



## **Conviction Overturned After 33 Years Based on DNA Evidence**

SANTA CLARA, Calif., August 30, 2019 –Today, the Sixth District Court of Appeal overturned the murder conviction of Jack Sagin after his legal team demonstrated that DNA found under the victim’s fingernails was that of an unknown male and Mr. Sagin’s DNA was absent from every single item of tested crime scene evidence. Mr. Sagin has spent 33 years in prison, wrongfully convicted. He is represented by the Northern California Innocence Project (NCIP) in partnership with Shearman & Sterling LLP.

In 1986, Mr. Sagin was convicted of the murder of Paula Durocher, who was found stabbed to death inside her Monterey home. When police arrived at the crime scene, there was no sign of forced entry, there was a bloodstained towel on the victim’s legs and no items of value were missing from the home. Defensive wounds and the disarray around the victim’s body indicated Ms. Durocher struggled with her attacker.

Months after the murder, Mr. Sagin was arrested on an unrelated matter. While incarcerated, Mr. Sagin was housed in a cell next to two known jailhouse informants. Both informants told police that Mr. Sagin confessed to Ms. Durocher’s murder. Despite a lack of any physical evidence connecting Mr. Sagin to the crime, he was convicted of first-degree murder largely based on the false testimony of the inherently unreliable jailhouse informants.

After a prolonged legal battle in 2009 the Monterey County Superior Court granted NCIP’s motion for post-conviction DNA testing of evidence collected from the crime scene and the victim’s body. The DNA testing, funded by the U.S. Department of Justice, showed Mr. Sagin’s DNA was absent from every single piece of tested crime scene evidence. The DNA of an unknown man was found under the victim’s fingernails and DNA from four other men was discovered on other items of evidence, including the bloodstained towel.

Under a recently enacted standard for the consideration of newly discovered evidence, which NCIP helped become law in 2017, Mr. Sagin’s attorneys argued his conviction should be vacated and charges dismissed because, had the newly discovered DNA evidence in his case been available at his original trial in 1986, the outcome would have been different.

In its published opinion granting Mr. Sagin’s petition for writ of habeas corpus, a unanimous three judge panel of the Sixth District Court of Appeal stated that DNA evidence collected from underneath the victim’s fingernails, “is powerful evidence the victim was killed by someone other than Jack Sagin,” and that “would have caused the jury to view more favorably the testimony of the witnesses who swore Sagin was nowhere near the crime scene.”

NCIP Staff Attorney and lead counsel Melissa O’Connell observed, “Today, justice has finally been done. NCIP has been working on this case since we opened our doors and it has been a long, hard battle. Jack has exhibited tremendous strength and grace in his 33 year fight for his freedom. We commend the court for looking at all of the evidence, applying the legal standard, and coming back with a just result.”

Mr. Sagin became one of NCIP’s first clients in 2002, and many NCIP attorneys have devoted thousands of hours to securing his release. Shearman & Sterling joined forces with Mr. Sagin’s legal team in 2011. Since that time, Mr. Sagin’s case was repeatedly litigated in the Monterey County Superior Court and the Sixth District Court of Appeal

As NCIP's longest represented client. Mr. Sagin was jointly represented by NCIP attorneys Linda Starr, Melissa O'Connell, and Kelley Fleming, and pro bono attorneys John Nathanson, Emily Griffen and Lisa Valenti-Jordan of Shearman & Sterling LLP. Mr. Sagin's victory marks the 29th person exonerated by NCIP since its founding in 2001.

Emily Griffen, counsel at Shearman & Sterling, noted: "Several attorneys at Shearman & Sterling have worked on Jack's case over the years, and we are so pleased to have worked closely with NCIP to help overturn his conviction. The more time we spent studying the facts of this case and the evidence presented at trial, the more certain we became that Jack is innocent of this crime, and that no reasonable jury could have convicted him had it been aware of the decisive DNA evidence now available. We are extremely glad that the court agreed."

"Mr. Sagin's case demonstrates the dangers of the unregulated use of jailhouse informants," said NCIP Executive Director Linda Starr. Incentives for jailhouse informants to lie in order to receive payment or lenient treatment in their own cases make them prone to misuse by law enforcement. Statements from informants were critical evidence used in **15%** of wrongful conviction cases overturned through DNA testing.

This case also demonstrates the importance of evidence retention, an issue NCIP has worked to improve through legislative efforts in California. Starr said, "Our offices could only have secured Mr. Sagin's freedom because law enforcement in Monterey County properly retained the physical evidence in this case allowing for DNA testing decades later." This is not always possible in various jurisdictions in California because evidence is often destroyed after a certain period of time.

#### **About the Northern California Innocence Project (NCIP)**

NCIP is a non-profit clinical program of Santa Clara University School of Law whose mission is to promote a fair, effective, and compassionate criminal justice system and protect the rights of the innocent. Since its inception in 2001, NCIP has processed over ten thousand requests for inmate assistance, investigated hundreds of cases, pursued litigation or collaborative resolution in dozens, and obtained the freedom of 29 wrongfully convicted individuals. Learn more at [www.ncip.org](http://www.ncip.org).

#### **About Shearman & Sterling LLP**

Shearman & Sterling is a global law firm which has advised many of the world's leading corporations and financial institutions, governments and governmental organizations for more than 140 years. The firm has approximately 850 lawyers from 80 countries in 20 offices around the world. Shearman & Sterling believes that engaging in pro bono work is an essential part of every lawyer's practice. See [www.shearman.com](http://www.shearman.com).

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