

"False Accusations and Denial of Rights
As Guaranteed by the Constitution
End Up In Wrongful Conviction"

Within the United States Constitution and as well even the Missouri Constitution one that is a citizen is guaranteed several rights in a Court of Law. Some of those rights are essential like the right to a fair trial, which actually hinges on several rights, such as the right to be presumed innocent until proven guilty, the right to an attorney - not just the right to have one, but also the effective assistance of that attorney. Another right is being able to confront all witnesses against you and the right to call witnesses into court to testify on your behalf, enabling one to present a defense against the charges for which they are being accused and tried.

However, the fact is that so many are denied their rights and as a result end up being convicted wrongfully. Some are sentenced to many years in prison and depending on the type of case, even death. In this article I would like to present how I became one of those that have been wrongfully convicted.

My ordeal started when my ten year-old step-daughter made accusations stating that I had molested her. She first told her older sister, then her mom and grandmother and then the police. After she talked to the police and DFS (Division of Family Services) workers, her accusations against me had grown to not only had I allegedly molested her, but also that I had made her perform oral sex on me, as well as me performing it on her and that I had raped her. The oral sex and the rape was not alleged as I said prior to her talking to authorities.

At any rate, just off of my step-daughter's statement to police and

DFS, I was arrested and indicted on seven charges. My family made contact with an attorney out of Rolla, Missouri and I hired him as my counsel. My wife at the time paid my attorney \$5,000.00 dollars up front and we were to make payments on the rest of the \$7,000.00 dollars that my attorney wanted to represent me. In the mean time my step-daughter was examined by a nurse practioner at a local clinic where it was determined that there was no physical evidence of sexual assault or abuse. Although there was no physical evidence the nurse practioner stated in her written report that the findings were still not inconsistent with sexual assault. How can that be? She testified at trial that it was because of the history and behavior of the alleged victim. The problem with that theory is that also in her report she had listed that there was no history with this patient and listed her behavior as "friendly and cooperative." Numerous studies show that this is not a normal behavior of a sexual assault victim, especially a child. The normal behavior is that they don't want to be messed with, much less poked and prodded by a complete stranger. The nurse practioner also reported that she did not interview my step-daughter or ask her as to why she was there to be seen. The only thing the nurse practioner knew as to why my step-daughter was there to be seen came through the hearsay of a DFS worker. How then can the nurse practioner rightfully say that the history and behavior were consistent with sexual assault? There is no rightful basis that even stands up to be logical.

As things progressed in my case I found out that my attorney had filed a motion before the court to withdraw as my attorney citing that there were "differences between attorney and client." What? I found out my wife at the time was not making the payments on my behalf any longer. The problem was not that she no longer believed I was innocent of the charges, but come to find out she was being harassed

and intimidated by the police, the prosecutor and DFS because they found out she was helping me fund my defense instead of supporting what she knew to be her daughter's false accusations against me. They threatened to step in and remove the other kids from our home if my wife gave my attorney any more money. How is it legal for DFS, the police and the prosecutor to interfere with someone's defense like that? It's not but they get away with it all the time.

So, my attorney files his motion to withdraw because he is no longer getting paid to represent me. The court flat out denies my attorney's motion without even holding a hearing to find out what the "differences" were between counsel and client. In essence the court was denying my right to conflict free representation.

Because my attorney was denied the right to withdraw he filed another motion in the court, this one was to have the State of Missouri or the County of Callaway pick up the expenses of providing me with an investigator, a medical doctor, an expert in forensic interviews with alleged child abuse victims and depositions of State witnesses, all to help in providing me with a fair trial and effective assistance of counsel. Both essential rights under the Constitutions. The court denies my attorney's motion for funding. My attorney has no choice but to file another motion asking the court to let him withdraw because I am out of money and can't finish paying him to represent me or even provide any money for the basic tools for which he needs to effectively defend me protecting my rights. How was I suppose to get a fair trial with an attorney that was no longer getting paid for his time and no money to hire the much needed experts, an investigator, or even the ability to do depositions? There was no possible way for me to get a fair trial under these conditions. The State was even successful

