of July 19 90  
Verdict: Guilty. *attended 1st Ct manslaughter 1st*  
Defendant.  
*Willie McKee*

Convicted by plea  
Stated under oath before judgment was pronounced that he was by occupation a  
that he was years of age  
that he was born in  
and that he was before convicted of a felony.  
Sentence: That he be imprisoned in the NYSCF  
at Elmira  
for the term of 6 - 18 years  
*Credit term served*

Dated at Syracuse, N. Y., Nov 16 19 90  
*Marlene O'Hara*  
Special Deputy Clerk.

*Ralph Cognetti*  
Counsel for Defendant  
*Cham*  
Arraigned the 11 day of May 19 90  
Pleaded not Guilty  
Tried the 7, 9, 9 day of Nov 19 90  
13, 14, 15, 16  
Verdict: Guilty. Murder 2nd  
Defendant.  
*Gregory Brown*

Convicted by Verdict  
Stated under oath before judgment was pronounced that he was by occupation a  
that he was years of age  
that he was born in  
and that he was before convicted of a felony.  
Sentence: That he be imprisoned in the NYSCF  
at Elmira  
for the term of 25 - Life

*7102 S/c Wounded*  
Dated at Syracuse, N. Y., Dec 3 19 90  
*Marlene O'Hara*  
Special Deputy Clerk.

Return from appellate Division

Robert Isdell  
Counsel for Defendant

Counsel for Defendant

Counsel for Defendant

Arraigned the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Pleaded Guilty  
*Alexander*  
Tried the 13, 14 day of Oct 19 92  
15, 16, 19  
Verdict: Guilty. Murder 2nd  
Defendant.

Arraigned the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Pleaded Guilty  
Tried the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Verdict: Guilty.  
Defendant.

Arraigned the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Pleaded Guilty  
Tried the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
Verdict: Guilty.  
Defendant.

Carlton Lewis

Convicted by Verdict  
Stated under oath before judgment was pronounced that he was by occupation a \_\_\_\_\_ that he was \_\_\_\_\_ years of age that he was born in \_\_\_\_\_

Convicted by \_\_\_\_\_  
Stated under oath before judgment was pronounced that he was by occupation a \_\_\_\_\_ that he was \_\_\_\_\_ years of age that he was born in \_\_\_\_\_

Convicted by \_\_\_\_\_  
Stated under oath before judgment was pronounced that he was by occupation a \_\_\_\_\_ that he was \_\_\_\_\_ years of age that he was born in \_\_\_\_\_

and that he was \_\_\_\_\_ before convicted of a felony.  
Sentence: That he be imprisoned in the NYSCF at Elmira for the term of 30 years to Life  
Credit time served  
\$102 S/C Waived

and that he was \_\_\_\_\_ before convicted of a felony.  
Sentence: That he be imprisoned in the \_\_\_\_\_ at \_\_\_\_\_ for the term of \_\_\_\_\_

and that he was \_\_\_\_\_ before convicted of a felony.  
Sentence: That he be imprisoned in the \_\_\_\_\_ at \_\_\_\_\_ for the term of \_\_\_\_\_

Dated at Syracuse, N. Y., Oct 27 19 92  
Darlene O'Hara  
Special Deputy Clerk.

Dated at Syracuse, N. Y., \_\_\_\_\_ 19\_\_\_\_  
Special Deputy Clerk.

Dated at Syracuse, N. Y., \_\_\_\_\_ 19\_\_\_\_  
Special Deputy Clerk.



# **EXHIBIT B**

**Order and Decision, *People v Lewis*, 182 AD2d 1093 [4th Dept 1992]**

SUPREME COURT OF THE STATE OF NEW YORK  
Appellate Division, Fourth Judicial Department

249

*Index 190-538*

PRESENT: DENMAN, P.J., GREEN, PINE, BALIO, FALLON, JJ.

PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,


V

CARLTON LEWIS, APPELLANT.

The above named Carlton Lewis having appealed to this court from the judgment of the Onondaga County Court, entered in the Onondaga County Clerk's office on December 5, 1990, and said appeal having been argued by Vivian Aquilina of counsel for appellant, Gary Kelder of counsel for respondent, and due deliberation having been had thereon,

It is hereby ORDERED, That the judgment so appealed from be and the same hereby is unanimously reversed on the law, count two of the indictment is dismissed and a new trial is granted on count one of the indictment.

Memorandum which is hereby made a part hereof.

  
Doc ID: \*037044120003 Type: COU  
Kind: CRIMINAL  
Recorded: 05/08/1992 at 12:00:00 AM  
Fee Amt: Page 1 of 3  
Transaction: CONVERTED  
Onondaga County, NY  
Lisa Dell County Clerk  
**CO-1990-000538**

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Entered: April 24, 1992

ONOND. CO. CLERKS OFFICE  
*Genevieve T. Schaefer*  
CLERK  
CARL M. DARNALL, Clerk

024F1136

241-1131

**Supreme Court**  
 APPELLATE DIVISION,  
 Fourth Judicial Department,  
 Clerk's Office, Rochester, N. Y.

I, *CARL M. DARNALL*, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this **APR 24 1992**

*Carl M Darnall*

Clerk.

98-538

182 A.D.2d 1093, 583 N.Y.S.2d 81

The People of the State of New York, Respondent,

v.

Carlton Lewis, Appellant.

