SUPREME COURT – STATE OF NEW YORK
CRIMINAL TERM, K-11, QUEENS COUNTY
125-01 QUEENS BOULEVARD
KEW GARDENS, NEW YORK 11415

P R E S E N T:

HONORABLE JOSEPH A. ZAYAS
JUSTICE OF THE SUPREME COURT

THE PEOPLE OF THE STATE OF NEW YORK

DECISION AND ORDER OF THE COURT

-against-

Ind. No.: 1094/1994

SAMUEL BROWNRIDGE,

Defendant.

Motion to Vacate Judgment

In the spring of 1995, a judgment was rendered in this court, convicting defendant Samuel Brownridge, after a jury verdict, of two counts of second-degree murder and sentencing him to an aggregate term of 25 year to life in prison. The charges stemmed from the March 7, 1994, shooting death of Darryle Adams, in the Saint Albans section of Queens. At sentencing, the trial judge (who has since retired) remarked that it was his preference that Brownridge, who was just shy of 19 years old at the time of his arrest, be required to serve the maximum sentence — that, in other words, he would remain incarcerated until his death.

Brownridge's convictions withstood direct appellate review, as well as collateral attacks in both state and federal court. The collateral proceedings involved claims that another man, Garfield Brown, was the real perpetrator of Darryle Adams's murder. Brownridge was paroled from state prison in March of last year, having spent a quarter of a century, and more than half of his life, incarcerated.

Brownridge now moves this Court for an order vacating the judgment of conviction. He contends that he has established, by clear and convincing evidence, his factual innocence. After a reinvestigation of this matter, the People join in Brownridge's motion. They now also believe that Garfield Brown, and not Brownridge, shot and killed Darryle Adams. The Court, having carefully reviewed the parties' submissions and the materials in the court file, agrees with this conclusion. Accordingly, the motion to vacate the judgment is granted and the indictment is dismissed.

FACTS AND PROCEDURAL HISTORY

The Investigation of Darryle Adams's Murder and Brownridge's Trial

The facts outlined below are, except where indicated, not disputed by the parties. On the evening of March 7, 1994, Darryle Adams was shot and killed after an altercation with four men that occurred near the intersection of Quencer Road and Mexico Street, in Saint Albans, Queens. During the confrontation, Adams dropped to his knees and begged for his life. One of the four men, who was in a wheelchair, struck Adams in the head with a bottle. He was then shot in the back of the head by another member of the group.

Adams's murder was investigated by detectives from the 113th Precinct. Their key witness was a man named Kevin Boatwright, who claimed to have been accosted (but ultimately left unscathed) by the four men just before they murdered Adams. On March 9, 1994, two days after the shooting, Boatwright was shown two six-photograph arrays; each contained a picture of a suspect that the police had developed. Boatwright picked out the two suspects, identifying one as the man who shot Adams and the other as the man in the wheelchair who struck Adams with a bottle. In subsequent lineup procedures, however, Boatwright was unable to identify either man (and, in fact, neither had anything to do with the murder). Consequently, the arrests of these initial suspects were voided. Both sets of identification procedures were documented in a memorandum prepared by an assistant district attorney who was present at the 113th Precinct station house for the lineups.[1] But the photo array misidentifications were left out of a police report concerning the lineups.

Four days later, another witness, Quentin Hagood — who was described during Brownridge's trial as "very slow" and said to be living "in a home with other mentally challenged people" — told the detectives that, on the night of Adams's murder, he had seen a group of four men that included an individual he knew as "Mookie" fleeing from the scene of the shooting. One of the detectives recognized "Mookie" as Brownridge's nickname. As a result of this development, Brownridge's photograph was put in photo

[1] The assistant district attorney who prepared this memorandum was not the trial prosecutor and thus would not have been responsible for providing defense counsel with discovery.

arrays that were shown to Boatwright and Hagood. Both witnesses picked Brownridge out of the arrays, and identified him again when he was placed in a lineup.

Brownridge was indicted for, among other offenses, three counts of second-degree murder and one count of attempted first-degree robbery. None of the other men allegedly involved in the shooting were ever arrested.

In the spring of 1995, Brownridge went to trial before the Honorable Robert Hanophy. Boatwright and Hagood testified for the People. The jury, however, never learned that Boatwright had mistakenly identified two men in photo arrays who were not involved in Adams's murder. According to Brownridge, this is because the District Attorney's Office never shared this information with his trial attorney. The People do not dispute this assertion — which would, regardless, seem to be strongly supported by the absence of any cross-examination of Boatwright about the misidentifications — but they do not concede its accuracy either. Instead, the People assert that, since they agree that Brownridge has established his innocence, there is no need to resolve whether, in fact, this unquestionably exculpatory material was disclosed.