at seeing that I was denied a reduction in my bail. It was recommended that my bail be reduced from \$350,000.00 dollars to \$70,000.00 dollars because I was determined not to be a flight risk. However, thanks to the lies of Asst. Prosecuting Attorney, Carol England, stating to the court that I had no employment or family ties, I was denied the reduction in my bail. What happened to my right to be free from excessive bail? Why was the prosecutor allowed to lie to the Court? My attorney's second motion to withdraw was denied after a hearing to which the court was notified of my financial status and my inability to fund my defense, and even after my attorney pleads to the court to have me turned over to the public defender's office he is denied and forced by the court to represent me at trial. This was a violation of my rights and also my attorney's rights. Mine as a citizen and his to be effective in his representation without undue stress or burden.

My trial was held December 16th and 17th of 2004 in the Callaway County Courthouse in Fulton, Missouri. A jury of my supposed peers was selected, all but a few being in their senior years. What better way to stack the deck against an alleged child molester and rapist then to put on a panel of grandmothers and grandfathers to decide his innocence or guilt. There were numerous things that occurred before my trial in pre-trial hearings and during my trial that are too numerous to mention here for the sake of space and as a result are now points in my appeals. I am listing a brief summary of what took place and I am sure that anyone that will take the time to read this will agree that my rights to a fair trial among others were disregarded in every possible way by what I call a kangaroo court.

I want to just briefly add that not only am I wrongfully convicted because my rights were violated, but there is proof beyond

a reasonable doubt of my innocence however, that was all disregarded as well by the police, prosecutor, judge and jury.

In summary here are the issues of my appeal:

1. The judge erred in overruling defendant's ammended motion for public funding. Violating the right to a fair trial, due process, effective assistance of counsel and other rights associated with the United States and Missouri Constitutions;
2. The judge erred in overruling defendant's motion to present his indigency and other defense needs outside the presence of the prosecution. Violating the right to a fair trial, due process, effective assistance of counsel and equal protection of the law;
3. The judge erred in overruling defendant's motion to disqualify the Callaway County Prosecutor's Office. Violating rights to a fair trial, due process and equal protection of laws;
4. The judge erred in denying defense counsel's two motions to withdraw forcing him to represent an indigent defendant with no funding from the State - rendering counsel ineffective and violating rights to a fair trial, due process, equal protection of laws and effective assistance of counsel;
5. The judge erred when he denied the defense the right to put on testimony regarding other sexual abuse which went on between the alleged victim's mother and her older brother which could have been the basis for the alleged victim's knowledge in this case regarding things of a sexual nature denying the right to put on a defense, due process and a fair trial;
6. The judge erred when he overruled the objection by the defense regarding the prosecutor's statements to the jury panel during the voir dire phase that they would sentence the defendant if they

sat on the jury. This inferred that the defendant was guilty and violated his rights to a fair trial and due process;

7. The judge erred in allowing evidence of a prejudicial nature regarding some photographs that had no probative value violating rights to due process and a fair trial;
8. The judge erred when he did not intervene after the prosecutor improperly argued during closing arguments regarding evidence that was not allowed to be heard by the jury violating rights to a fair trial and due process;
9. Prosecutorial misconduct in that during closing arguments the prosecutor intentionally injected false testimony into the minds of the jury violating the rights to a fair trial;
10. The judge erred when he did not allow the defense to play a portion of the alleged victim's videotaped interview with police while she was on the stand at trial in an effort to impeach her in regards to inconsistent statements and an admitted lie violating due process, the right to confront and cross-examine the witness against him and a fair trial, as well effective assistance of counsel;
11. In effective assistance of counsel for failing to present evidence, failing to object to uncharged bad acts, failure to object to the prosecutor's improper closing arguments, failure to investigate, failure to object to nurse practitioner giving her opinion as to guilt when no physical evidence was found upon exam of alleged victim, failure to obtain new photographs of defendant's genitalia that would prove he does not have a scar which is alleged to be present and in which the alleged victim gave a specific description to and which a medical expert has determined not to be there.