Supreme Court, Appellate Division, Fourth Department, New York

249

(April 24, 1992)

CITE TITLE AS: People v Lewis

### HEADNOTES

#### CRIMES

#### CONSOLIDATION AND SEVERANCE

(1) Although defendant's statement was found admissible at pretrial Huntley hearing, at trial, court, in order to protect Bruton rights (see, *Bruton v United States*, 391 US 123) of codefendant, redacted all references to codefendant in defendant's statement; that redaction transformed defendant's statement from one which was substantially exculpatory to one which was highly inculpatory; prejudice suffered by defendant as result of redaction was exacerbated by testimony from investigator --- It was manifest injustice to allow People to put into evidence only those portions of defendant's statement which incriminated him, while deleting exculpatory portions; defendant suffered undue prejudice as result of admission of his redacted statement; if there had not been joint trial, defendant would have been entitled to have his entire statement, including exculpatory portions, put into evidence, rather than warped version of what he had told police; therefore, court abused its discretion in denying defendant's motion for severance and defendant was thus deprived of fair trial --- Issue is preserved; defense counsel moved for severance and, when People sought to admit redacted statement, he objected and argued unredacted statement should be admitted.

#### CRIMES

#### RIGHT TO COUNSEL

Taking Verdict in Absence of Defense Counsel

(2) Error was committed when court insisted on taking jury's verdict in absence of defense counsel; at approximately 11:45 A.M. on second day of deliberations, court instructed counsel court would stand adjourned until 1:15 P.M.; when jury announced at approximately 1:00 P.M. that it had reached verdict, court summoned counsel's partner, who had not served as co-counsel and thus was unfamiliar with case, and instructed him to sit with defendant while verdict was rendered rather than waiting for defense counsel to return at 1:15; that was error --- Defendant had absolute right to have his counsel present when verdict was announced; court's insistence on proceeding to take verdict without defense counsel deprived defendant of his right to assistance of counsel.

#### CRIMES

## VERDICT

(3) Because jury failed to render verdict on second count of indictment charging defendant with criminal possession of weapon in fourth degree, defendant must be deemed to have been acquitted of that charge, and that count of indictment is dismissed.

Judgment unanimously reversed on the law, count two of the indictment dismissed and new trial granted on count one of the indictment.

## OPINION OF THE COURT

Defendant and codefendants Willie McKee and Gregory Brown were charged with murder in the second degree ([Penal Law § 125.25](#) [1]) and criminal possession of a weapon in the fourth degree ([Penal Law § 265.01](#) [2]) in connection with the beating death of Cheryl Coleman. Prior to trial, defendant moved to sever the charges against him from those against McKee and Brown. That motion was denied. Thereafter, McKee entered a plea of guilty to manslaughter in the first degree and agreed to testify for the prosecution at the trial of defendant and Brown.

McKee testified that he, Brown and defendant all participated in the beating death of Coleman in an apartment at the corner of Lafayette and Salina Streets in the City of Syracuse. According to McKee, Coleman had agreed to have sexual relations with the three men in exchange for two bags of cocaine. After having sex with the men and being given fake cocaine by Brown, Coleman became enraged. When she began screaming and cursing at Brown, he picked up a two-by-four lying in the hallway and repeatedly hit Coleman in the head and face. McKee testified that he and defendant thereafter took turns hitting Coleman with the board. Although physical evidence of defendant's presence was collected from the apartment, none conclusively established either that defendant had sex with Coleman or that he participated in her beating.

Upon his apprehension by police, defendant gave a statement wherein he admitted that he was in the apartment at \*1094 the time of Coleman's death. Defendant indicated, however, that it was Brown who was first in the apartment with Coleman, that only Brown had sex with Coleman, that it was Brown who gave Coleman the fake cocaine, that only Brown bludgeoned Coleman, and that McKee came to the apartment only after defendant went to get him.

Although defendant's statement was found admissible at a pretrial *Huntley* hearing, at trial, the court, in order to protect the *Bruton* rights (*see, Bruton v United States*, 391 US 123) of Brown, redacted all references to Brown in defendant's statement. That redaction transformed defendant's statement from one which was substantially exculpatory to one which was highly inculpatory. The redacted statement that was admitted at trial indicates that only defendant was present with Coleman prior to her bludgeoning and that, after defendant had provided Coleman with fake drugs, he took McKee to the premises and told McKee that Coleman was probably dead inside the apartment. The prejudice suffered by defendant as a result of the redaction was exacerbated by testimony from an investigator that defendant admitted being in the apartment at the time Coleman was killed.

In determining whether the trial court erred in denying severance, this court is empowered to engage in "a retrospective view in determining whether 'injustice or impairment of substantial rights unseen at the beginning' has occurred" (*People v La Belle*, 18 NY2d 405, 409, quoting *People v Fisher*, 249 NY 419, 427; *see, People v Mahboubian*, 74 NY2d 174, 185; *People v Lopez*, 68 NY2d 683, 685). Thus viewed, it was manifest injustice to allow the People to put into evidence only those portions of defendant's statement which incriminated him, while deleting the exculpatory portions (*see, People v La Belle, supra*, at 411). We conclude that defendant suffered undue prejudice as a result of the admission of his redacted statement (*see, People v Mahboubian, supra*, at 186-188; *People v La Belle, supra*, at 409-411). If there had not been a joint trial, defendant "would have been entitled to have his entire statement, including the exculpatory portions, put into evidence, rather than this warped version of what he had told the [police]" (*People v La Belle, supra*, at 410). Therefore, we conclude that the court abused its discretion in denying defendant's motion for severance and that defendant was thus deprived of a fair trial.

The People's argument that this issue is unpreserved is without merit. Defense counsel moved for severance and, when the People sought to admit the redacted statement, he \*1095 objected and argued that the unredacted statement should be admitted.

Additional error was committed when the court insisted on taking the jury's verdict in the absence of defense counsel. At approximately 11:45 A.M. on the second day of deliberations, the court instructed counsel that court would stand adjourned until 1:15 P.M. When the jury announced at approximately 1:00 P.M. that it had reached a verdict, the court summoned counsel's partner, who had not served as co-counsel and thus was unfamiliar with the case, and instructed him to sit with defendant while the verdict was rendered rather than waiting for defense counsel to return at 1:15. That was error.