In addition to not learning about Boatwright's misidentifications, the jury also never heard from several alibi witnesses that Brownridge proffered during trial. The People objected to the testimony on the ground that Brownridge had neglected to provide timely notice of it (*see* CPL 250.20), and Justice Hanophy precluded it. Ultimately, as indicated above, Brownridge was convicted of two counts of second-degree murder and sentenced to 25 years to life in prison.

Brownridge's Direct Appeal and the Collateral Proceedings

Brownridge appealed from the judgment to the Appellate Division, Second Department. The only issue he raised on appeal involved the alleged impropriety of the prosecutor's summation. In rejecting that claim, the Appellate Division noted "the overwhelming evidence of the defendant's guilt" (*People v Brownridge*, 267 AD2d 318, 319 [2d Dept 1999]). The Court of Appeals subsequently denied Brownridge's application for leave to appeal to that Court (94 NY2d 901 [1999]).

In the summer of 1999, Brownridge filed a *pro se* motion to vacate the judgment, pursuant to CPL 440.10. He claimed that his trial attorney's failure to submit timely alibi notice deprived him of his right to effective assistance of counsel. In their response to Brownridge's motion, the People stated, incorrectly, that Darryle Adams had been murdered at around 11:00 p.m. (about two hours later than the crime actually occurred) — a fact Justice Hanophy relied upon to a significant extent in denying the motion (Decision and Order, Ind No 1094/1994, Aug. 18, 2000, at 5 ["according to the affidavits supplied by the defendant's alibi witnesses they would have merely testified that they were with the defendant three hours before the crime"]).

Based on this discrepancy, Brownridge moved to reargue the motion. While the reargument motion was pending, a man named Mark Taylor, who had been arrested in Florida and extradited to New York, told New York detectives that he was present at a Queens homicide that had occurred several years earlier, and that the wrong man had been arrested and convicted for the crime. Taylor's information was passed on to the

Queens County District Attorney's Office, and Assistant District Attorney Richard Schaeffer was assigned to look into it. Taylor ultimately told ADA Schaeffer that he, Dean Hoskins, Darren Lee, and Garfield Brown comprised the group of four men involved in Darryle Adams's death. Garfield Brown — a violent career criminal who was killed in May of 2002, when United States Marshalls tried to apprehend him in North Carolina in connection with unrelated murders in Connecticut and New York — was the shooter, Taylor said. And Darren Lee, who used a wheelchair, was the man who had struck Adams with a bottle.

In light of these revelations, the scope of the 440 proceeding was expanded to include a newly discovered evidence claim (CPL 440.10 [1] [g]) and a hearing on both issues was held. In September of 2003, Dean Hoskins testified for the defense. He accused Garfield Brown of killing Adams. Regarding his own involvement, Hoskins said he had played no role in the murder and was basically a bystander. The same was true, Hoskins stated, of Darren Lee, who, in Hoskins' account, had not struck Adams with a bottle. Notably, during his testimony, Hoskins observed that Brownridge looked "a lot" like Garfield Brown.

Lee, who lived in another state at the time of the hearing, did not testify. But a videotaped interview with him that ADA Schaeffer had conducted in February of 2004 was introduced into evidence. Lee, like Hoskins, said that Garfield Brown had shot and killed Darryle Adams for no apparent reason. And, perhaps unsurprisingly, he denied having struck Adams with a bottle.

Despite his substantial cooperation with the District Attorney's Office's re-investigation, Mark Taylor, for his part, refused to say in court what he had told ADA Schaeffer about Adams's murder. He testified instead that he had not seen Garfield Brown shoot anyone in Saint Albans, Queens, in 1994.

Taylor apparently reconsidered that position in March of 2004 (perhaps after learning what Darren Lee had told ADA Schaeffer during their videotaped interview a month earlier). On March 15, 2004, Brownridge's attorney informed Justice Hanophy that Taylor wanted "to come in and correct his testimony," and that, if he did, the District Attorney's Office would be willing to forego any potential perjury charges against him. Justice Hanophy, however, said that if Taylor testified contrary to what he had previously told the court, he (Justice Hanophy) would "recommend to the [D]istrict [A]ttorney's [O]ffice that they prosecute him for perjury." Whatever the effect such a recommendation may have had, given the District Attorney's stated commitment not to pursue such a prosecution, it was, naturally, enough to deter Taylor from re-taking the stand. Thus, when the hearing concluded, there was evidence from two of the three co-perpetrators (or bystanders, depending on whose version of events one believed) implicating Garfield Brown as the shooter, while the third, Taylor, denied being present during the crime.[2]

[2] Several witnesses were also called at the hearing in connection with Brownridge's ineffective assistance of counsel claim.

