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Retrial Ordered for Man Imprisoned Two Decades for Murder Amid Attorney Misconduct Claims

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Lady Justice. By. GETTY IMAGES

A man jailed for murder over the past two decades will now have a new trial, after several courts lambasted the prosecutor for his cavalier attitude towards document production, and a judge concurred with the man's claim that there were serious deficiencies in the way his defense attorney handled the matter.

Everything began on July 4, 1999 during Carnival on St. John. On that day, a violent altercation between four men – Kenrick Maynard, Ricky Kanasha, Leslie Hyman and Kimba George – was followed three weeks later by the shooting of Leslie Hyman.

Maynard and Kanasha are brothers, Hyman and George are cousins. At the time of the shooting, Hyman said he did not know who had pulled the trigger, but that would change in approximately 24 months.

Only July 28, 1999, two days after Leslie Hyman was shot, his brother Adolph Hyman Jr., father Adolph Hyman Sr., and his father's girlfriend Maria Weekes were walking in Savan when Maynard allegedly approached them and began shooting. Weekes and Hyman Jr. were able to escape, while the elder Mr. Hyman was reportedly hit several times and died from his injuries. Ms. Weekes said she hid behind a wall and watched Maynard shoot her boyfriend several times in the back as he was running, and again multiple times when he was already on the ground.

Police subsequently issued a warrant for Kenrick Maynard's arrest.

Months later, after responding to reports of shots fired in Hospital Ground, police arrested six people in connection with an AK-47. Forensic testing showed a link between Mr. Hyman's murder and the weapon which the six had been arrested for. "At least some of the bullets that killed Hyman Sr. five months earlier had been discharged from the AK-47 discovered at Hospital Ground," reads a court memorandum.

However, the case against the six men was later dismissed for lack of evidence. By October 2000, V.I. Police Department investigators had discovered that Mr. Maynard was imprisoned in Atlanta, Georgia, under a different name. He was brought back to the Virgin Islands under police escort, and in May 2001 was charged with five offenses relating to Leslie Hyman's shooting as well as Adolph Hyman Sr.'s murder.

During the September 2001 trial, Leslie Hyman identified Maynard as the one who had shot him on July 28, 1999, while Adolph Hyman Jr. and Maria Weekes both testified that it was Maynard who approached them and began shooting two days later. Ms. Weekes said she saw Maynard shoot and kill her boyfriend. Ultimately, Maynard was acquitted of the charges connected to the younger Hyman's shooting, but convicted of first-degree murder and unauthorized possession of a firearm in connection with the senior Hyman's death.

Following his conviction, Maynard's first motion for a new trial was denied, and on November 13, 2001, he was sentenced to life in prison for murdering Adolph Hyman Sr. His 3-year sentence on the weapons charge was to be served concurrently.

Mr. Maynard almost immediately appealed his conviction to the Appellate Division of the District Court of the Virgin Islands, which after eight years upheld his convictions. He appealed further to the Third Circuit Court of Appeal, saying that the government had violated a standard established in *Brady v Maryland* Supreme Court decision by not disclosing the identities of the six people arrested for possession of the AK-47, and by not disclosing the drug treatment history of Ms. Weekes, who served as a key witness for the prosecution. The Third Circuit, in August 2010, also affirmed his convictions, but noted that both the Virgin Islands Superior and District Courts identified issues with the behavior of the prosecutor in the case.

Maynard claimed that he was entitled to relief - either of having the matter tossed completely or by having a new trial - because the state withheld two key pieces of information from the defense. The first was the identities of the six people arrested (and later released) for possession of the AK-47. The defense first requested these identities during the final pre-trial conference in early September 2001. Initially, the prosecutor said that those names had been supplied in material already turned over during discovery, however this turned out not to be the case. A second request for the men's identities was made at the beginning of trial, and this time the prosecutor admitted

that none of the documents he turned over concerning the weapon included the requested information. However, during trial, when the investigating VIPD officer was on the stand, prosecutors attempted to introduce a document that did contain the requested names. The prosecutor said that he had just learned of the document's existence from an unnamed colleague during the court's lunch recess. The irate trial judge told the prosecutor, "I'm getting tired of you, in particular, of these last-minute producing things. And this is a situation where the defendant has asked you over and over and over." Despite this, a move to dismiss the matter was denied by the court, as the judge held that defense counsel could have investigated and discovered the names of the six individuals anytime after the first day of the 36-hour trial.