Defendant had an absolute right to have his counsel present when the verdict was announced (*see*, CPL 310.40 [1]; *People v Ciaccio*, 47 NY2d 431, 436). The court's insistence on proceeding to take the verdict without defense counsel deprived defendant of his right to assistance of counsel (*see*, *People v Felder*, 47 NY2d 287, 296).

Because the jury failed to render a verdict on the second count of the indictment charging defendant with criminal possession of a weapon in the fourth degree, defendant must be deemed to have been acquitted of that charge, and that count of the indictment is dismissed (*see*, CPL 310.50; *People v Thompson*, 161 AD2d 1203; *People v Thompson*, 156 AD2d 961).

We have considered defendant's remaining contentions and find them to be without merit. (Appeal from Judgment of Onondaga County Court, Cunningham, J.-- Murder, 2nd Degree.)

Present--Denman, P. J., Green, Pine, Balio and Fallon, JJ.

Copr. (C) 2024, Secretary of State, State of New York

# **EXHIBIT C**

**Verdict and Trial Transcript**



Box 60

**ORIGINAL**

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COUNTY COURT OF THE STATE OF NEW YORK  
ONONDAGA COUNTY : CRIMINAL TERM : PART II

533

PEOPLE OF THE STATE OF NEW YORK,

Indictment Number  
90-399-1

-vs-

Index Number 90-538

CARLTON LEWIS,

Defendant.

JURY TRIAL

VOLUME III

Onondaga County Courthouse  
401 Montgomery Street  
Syracuse, New York 13202

October 16, 1992

B e f o r e:        HONORABLE PATRICK J. CUNNINGHAM,  
County Court Judge, and a jury

A p p e a r a n c e s:

WILLIAM J. FITZPATRICK, ESQ.  
Onondaga County District Attorney  
Civic Center  
Syracuse, New York 13202  
BY: MICHAEL A. PRICE, ESQ.  
Chief Assistant District Attorney

ROBERT L. TISDELL, ESQ.  
Attorney for the Defendant  
615 University Building  
Syracuse, New York 13202

The Defendant - Present in Person

PATRICIA A. ALEXANDER, CSR-RPR  
Senior Court Reporter

FORM SEL-711 REPORTERS PAPER & MFG. CO. 800-626-6313

RAB



1  
2 So that's the, the three charges that  
3 I've submitted to you, and we hope it helps.

4 FRANCES ALBERT: Thank you.

5 THE COURT: Thank you.

6 (Whereupon, the jurors were then excused  
7 at 3:08 p.m. to continue deliberations.)

8 (Jury Notes marked for identification  
9 as Court Exhibits 1, 2, and 3, this date.)

10  
11 V E R D I C T

12  
13 (Whereupon, the jurors then entered  
14 the courtroom at 5:09 p.m.)

15 THE COURT: Okay, ladies and gentlemen.

16 Madam Foreman, I understand you have  
17 reached a verdict.

18 FRANCES ALBERT: Yes, we have.

19 THE COURT: Would you please stand  
20 and listen to Darlene, our clerk.

21 THE CLERK: The case of The People vs.  
22 Carlton Lewis, Indictment 90-399-1, how do  
23 you find the defendant as to Count Number 1,  
24 Murder in the Second Degree?

25 FRANCES ALBERT: Guilty.

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THE COURT: All right. Thank you.

You want the jury polled, Mr. Tisdell?

MR. TISDELL: Yes, Your Honor.

THE COURT: Would you please poll the jury.

THE CLERK: You have indicated through your foreman that you have found the defendant guilty of Murder in the Second Degree.

Starting with the foreman, going across, Juror Number 1, was the guilty verdict your verdict?

FRANCES ALBERT: Yes.

THE CLERK: Juror Number 2?

DOROTHY HEROLD: Yes.

THE CLERK: Juror Number 3?

MARK KINNAN: Yes.

THE CLERK: Juror Number 4?

ROBERT HARRIS: Yes.

THE CLERK: Juror 5?

MARY ELLEN KRAHEK: Yes.

THE CLERK: Juror 6?

MARK FLEISCHMAN: Yes.

THE CLERK: Starting in the corner, Juror 7?

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EDWARD DiFLORIO: Yes.

THE CLERK: Juror 8?

LYNN LaFRANCE: Yes.

THE CLERK: Juror 9?

SIDNEY BLUMAN: Yes.

THE CLERK: Juror 10?

JAMES BEAVER: Yes.

THE CLERK: Juror 11?

RAPHA JOHNSON: Yes.

THE CLERK: And Juror 12?

DIANE JAMES: Yes.

THE CLERK: Thank you.

THE COURT: All right. Thank you very  
much.

Ladies and gentlemen, this was a tough  
case. It was an excellent case, very well  
tried by the lawyers. And as you might have  
surmised by the fact this is a 1990 case,  
this -- you're the second jury to convict  
the defendant of murder. This was in the  
Appellate Division, had been overturned, sent  
back for a retrial. So it has to happen  
and we have to handle it in the courts.

We appreciate it very much. I'm going to

1  
2 discharge you from jury duty, with the thanks  
3 of the Court and great appreciation.

4 MR. PRICE: Thank you very much, ladies  
5 and gentlemen.

6 (Whereupon, the jurors were then excused  
7 at 5:11 p.m.)

8 THE COURT: Okay. Tis, sentencing  
9 is not going to be a problem. All I have --  
10 you want some time to do whatever you -- what  
11 do you want to do on sentencing? I'm --  
12 I could sentence him right now if I had to.

13 MR. TISDELL: Give us a couple weeks,  
14 Your Honor.

15 THE COURT: All right. I think --

16 THE CLERK: The 27th?

17 MR. TISDELL: That's fine.

18 THE COURT: 10/27 for sentence.

19 Okay. All right. Thank you very much,  
20 gentlemen. Thank you very much. You tried  
21 a very good case. You tried a great case.  
22 Very good.

23 (Whereupon, the proceedings were then  
24 concluded.)