Justice Hanophy denied the motion in a written decision and order, rejecting both the ineffective assistance of counsel claim related to Brownridge's alibi defense as well as the newly discovered evidence claim. With respect to the latter issue, Justice Hanophy dismissed as incredible the evidence that Garfield Brown was Darryle Adams's killer, primarily because the allegations were not brought to law enforcement's attention until after Brown was dead and thus "not able to refute [them]" (Decision and Order, Ind No 1094/1994, Aug. 17, 2004, at 7).[3]

Brownridge would later challenge Justice Hanophy's handling of the defense's attempt to recall Taylor in a habeas corpus petition he filed in the United States District Court for the Eastern District of New York. In rejecting Brownridge's claim that Justice Hanophy had denied him due process at the 440 hearing, the District Court praised Justice Hanophy for "putting an end to the charade" that had been perpetrated by individuals who "themselves may have had a role in the killing [who] were seeking to shift the blame to the deceased Garfield Brown" (*Brownridge v Miller*, No 06-CV-6777 [RID] [SMG], 2010 WL 2834829, at 5 [EDNY 2010]).

The Current Motion

Several years would pass without any further litigation related to this matter. But, in 2017, Brownridge was fortunate enough to secure pro bono representation from the

[3] Brownridge claims that, at least with respect to Mark Taylor, Justice Hanophy was incorrect, and that Taylor had in fact begun cooperating with the District Attorney's Office before Garfield Brown was killed. The People, in their papers, do not address this issue.

law firm Barket Epstein Kearon Aldea & LoTurco. The firm undertook a reinvestigation of the case, which included interviewing witnesses and obtaining documents through Freedom of Information Law requests. Brownridge's new lawyers, led by Donna Aldea, became convinced that Garfield Brown was, in fact, Darryle Adams's killer.

Consequently, in the fall of 2018, Ms. Aldea reached out to executives at the District Attorney's Office and asked them to reexamine Brownridge's case as a possible wrongful conviction. The Office agreed to do so and assigned ADA Schaeffer — who, as mentioned, had litigated Brownridge's 440 hearing — to lead the reinvestigation.

No determination had been made by January 2020, when Melinda Katz succeeded Richard Brown as Queens County District Attorney. Ms. Aldea reached out to the new administration and asked that they continue reviewing the case. At that point, the case was assigned to the Office's newly formed conviction integrity unit.[4] Within a few months, the District Attorney's Office had agreed that Brownridge was actually innocent of Darryle Adams's murder, and that he had proved as much by clear and convincing evidence.

[4] Before District Attorney Katz took office, the Queens County District Attorney's Office did not have a conviction integrity unit. Instead, senior assistant district attorneys were assigned to review colorable claims involving wrongful convictions. The relative dispatch with which DA Katz's conviction integrity unit has reinvestigated this matter and determined that Brownridge's conviction should be vacated perhaps calls into question the wisdom of that earlier approach.

The parties, accordingly, filed affirmations with the Court, requesting vacatur of Brownridge's convictions and dismissal of the indictment. In requesting this relief, the parties emphasized the following:

- The accounts from Darren Lee, Mark Taylor, and Dean Hoskins, in which they admitted being present during (but uninvolved in) Adams's murder and stated that Garfield Brown was the shooter.
- Kevin Boatwright's misidentification of two police suspects from separate photo arrays two days after the murder, and the fact that the suspect who Boatwright mistakenly identified as the shooter bore little resemblance to Brownridge — which called into question the integrity of the police investigation as well as Boatwright's ability to accurately identify Adams's assailants.
- The close resemblance of Brown and Brownridge, as depicted in photographs of both men from around the time of the murder, which raised the possibility of misidentification.
- Quentin Hagood's recantation, in 2019, of his trial testimony, and the existence of numerous reasons to question his reliability as a witness.
- Brownridge's alibi, which was substantiated by several individuals.
- Recent statements from two individuals, Michael Saxton and James Goodwin, who claimed to have been in Goodwin's car on the night of Adams's murder,

when Mark Taylor approached them, got in the backseat of the car, and said that "Garfield" had just shot someone for no reason.[5]

- A statement from Andre Devieux, a friend of Garfield Brown and the godfather of Brown's son, recounting that Brown called him one evening in March (Devieux could not recall the year) and said that he was "bugging and not going to drink anymore." Brown then reportedly told Devieux that he had been with "Bear" (Mark Taylor), Darren Lee, and another individual whose name Devieux could not remember, when they "came upon this dude." Brown told the man to get on his knees. Lee then hit the man in the head with a bottle and Brown shot him, Devieux recalled Brown telling him.

ANALYSIS

In the past several years, all four Departments of the Appellate Division have agreed that a defendant may challenge a conviction, under section 440.10 (1) (h) of the Criminal Procedure Law, on the ground that he is actually innocent.[6] The wrongful conviction of an individual who has not committed any crime, these courts have reasoned, has been obtained in violation of his constitutional rights. And incarcerating or otherwise punishing such an individual "is inherently disproportionate to the acts

[5] Saxton did not recount this exchange with Taylor when he testified at Brownridge's 440 hearing. He stated instead that, a day or two after Adams's murder, Mark Taylor said to him, in essence, "[D]udes are still doing bullshit and I know I am not going down for anybody else's trouble" — which Saxton interpreted as a reference to the shooting.