The drug treatment history of Ms. Weekes was also withheld from defense counsel, Maynard claimed. Again, this was requested by the defense during the final pre-trial conference. A court order would be needed to compel the Department of Health to release its records pertaining to the woman, prosecutors said. VIDOH was duly subpoenaed, but on the day of trial, and a representative of the Health Department did not appear. The court offered its help in compelling the witness to attend trial, but defense counsel declined the assistance, eventually resting the defense's case without hearing from the health official at all. The requested records were not received in court until after the matter had been sent to the jury, and the court declined to reopen the evidence to allow for the jury to see the records that had just come in regarding the prosecution's key witness. Those records indicated that Ms. Weekes, the woman who says she watched as Maynard pumped several shots into the back of her fleeing boyfriend, was someone with an eleven-year history of crack cocaine use. According to therapists, she was also "a pathological liar who alters the truth to fit her needs and fantasies."

Despite his convictions being upheld in both the local and circuit appeals courts, the failure of the prosecuting attorney to provide the information requested by the defense was criticized by all three courts. "To be sure, the manner in which the prosecutor approached his responsibilities in Maynard's case deserves, at minimum, the most unequivocal rebuke," said the Third Circuit Court of Appeals, while the Appellate Division of the District Court of the Virgin Islands described the prosecutor's attitude towards the discovery process as "Lackadaisical and cavalier." Despite the stinging critique, however, Maynard's appeals were denied and he remained in prison.

In 2015, Maynard filed a petition for a Writ of Habeas Corpus – a mechanism to challenge what is arguably an unlawful detention or imprisonment – which was denied by the VI Superior court. He filed another petition for a Writ of Habeas Corpus in 2018, again claiming Brady v Maryland violations by prosecutors in his initial trial, but also claiming ineffective assistance of counsel – basically that his trial attorney had not performed adequately in the role. Included in this petition, was an affidavit from one of the six people arrested in January 2000 for possession of the AK-47. In his affidavit, the man said that on the night of Hyman Sr.'s murder, his son Adolph Hyman Jr. was involved in an altercation with someone known only as "Hamster". After the incident, Hamster left the area carrying the AK-47, "and moments later I heard a discharging of shots. Mr. Maynard was not present when Hamster left with the AK-47," the affiant stated. While he could not confirm that the AK-47 which Hamster was allegedly carrying was the same one that led to his arrest in 2000, the man said that automatic rifles were not common in the territory. "I doubt it had two of those on the streets at those time."

Maynard testified during his habeas corpus hearing that he had only met his trial attorney twice – on the day he hired him, and then the day before trial six months later, where he said they spent about 30 minutes in consultation. His counsel did not locate witnesses Mr. Maynard had asked for, made little effort to identify the six people arrested for the weapon, and failed to procure, in reasonable time, the records relating to the girlfriend's drug use.

It is the defense counsel's lack of diligence in securing information relating to that drug history that entitled Mr. Maynard to relief, the court hearing the 2018 petition for Writ of Habeas Corpus found. In his Memorandum Opinion, published on July 7, 2023, Judge Douglas Brady found that Mr. Maynard's counsel "repeatedly declined assistance of the trial court to procure this crucial information concerning the prosecution's key eyewitness before and during trial. The relative ease with which counsel obtained the information after trial, as he could have done before trial, leads to the inescapable conclusion that Maynard's counsel's representation as objectively unreasonable, indicative of a lack of zealousness in preparation and advocacy at trial."

This failure by the defense meant that the girlfriend's long history of drug use, coupled with the therapist's assessment that she was an inveterate liar "raises a reasonable probability of prejudice to Maynard, undermining confidence in the outcome of the trial," Judge Brady wrote. Had the defense been able to present that evidence during trial, the woman's "credibility as a witness would have undoubtedly been seriously affected."

As such, the judge found that Mr. Maynard was "deprived of constitutionally mandated effective assistance of counsel at trial." As such, Judge Brady vacated Maynard's murder and firearm possession convictions, and ordered a new trial on those charges.

Following the decision by the court, Attorney Yohanna Manning, counsel for Kenrick Maynard, told Consortium journalists, "Even after nearly 23 years of being wrongfully imprisoned, Mr. Maynard is not bitter, but extremely grateful to the Virgin Islands Criminal Justice System which has now corrected a grave injustice. " Mr. Manning praised the judge in the matter for his discernment. "In particular, we are grateful to Judge Brady who digested all the facts and circumstances of this case and applied the law to find that the process against Maynard to have resulted in an unreliable and fundamentally unfair outcome."

A new trial date for Kenrick Maynard, who remains in custody, has not yet been set.