\*

\*

\*

C E R T I F I C A T E

I, PATRICIA A. ALEXANDER, CSR-RPR,  
an Official Court Reporter of the Supreme  
and County Courts, County of Onondaga, Fifth  
Judicial District of the State of New York,  
do hereby certify that the foregoing is a  
true and accurate transcript of my stenographic  
notes taken in the above-mentioned matter  
at the time and place first above mentioned.

Patricia A. Alexander  
PATRICIA A. ALEXANDER, CSR-RPR  
Senior Court Reporter

Date: July 11, 1993  
Syracuse, New York

# **EXHIBIT D**

**Sentencing Record and Sentencing Minutes**



At a term of the Onondaga County Court of Onondaga County, held in and for the County of Onondaga in the Court House in Syracuse, New York, on the 27th day of October 19 92  
IND.# 90-399-1 NYSID# 5579645 N

PRESENT:

HON. Patrick J. Cunningham

Judge

THE PEOPLE OF  
THE STATE OF NEW YORK  
  
against  
  
Carlton Lewis

Indicted for Murder 2nd.(1ct); CPW 4th(1ct)

and convicted of the crime of Murder 2nd.(1ct)

Crime committed 2/6/90 19 92

The defendant having been found guilty by verdict ~~by jury~~ of a felony, to wit: Murder 2nd.(1ct)

WHEREUPON, it is ORDERED and ADJUDGED by the Court, that the said Carlton Lewis

for the felony aforesaid wheteof he is convicted be sentenced to an INDETERMINATE sentence of imprisonment which shall have a maximum term of Life years; \*(and the Court imposes a minimum period of imprisonment of 20 years).\* ~~XXX~~ CREDIT FOR TIME SERVED

FURTHER ORDERED by the Court that the said defendant be committed to the custody of the State Department of Correctional Services, and he shall be delivered to the Elmira Rec. Center ~~XXXXXXXXXXXX~~ at Elmira, New York, there to be dealt with in accordance with the laws pertaining to his sentence.

A TRUE EXTRACT FROM THE MINUTES:

MANDATORY SURCHARGE WAIVED.

Darlene O'Hara  
Signature

Darlene O'Hara, Court Clerk  
Title

\*N.B. Minimum period mandatory for Class "A" felony (Optional for Class B C D felony)

INDICT. NO: 90-0399-1  
INDEX NO: 90-538  
NYSID NO: 5579645 N  
STENO: PATRICIA A. ALEXANDER

THE PEOPLE OF THE STATE OF NEW YORK

-VS-

CARLTON LEWIS

Trial commenced October 13, 1992, continued on 10/14, 10/15, 10/16, 10/19.

The above named defendant with his/her attorney ROBERT TISDELL, Esq. appeared before this Court and announced ready for Trial. On motion of Assistant District Attorney, MICHAEL A. PRICE, the Court ordered this case proceed to trial.

On October 19, 1992 the Jury after deliberation returned to the Court a Verdict finding the said defendant (Guilty) (~~XXXXXXXXXXXX~~)  
of: Murder 2nd. (1st)

The above named defendant was examined by the Court before Judgment was pronounced and asked if he had any legal reason why sentence should not be pronounced upon him at this time and he stated he did not. On October 27, 1992, by Order of the Court, said defendant was sentenced  
20 years to Life to be served at Elmira Rec. Center, Elmira, N.Y.  
Credit for Time Served.

I certify the above to be a true extract of the Court Minutes.

Darlene O'Hara  
DARLENE O'HARA, Court Clerk

WITNESSES LISTED ON PAGE TWO



INDICTMENT NO: 90-0399-1  
INDEX NO: 90-538  
NYSID NO: 5579645 N  
DOB:  
FILED: April 27, 1990

THE PEOPLE OF THE STATE OF NEW YORK

-VS-

CARLTON LEWIS

The defendant, CARLTON LEWIS, having been indicted on April 27, 1990 for the crime(s) of MURDER 2ND (1CT) CPWP 4TH (1CT) committed on or about February 6, 1990

The defendant having been arraigned and entered a plea of Not Guilty to the above charges on May 1, 1990 and having been advised that he/she is entitled to be represented by counsel. If he/she is indigent, counsel will be provided by the Court. That he/she is entitled to a Trial by Jury or by the Court and if he/she waives this right and admits his/her guilt, it is the same as a conviction after trial. Said defendant being represented by ROBERT TISDELL, ESQ. of Counsel, CONVICTED AFTER TRIAL to MURDER 2ND (1CT) on November 16, 1990(or) request a trial By or Without Jury.

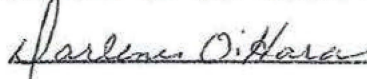
WHEN CASE PROCEEDS TO TRIAL, SEE TRIAL PART

On December 5, 1990, CARLTON LEWIS (Defendant) by Order of the Court, said defendant was sentenced to

20 years to Life to be served at Elmira Reception Center, Elmira, N.Y.

SURCHARGE WAIVED

I certify the above to be true extract of the Court Minutes.



DARLENE O'HARA, COURT CLERK

ARR. STENO: DEBBIE DLUGOLECKI  
DISPO STENO: JOHN S. GEHL  
SENT. STENO: SUSAN A. LYMAN

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COMMITMENT TO  
THE STATE DEPARTMENT OF CORRECTIONAL SERVICES

At a term of the Superior  
Court of Onondaga County,  
held in and for the County of  
Onondaga in the Court House  
at Syracuse, New York, on the  
05-Dec-1990.

IND#: 90-0399-1  
NYSID#: 5579645 N

PRESENT: HON. PATRICK J. CUNNINGHAM

THE PEOPLE OF THE STATE OF NEW YORK

against

CARLTON LEWIS

Indicted for MURDER 2ND (1CT) CPWP 4TH (1CT)

and convicted of the crime of MURDER 2ND (1CT)

ime committed on February 6, 1990.