Please make no mistake about assuming that kids don't lie

about sexual abuse. What happened to me has happened to multiple others and could very easily happen to anyone...all it takes is a kid with an axe to grind because they are unhappy about something. My step-daughter was angry at me because I would not allow her to go to her grandmother's house where her uncle who had molested and raped her mother repeatedly as a child would visit. I also made her do her chores and I disciplined her as I did the other kids when needed. This was something that she was not use to before I met her mother, as there was no father figure in her life before me. I didn't find out until after my trial, but she told my nephew she was going to get even with me for being "mean." This was not too long before she came out with her allegations. I also found out since my trial that she had threatened to tell someone that her older sister had molested her if her older sister kept her from watching what she wanted to on TV. These two things tell me she had motive to make her allegations against me as well as intent. She also knew that she could get what she wanted by saying someone had molested her.

Our justice system and our State Legislatures have made it so all a kid has to do is make allegations and a conviction can be obtained and upheld without any physical evidence to support those allegations. In my case there was no physical evidence to support her allegations... in fact the evidence actually refuted the allegations, so the police with the help of the prosecution and the nurse practioner made it seem to the jury that there was evidence supporting her allegations. Please remember that I was not allowed to have experts to refute anything because the judge denied me any public funding or a public defender so I could have those experts. The State was able to do this because there is no accountability. There is too much liberty given to police,

prosecutors and even judges. They can do what they want and they get away with it...all in the disguise of justice. I don't know what can be done to fix the problem other than telling my story. It is time that the public is made aware of what has taken place and what is still taking place in hope that someone will find a solution to an ever growing problem in our justice system. It is the citizens of this State that vote these prosecutors and judges into office and I believe it is time that the citizens of this State hold these elected officials accountable for their actions. How much of the taxpayer money could be saved if crooked judges and prosecutors couldn't wrongfully convict and get away with it? It takes thousands and thousands of dollars to incarcerate someone that should have never been convicted and incarcerated. That is not including all the money that is spent by the State to pay public defenders to help those wrongfully convicted in their appeals or even the money that the State pays out in fighting those appeals. They would rather pay out thousands and thousands of dollars in the appeal process than to admit any error which would overturn a conviction that was obtained wrongfully. Crooked Judges and Prosecutors need to be kicked out of office and replaced with those that will uphold the integrity of both the Federal and State Constitutions protecting the rights of all those that stand accused before them. It is the duty of the prosecutor to investigate and prosecute a case based on factual evidence...not make up the evidence or twist the facts to simply gain a conviction because some kid made an allegation and therefore regardless of the facts not supporting those allegations a conviction has to happen so they can look good to the public because they are tough on crime. It is also the duty of the judge to ensure the rights of those accused are being protected in their courtroom. After all what good is it to have a Constitution where a person is deemed to have rights protecting them from

unlawful imprisonment when those rights are just ignored by those sworn to uphold that Constitution protecting those rights? Not only has the trial court failed me, but also the State Appellate Court, the State Supreme Court and even the Federal Courts. It seems none of the Courts want to acknowledge there was any errors, although the errors are many and quite obvious from the record of my case. They just keep sweeping the injustice done to me under the rug as a procedural issue, misapplication of State Law or their own twisting of the facts to fit their reason to deny me relief. Again there is no accountability! If they are so sure that I'm guilty why not give me a new trial...and this time make it a fair trial. Are they scared that if I actually had a fair trial I would be able to prove my innocence and they would look bad? I bet thats exactly the reason.

If any reader has any comments or wishes in some way to help me with my fight for justice I can be contacted directly using the information below.

In closing, I just found out not too long ago that the two prosecutors in my case Carol England and Robert Sterner were elected to be judges in Callaway County. I pity the poor souls that find their way before either of them.

William Harrison #1123835
Potosi Correctional Center
Housing Unit 4-A-31
11593 State Highway O
Mineral Point, Missouri 63660