[6] *See People v Hamilton*, 115 AD3d 12 (2d Dept 2014); *People v Jimenez*, 142 AD3d 149 (1st Dept 2016); *People v Mosley*, 155 AD3d 1124 (3d Dept 2017); *People v Pottinger*, 156 AD3d 1379 (4th Dept 2017).

committed by that person," and thus amounts to cruel and unusual punishment (*People v Hamilton*, 115 AD3d 12, 26 [2d Dept 2014]; *see also People v Jimenez*, 142 AD3d 149, 155–56 [1st Dept 2016]).

Still, a duly convicted defendant seeking relief on the basis of actual innocence bears a heavy evidentiary burden. He must demonstrate his "factual innocence, not mere legal insufficiency of evidence of guilt" (*Hamilton*, 115 AD3d at 23). This is because, post-conviction, a defendant "no longer enjoys the presumption of innocence, and in fact is presumed to be guilty" (*id.* at 26–27). Thus, in order to obtain reversal of a conviction and dismissal of the underlying indictment on actual innocence grounds, a defendant must prove, by clear and convincing evidence, that he is factually innocent (*id.*). Put another way, he must demonstrate that his innocence is "highly probable" (*People v Velazquez*, 143 AD3d 126, 136 [1st Dept 2016] [internal quotation marks omitted]). "Mere doubt as to the defendant's guilt, or a preponderance of conflicting evidence [on the issue], is insufficient" (*Hamilton*, 115 AD3d at 26–27).

The Court agrees with the parties that Brownridge's innocence is, indeed, "highly probable" (*Velazquez*, 143 AD3d at 136). In the Court's view, the most important factor supporting this conclusion is that the three men who were present with the shooter during the murder of Darryle Adams have all stated — either in court or in interviews with law enforcement officials — that Adams's killer was Garfield Brown, not Samuel Brownridge. It is true, as was argued during the 440 proceedings, that these men's stories were inconsistent, in some material respects, with the accounts of other

witnesses as well as physical evidence from the crime scene. Most notably in this regard, Lee and Hoskins said that Lee did not strike Adams with a bottle (even though he was lying in broken glass when police responded to the shooting). Moreover, it appears that none of the three men was ever willing to offer a motive for what perhaps appeared to be a targeted killing, preferring instead to provide a version of events in which Brown killed Adams seemingly at random. But the fact that Taylor, Hoskins, and Lee would minimize the degree of their own involvement is not surprising; after all, there is no statute of limitations for commencing a murder prosecution (CPL 30.10 [2] [a]). And, beyond that, Brownridge and the People have provided persuasive evidence — including evidence of a contemporaneous admission by Brown, and a contemporaneous statement from Taylor implicating Brown as the shooter — that supports the conclusion that, at least as far as the killer's identity, the three men were telling the truth.

Just as important as the evidence of Garfield Brown's guilt is the unavoidable conclusion that the evidence presented during Brownridge's trial was not nearly as "overwhelming" (*Brownridge*, 267 AD2d at 319) as it may have seemed, and, in fact, that the deck had been unfairly stacked against him. The jury, regrettably, was ignorant of the fact that, two days after the murder, Kevin Boatwright had mistakenly identified an innocent individual, who bore no resemblance to Brownridge, as the shooter — an issue that could have been used to devastating effect by a skillful cross-examiner. Nor did it hear from Brownridge's alibi witnesses.

The People, of course, are correct that the conclusion that Brownridge has proved his actual innocence obviates the need to determine whether a *Brady* violation occurred in this case (though it is hard to conceive of how one could reasonably conclude that it did not). But, at the very least, Boatwright's misidentifications call into serious question his ability to reliably identify the perpetrators of Adams's murder and reinforce the conclusion that Brownridge, like the two uninvolved individuals Boatwright earlier picked out from photo arrays, had nothing to do with the shooting.

The Court, in sum, agrees with the parties that Brownridge has met the heavy burden of establishing his factual innocence. And, more fundamentally, he has shown that from the outset of this case, almost everyone in the criminal justice system who had a hand in this matter failed him in one way or another, resulting in a grave miscarriage of justice. Accordingly, the motion to vacate the judgment, pursuant to CPL 440.10 (1) (g) and (h), is granted and the indictment is dismissed.

This constitutes the decision and order of the Court.

The Clerk of the Court is directed to distribute copies of this decision and order to counsel for the defendant and to the District Attorney's Office.

June 24, 2020

JOSEPH A. ZAYAS, J.S.C.

JUDGE JOSEPH A. ZAYAS