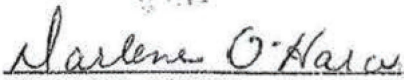
The defendant having been found guilty by VERDICT of a felony, to wit:  
MURDER 2ND (1CT)

WHEREUPON, it is ORDERED and ADJUDGED by the Court, that the defendant  
CARLTON LEWIS, for the felony of which he is convicted, be sentenced to  
an INDETERMINATE sentence of imprisonment which shall have a maximum term  
of Lifyears; \*(and the Court imposes a minimum period of imprisonment of  
20 years).

FURTHER ORDERED by the Court that the said defendant be committed to the  
custody of the State Department of Correctional Services, and he shall be  
delivered to the ELMIRA RECEPTION CENTER AT ELMIRA, N.Y., there to be  
dealt with in accordance with the laws pertaining to his sentence.

A TRUE EXTRACT FROM THE MINUTES:

MANDATORY SURCHARGE WAIVED

  
DARLENE O'HARA, Court Clerk

.B. Minimum period mandatory for Class "A" felony  
(Optional for Class B C D felony)

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COUNTY COURT OF THE STATE OF NEW YORK

COUNTY OF ONONDAGA : CRIMINAL TERM : PART NO. II

-----  
THE PEOPLE OF THE STATE OF NEW YORK, Indictment 90-399-1

Index No. 90-538

vs.

Sentence

CARLTON E. LEWIS,

Murder Second Degree

Defendant.

NYSID 5579645N

-----  
Onondaga County Courthouse  
401 Montgomery Street  
Syracuse, New York 13202  
October 27, 1992

B e f o r e :

HONORABLE PATRICK J. CUNNINGHAM,

Judge

A p p e a r a n c e s :

WILLIAM J. FITZPATRICK, ESQ.  
Onondaga County District Attorney  
BY: MICHAEL A. PRICE, ESQ.,  
Chief Assistant District Attorney

ROBERT TISDELL, ESQ.  
Attorney for the Defendant  
University Building  
Syracuse, New York 13202

The Defendant -- Present in Person

FILED  
NOV 14 4 05 PM '92  
CLERK OF COURT  
ONONDAGA COUNTY

PATRICIA A. ALEXANDER, CSR, RPR  
Official Court Reporter



## Sentence

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THE COURT: All right. Tis.

(Whereupon, Mr. Price, Mr. Tisdell, and the defendant approached the respective counsel table.)

THE COURT: I have been served your excellent motion this morning, and I just had a chance to glance through it and I read it.

MR. TISDELL: Your Honor, I apologize for being late, but I --

THE COURT: That's no problem.

MR. TISDELL: (Continuing) -- I didn't realize that those days were so soon when you set that date. I thought it was a couple weeks away, and it was only one.

THE COURT: All right. Do you need an opportunity to respond to that, Michael?

MR. PRICE: Your Honor, I am in a position to orally respond this morning. I received it last night after five o'clock so I haven't had a chance to serve a written response.

However, I believe there are three different points raised by Mr. Tisdell in his motion: One charging that the Court erred in

Sentence

charging Section 20, Liability.

I believe that was already argued during the trial. I would oppose any granting of this motion.

The second contention is that the People failed to meet their burden of proof at the conclusion of our -- People's case failed to present a prima facie case for the jury.

I believe that was a question of fact for the jury to decide; that the jury did, in fact, decide.

And the third was that there were errors in the prosecutor's summations.

I believe, Your Honor, that none of my summation was objected to at any time by Mr. Tisdell. And I believe that the questions presented by defense counsel's papers as to what I said in my summation are a matter of record, and I believe that the jury considered the proof as it came forth.

So, I would oppose the granting of the motion, Judge, to set aside the jury's verdict.

THE COURT: Mr. Tisdell, anything

1 Sentence

2 further?

3 MR. TISDELL: No, Your Honor.

4 THE COURT: No. It was a well tried  
5 case. There isn't any question about it. I'm  
6 going to refer you to the friendlier climate  
7 up in Rochester. They can take -- they take  
8 care of that. It is all on the record so I'll  
9 deny the motion.

10 Okay. And you want to move sentence?

11 MR. PRICE: Yes, Your Honor. The People  
12 move sentence, Your Honor.

13 THE COURT: Would you like to be heard?

14 MR. PRICE: Yes, Your Honor, just  
15 briefly.

16 The Court is well aware of the facts of  
17 this case having presided over not only this  
18 trial, but the previous trial.

19 And, Your Honor, Cheryl Coleman, the  
20 victim here, lived her life in a style which  
21 was probably not socially acceptable by normal  
22 standards. However, no one deserves to meet  
23 with the violent death that she met with as a  
24 result of her life-style.

25 The jury, once again this time, has found

Sentence

1  
2 her death was a result of the defendant,  
3 Mr. Lewis's behavior, as well as that of the  
4 two other codefendants.

5 I'd simply ask the Court to impose the  
6 same sentence they imposed back in December of  
7 1990, that being a period of 20 years to life  
8 imprisonment for Mr. Lewis.

9 THE COURT: All right. How about you,  
10 Mr. Tisdell? Do you have anything to say?

11 MR. TISDELL: Your Honor, the only thing  
12 I would -- my client has asked me to ask the  
13 Court was whether or not the Presentence  
14 Report has been updated or redone for the  
15 purpose of this sentencing.

16 THE COURT: The Presentence Report has  
17 not been updated, nor has it been redone.

18 MS. DEL GIORNO: Yes, it has.

19 MR. PRICE: Yes, Your Honor, it has been.

20 THE COURT: Oh, excuse me.

21 MR. PRICE: I met with Miss Goudy at the  
22 time they prepared an update. I gave her our  
23 file, and she prepared a face sheet having to  
24 do with the update. I don't know if it has  
25 been delivered to the Court but that was last



## Sentence

1  
2 week she met with me.

