

Eric Sarsfield's Rape Exoneration Leads to \$2.5 Million Compensation

By JD Staff

Twenty-four-year-old Eric Sarsfield was convicted in July 1987 of raping a 30-year-old woman in her Marlborough, Massachusetts apartment on August 24, 1986.

In convicting him, the jury relied on the woman's identification of Sarsfield as her attacker. No physical evidence or other witnesses placed Sarsfield at the crime scene. Sarsfield testified in vain that he did not rape the woman, and that the woman had mistakenly identified him. When the jury announced its verdict, Sarsfield was so stunned that he told the judge, "Excuse me, I didn't do it."¹

Sarsfield was sentenced to a prison term of 10 to 15 years. He unsuccessfully pursued all available appeals. Then beginning in 1997, Sarsfield sought to have DNA testing performed on the assailant's semen found on the woman's clothing. The testing was vigorously opposed by the Middlesex District Attorney's Office, so it wasn't performed prior to his release on parole in June 1999. Sarsfield had been imprisoned for almost ten years.

Sarsfield pursued proving his innocence on the outside. He was able to get semen on the woman's clothing compared to his DNA after the DA agreed to the testing if Sarsfield paid for it. In March 2000 the test results came back excluding him as her assailant. Armed with the new evidence of his innocence, Sarsfield was successful in getting his conviction vacated in 2000.

Doubts about the woman's identification of Sarsfield surfaced as early as 1993. His claims of innocence had kept the case in the public eye enough that a reporter for the *Telegram & Gazette*, a local newspaper, interviewed her. During that 1993 interview she admitted, "that during counseling she had considered whether she had picked out the wrong man."²

After his exoneration, Sarsfield kept digging into his case. In 2003 he filed a federal civil rights lawsuit naming as defendants the city of Marlborough, then-police chief Floyd Russell, former mayor Chester E. Conary and eight police officers. The suit requested actual and punitive damages of at least \$10 million. The suit alleged the woman's initial identification of Sarsfield in a photo array was not of her own volition and knowledge. He alleged she did not consider him as her assailant until police offi-



cers specifically pointed at him and suggested he was her attacker. The suit alleged her subsequent identifications were based on that police induced suggestion, and not her own recollection of the events of August 24, 1986.

Sarsfield's suit claimed: "As a result of improper suggestive identification procedures, [police] improperly induced an unsuspecting victim to identify Mr. Sarsfield incorrectly, fabricated exculpatory evidence [of their wrongdoing] and withheld evidence of their misconduct in order to ensure his false arrest, unfair trial, and wrongful conviction."³ The suit also alleged that the woman "consistently told police that she was uncertain about identifying Mr. Sarsfield as the man who raped her."⁴

The lawsuit was somewhat novel in that it alleging the police's action had victimized both Sarsfield and the woman who had been sexually assaulted. He claimed they were both, "manipulated, cheated, and betrayed by law enforcement officers more interested in closing a case and getting a conviction than in playing by the rules and serving justice."⁵

In 2004 the city learned that its insurance carriers refused to cover the legal fees or any judgment or settlement resulting from Sarsfield's lawsuit. They claimed that at the time of Sarsfield's arrest the city didn't have insurance indemnifying it against the actions of city employees. The lack of insurance put pressure on the Marlborough to settle the case, since city officials conceded that a \$10 million plus award would bankrupt the city.

In March 2006, Marlborough's city council approved a settlement paying Sarsfield \$2 million. It also assigned to Sarsfield the city's rights to proceed with litigation against the city's insurance companies that denied coverage for the lawsuit. At that time the city had already paid \$400,000 defending against the suit, and its lawyers informed them it would cost at least another \$500,000 in legal fees to take the case to trial.

The city and its police force denied wrongdoing by agreeing to the settlement. Marlborough's city lawyer said, "We're very mindful of the pain and trauma Mr. Sarsfield went through. However, we are of the opinion that our police officers involved in this case did nothing wrong."⁶

That denial of police wrongdoing is not just disingenuous, but an obfuscation of the truth. Sarsfield was locked onto as the suspect about a month after the woman was attacked and at that point any objective police investigation into the rape ended.

While Sarsfield was buying some diapers at a 7-Eleven for his girlfriend's baby, a policeman noticed he had blond hair and blue eyes like the assailant described by the woman. The policeman followed Sarsfield to his home and asked him if he had a tattoo of a cross on his arm like the woman said her attacker had. Sarsfield said no and showed the policeman his arm. At that point you would think the interest of the police in Sarsfield would have ended since they knew he wasn't the woman's assailant. However, as Sarsfield's suit outlined, the police proceeded to do everything possible to outright frame him for a rape that they knew he didn't commit.

Now 42, Sarsfield said after the settlement was announced, "A part of my life has gone by. It has been 20 years of my life. At least I don't have to worry about it any more, I can put it behind me now."⁷ It can only be hoped that he can. In December 2005, three months before the settlement, *The Boston Globe* published an extended article about Sarsfield's case. He told a reporter, "I have dreams that I'm still in prison. The door is locked and they won't let me go."⁸

Seven months before the Marlborough settlement, Sarsfield was awarded \$500,000 under Massachusetts' wrongful conviction compensation statute that became law in December 2004. Sarsfield, Eduardo Velazquez and Dennis Maher were all awarded compensation on the same day in August 2005. They were the first three people awarded compensation under Massachusetts' new law.

Endnotes and sources:

1 The wrong man, Megan Woolhouse, *The Boston Globe*, December 11, 2005.

2 Marlborough to pay \$2M in rape suit, Elaine Thompson, *Telegram & Gazette*, March 7, 2006.

3 *Id.*

4 *Id.*

5 Wrongfully convicted man settles lawsuit with Marlborough, *The Boston Globe*, March 7, 2006.

6 Marlborough to pay \$2M in rape suit, *supra*.

7 *Id.*

8 The wrong man, *supra*.



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