3 THE COURT: Yes, it has. I have it in  
4 front of me, and I have read it. It doesn't  
5 look any better now than it did then.

6 Mr. Stewart -- or, Mr. Lewis, would you  
7 like to be heard?

8 THE DEFENDANT: Yes. Well, like I said  
9 before, I'm innocent and I don't see why they  
10 keep trying to keep sending me upstate for  
11 something I didn't do. I'm keeping my faith  
12 in my Heavenly Father like I said before.

13 THE COURT: Well, keep up the good work.

14 Mr. Stewart -- or, Mr. Lewis, the jury  
15 found you guilty twice. Doesn't that tell you  
16 something? There isn't any question in my  
17 mind you blew that lady's head off. You  
18 knocked her bones all over the room. You're  
19 bigger -- five times bigger. You have to pay  
20 for little things like that. You have to own  
21 up for little things like that, you know.

22 During all my years -- very rarely during  
23 the first -- course of the first ten or  
24 fifteen years did anything get reversed.  
25 They're now sending things back on



## Sentence

1  
2 technicalities -- technical reasons, but that  
3 doesn't change the facts. It doesn't change  
4 the fact you're guilty. It doesn't change the  
5 fact the jury is going to find you guilty. I  
6 don't care if you try it ten times, you can't  
7 change the facts. So if you're hoping to get  
8 it reversed again, you can try it again and  
9 you'll probably be convicted.

10 So it's the sentence and judgment of this  
11 Court as a result of your plea -- or your  
12 conviction by jury trial of Murder in the  
13 Second Degree, you're sentenced to a period of  
14 imprisonment which shall have a minimum of  
15 20 and a maximum of your natural life.

16 Credit for time served. Surcharge is  
17 waived.

18 MR. PRICE: Thank you, Your Honor.

19 (Whereupon, the proceedings were  
20 concluded.)

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C E R T I F I C A T E

I, Patricia A. Alexander, CSR, RPR,  
an Official Reporter of the Supreme and County  
Courts, Fifth Judicial District, State of New  
York, do hereby certify that the foregoing is  
a true and correct transcript of my  
stenographic notes taken in the above-entitled  
matter at the time and place first  
above-mentioned.

*Patricia A. Alexander*-----

PATRICIA A. ALEXANDER, CSR, RPR  
Official Court Reporter

Dated: February 22, 1992.  
Syracuse, New York.

# **EXHIBIT E**

**NYDOC Record of Time Served**

## CHRONOLOGICAL HISTORY DISPLAY

99 CENTRAL OFF

DIN 90B3194

NYSID 05579645N

FACILITY OFF COUNTS

LOCATION

NAME MODIFIED, RECORD

DOB 09/03/66

SEX M

E/R NB

EFFECTIVE DATE	DATE ENTERED	SENDING FACILITY	RECEIVING FAC/ OUTCOUNT LOCATION	TRANSACTION TYPE	CELL
12/17/90	12/17/90		ELMIRA RECEP	NEW COMMIT	0B-02-003
01/17/91	01/17/91	ELMIRA RECEP	ELMIRA GENER	TRANSFER OUT	0A-06-026
01/17/91	01/17/91	ELMIRA RECEP	ELMIRA GENER	TRANSFER IN	0C-01-023
06/09/92	06/09/92	ELMIRA GENER	ONONDAGA	COURT TRIP	0I-03-035
12/03/92	12/03/92		ELMIRA GENER	OUTCOUNT RET	0C-03-028
12/24/92	12/24/92	ELMIRA GENER		FMLY REUNION	0C-03-028
12/26/92	12/26/92		ELMIRA GENER	OUTCOUNT RET	0C-03-028
03/04/93	03/04/93	ELMIRA GENER		FMLY REUNION	0G-07-032
03/06/93	03/06/93		ELMIRA GENER	OUTCOUNT RET	0G-07-032
10/14/93	10/14/93	ELMIRA GENER		FMLY REUNION	0G-07-032
10/16/93	10/16/93		ELMIRA GENER	OUTCOUNT RET	0G-07-032
08/19/94	08/19/94	ELMIRA GENER	AUBURN GENER	TRANSFER OUT	0G-07-032
08/19/94	08/19/94	ELMIRA GENER	AUBURN GENER	TRANSFER IN	0E-03-022
05/14/04	05/14/04	AUBURN GENER	CAYUG SHU200	TRANSFER OUT	SH-UN-002
05/14/04	05/14/04	AUBURN GENER	CAYUG SHU200	TRANSFER IN	0S-A1-03T
07/30/04	07/30/04	CAYUG SHU200	FIVE POINTS	TRANSFER OUT	0S-C2-45T
07/30/04	07/30/04	CAYUG SHU200	AUBURN DEPOT	INTRANS RECV	0D-08-17B
08/02/04	08/02/04	AUBURN DEPOT	FIVE POINTS	INTRANS SENT	0D-08-17B
08/02/04	08/02/04	CAYUG SHU200	FIVE POINTS	TRANSFER IN	08-C1-18T
10/14/05	10/14/05	FIVE POINTS	CAYUGA	TRANSFER OUT	08-C2-47B
10/14/05	10/14/05	FIVE POINTS	CAYUGA	TRANSFER IN	0C-01-39T
05/19/06	05/19/06	CAYUGA	0158	OUTSIDE HOSP	0D-02-43B
05/20/06	05/20/06		CAYUGA	OUTCOUNT RET	0D-02-43B
07/29/10	07/29/10	CAYUGA	SOUTHPORT	TRANSFER OUT	SH-0C-028
07/29/10	07/29/10	CAYUGA	AUBURN DEPOT	INTRANS RECV	0D-08-26T
07/30/10	07/30/10	AUBURN DEPOT	SOUTHPORT	INTRANS SENT	0D-08-26T
07/30/10	07/30/10	CAYUGA	SOUTHPORT	TRANSFER IN	0B-04-016
10/01/10	10/01/10	SOUTHPORT	CLINTON GEN	TRANSFER OUT	0B-05-015
10/01/10	10/01/10	SOUTHPORT	DWNSTATE REC	INTRANS RECV	02-0F-004
10/04/10	10/04/10	DWNSTATE REC	CLINTON GEN	INTRANS SENT	02-0F-004
10/04/10	10/04/10	SOUTHPORT	CLINTON GEN	TRANSFER IN	LF-03-018
04/10/11	04/10/11	CLINTON GEN	0001	OUTSIDE HOSP	SH-UU-005
04/12/11	04/12/11		CLINTON GEN	OUTCOUNT RET	HS-IS-002
07/28/11	07/28/11	CLINTON GEN	0001	OUTSIDE HOSP	HS-IS-002
07/30/11	07/30/11		CLINTON GEN	OUTCOUNT RET	HS-IS-005
03/12/12	03/12/12	CLINTON GEN	ATTICA GEN	TRANSFER OUT	SH-UU-010
03/12/12	03/12/12	CLINTON GEN	ATTICA GEN	TRANSFER IN	RB-BE-009
04/29/13	04/29/13	ATTICA GEN	SOUTHPORT	TRANSFER OUT	RB-CW-014
04/29/13	04/29/13	ATTICA GEN	AUBURN DEPOT	INTRANS RECV	0D-08-23T
04/30/13	04/30/13	AUBURN DEPOT	SOUTHPORT	INTRANS SENT	0D-08-23T
04/30/13	04/30/13	ATTICA GEN	SOUTHPORT	TRANSFER IN	0B-04-019
12/19/14	12/19/14	SOUTHPORT	ELMIRA GENER	TRANSFER OUT	0C-11-014
12/19/14	12/19/14	SOUTHPORT	ELMIRA GENER	TRANSFER IN	0C-03-15S
12/18/15	12/18/15	ELMIRA GENER	SOUTHPORT	TRANSFER OUT	0I-03-34S
12/18/15	12/18/15	ELMIRA GENER	SOUTHPORT	TRANSFER IN	0B-03-016
03/21/16	03/21/16	SOUTHPORT	GRT MEAD GEN	TRANSFER OUT	0B-02-013
03/21/16	03/21/16	SOUTHPORT	DWNSTATE REC	INTRANS RECV	02-0B-009
03/24/16	03/24/16	DWNSTATE REC	GRT MEAD GEN	INTRANS SENT	02-0B-009
03/24/16	03/24/16	SOUTHPORT	GRT MEAD GEN	TRANSFER IN	0E-08-24S
11/28/17	12/01/17	GRT MEAD GEN	0001	OUTSIDE HOSP	0B-4W-12S

NOTE: THIS REPORT WAS RECONSTRUCTED USING HISTORICAL INMATE MOVEMENT DATA FROM COMPUTER RECORDS, AND IS ONLY AS ACCURATE AS IT WAS MAINTAINED BY THE FACILITY FOR THIS TIME PERIOD.

## CHRONOLOGICAL HISTORY DISPLAY

99 CENTRAL OFF

DIN 90B3194 NYSID 05579645N FACILITY OFF COUNTS LOCATION  
 NAME MODIFIED, RECORD DOB 09/03/66 SEX M E/R NB

EFFECTIVE DATE	DATE ENTERED	SENDING FACILITY	RECEIVING FAC/ OUTCOUNT LOCATION	TRANSACTION TYPE	CELL
12/01/17	12/04/17		GRT MEAD GEN	OUTCOUNT RET	0B-4W-12S
03/20/18	03/22/18	GRT MEAD GEN	0001	OUTSIDE HOSP	0B-4W-12S
03/22/18	03/23/18		GRT MEAD GEN	OUTCOUNT RET	0B-4W-12S
03/22/18	03/26/18	GRT MEAD GEN	0001	OUTSIDE HOSP	0B-4W-12S
03/26/18	03/26/18		GRT MEAD GEN	OUTCOUNT RET	0B-4W-12S
04/15/19	04/15/19	GRT MEAD GEN	MIDSTATE	TRANSFER OUT	0A-8E-07S
04/15/19	04/15/19	GRT MEAD GEN	DWNSTATE REC	INTRANS RECV	01-0H-022
04/18/19	04/18/19	DWNSTATE REC	MIDSTATE	INTRANS SENT	01-0H-022
04/18/19	04/18/19	GRT MEAD GEN	MIDSTATE	TRANSFER IN	27-2E-11B
11/23/21	11/23/21	MIDSTATE		PAR PAROLE	02-0F-04B

NOTE: THIS REPORT WAS RECONSTRUCTED USING HISTORICAL INMATE MOVEMENT DATA FROM COMPUTER RECORDS, AND IS ONLY AS ACCURATE AS IT WAS MAINTAINED BY THE FACILITY FOR THIS TIME PERIOD.

# **EXHIBIT F**

**Order Vacating Conviction and Dismissing Indictment**



COUNTY COURT OF THE STATE OF NEW YORK

COUNTY OF ONONDAGA

---

CARLTON LEWIS,

Indictment No. 90-399-1

Index No. 90-538

Defendant-Petitioner

V.

PEOPLE OF THE STATE OF NEW YORK,

Respondent


---

**ORDER**

Upon motion of the People, this Court hereby GRANTS Petitioner's Motion to Vacate his Judgment of Conviction under Indictment No. 90-399-1 pursuant to C.P.L. § 440.10(1)(g-1).

Upon motion of the People, this Court hereby DISMISSES Indictment No. 90-399-1.

DATED: Syracuse, New York  
August 10, 2023

  
\_\_\_\_\_  
Hon. Theodore Limpert

# **EXHIBIT G**

**Amended Order Vacating Conviction and Dismissing Indictment**



STATE OF NEW YORK  
COUNTY OF ONONDAGA      COUNTY COURT

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THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

vs.

Indictment No. 90-399-1  
Index No. 09-538

CARLTON LEWIS,

Defendant.

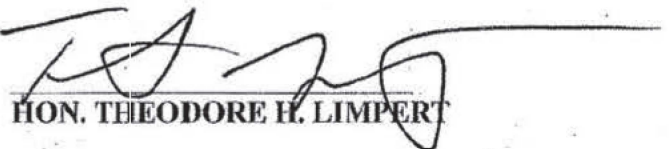
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**AMENDED ORDER**

This Court hereby **GRANTS** Petitioner Carlton Lewis' motion to vacate his judgment of conviction under Indictment No. 90-399-1 pursuant to Criminal Procedure Law §§ 440.10 (1) (g) and (g-1).

Upon motion of the People, this Court hereby **DISMISSES** Indictment No. 90-399-1.

Dated: March 29, 2024  
Syracuse, New York

  
HON. THEODORE H. LIMPERT

# EXHIBIT H

Order and Decision, *People v Lewis*, 204 AD2d 1025 [4th Dept 1994]

SUPREME COURT OF THE STATE OF NEW YORK  
**Appellate Division, Fourth Judicial Department**

0574

PRESENT: DENMAN, P.J., GREEN, LAWTON, WESLEY, CALLAHAN, JJ.

---

PEOPLE OF THE STATE OF NEW YORK, RESPONDENT,

V

CARLTON LEWIS, APPELLANT.

Indictment No: 90-399-1

---

The above named Carlton Lewis having appealed to this Court from the judgment of the Onondaga County Court, entered in the Onondaga County Clerk's office on October 27, 1992, and said appeal having been submitted by Robert Rickert of counsel for appellant, Victoria Anthony of counsel for respondent, and due deliberation having been had thereon,

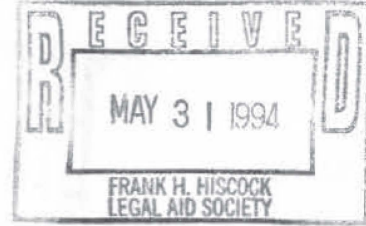
It is hereby ORDERED, That the judgment so appealed from be and the same hereby is unanimously affirmed.

Memorandum which is hereby made a part hereof.

Entered: May 27, 1994

CARL M. DARNALL, Clerk

**Supreme Court**  
APPELLATE DIVISION,  
Fourth Judicial Department,  
Clerk's Office, Rochester, N. Y.



*I, CARL M. DARNALL, Clerk of the Appellate Division of the Supreme Court in the Fourth Judicial Department, do hereby certify that this is a true copy of the original order, now on file in this office.*



IN WITNESS WHEREOF, *I have hereunto set my hand and affixed the seal of said Court at the City of Rochester, New York, this* **MAY 27 1994**

*Carl M. Darnall*

Clerk.



204 A.D.2d 1025, 613 N.Y.S.2d 306

The People of the State of New York, Respondent,

v.

Carlton Lewis, Appellant.

Supreme Court, Appellate Division, Fourth Department, New York

0574

(May 27, 1994)

CITE TITLE AS: People v Lewis

### HEADNOTE

#### CRIMES

#### CORROBORATION OF ACCOMPLICE TESTIMONY

(1) In murder prosecution, defendant contends there was sufficient corroboration of accomplice testimony; accomplice corroboration requirement is satisfied by independent evidence ‘tending to connect the defendant with the commission’ of crime; corroborative evidence need not independently establish all elements of offense or prove that defendant committed it --- In his statement to police, defendant admitted being in house at time of killing; pubic hair consistent with that of defendant was found on victim's body and on her pants, and head hair consistent with that of defendant was found on toilet seat and rug; additionally, People presented testimony of witness who stated that he talked with defendant and his accomplice prior to incident, at which time men made reference to their scheme to sell victim fake drugs; additionally, that witness related that he subsequently saw defendant, codefendant and accomplice in company of victim near house where murder took place, observed woman and defendant walk behind house, and subsequently saw defendant emerge from house and tell accomplice to accompany him into house.

Judgment unanimously affirmed.

### OPINION OF THE COURT

On appeal from a judgment convicting him of second degree murder, defendant contends that there is insufficient corroboration of accomplice testimony and that the verdict is against the weight of the evidence. The accomplice corroboration requirement is satisfied by independent evidence “tending to connect the defendant with the commission” of the crime (CPL 60.22 [1]; *see, People v Steinberg*, 79 NY2d 673, 683). The corroborative evidence need not independently establish all the elements of the offense (*People v Steinberg, supra*), or prove that defendant committed it (*People v Hudson*, 51 NY2d 233, 238). Seemingly insignificant matters may harmonize with the accomplice's narrative so as to provide the necessary corroboration (*People v Steinberg, supra*).

The accomplice testimony was amply corroborated. In his statement to police, defendant admitted being in the house at the time of the killing. Pubic hair consistent with that of defendant was found on the victim's body and on her pants, and head hair consistent with that of defendant was found on the toilet seat and the rug. Additionally, the People presented the testimony of a witness who stated that he talked with defendant and his accomplice prior to the incident, at which time the men made

reference to their scheme to sell the victim fake drugs. Additionally, that witness related that he subsequently saw defendant, codefendant and the accomplice in the company of the victim near the house where the murder took place, observed the woman and defendant walk behind the house, and subsequently saw defendant emerge \*1026 from the house and tell the accomplice to accompany him into the house.

We conclude that the jury did not fail to give the evidence the weight it should have been accorded (*see, People v Bleakley*, 69 NY2d 490, 495). (Appeal from Judgment of Onondaga County Court, Cunningham, J.--Murder, 2nd Degree.)

Present--Denman, P. J., Green, Lawton, Wesley and Callahan, JJ.

Copr. (C) 2024, Secretary of State, State of New York