



The Kensu Wrongful Conviction – Where is the Justice?

Temujin Kensu (formerly known as Fredrick Freeman) was wrongfully convicted of the murder of Scott Macklem, who was shot in Port Huron on November 5, 1986. Mr. Kensu was convicted following a jury trial and sentenced by Judge James T. Corden on August 3, 1987, to the mandatory term of life in prison without parole. However, every assessment of his case (outside of those of the prosecutor and his associates) has concluded that Mr. Kensu is wholly innocent of the crime. Following is a description of:

- The facts and evidence of Kensu's actual innocence;
- The conclusions of those who have reviewed the case;
- The reasons he was wrongfully convicted;
- The prosecution's misconduct and unethical behavior; and,
- Possible conspiracy and collusion in the conviction.

Facts and Evidence of Kensu's Complete, Actual Innocence

The following shows why every single review, outside of the prosecutor's, has reached the conclusion that Temujin Kensu is innocent of the murder of Scott Macklem:

A Physical Impossibility Kensu Killed Macklem

It is physically impossible for Mr. Kensu to have committed the crime. Around the time of the murder, he was actually in the Escanaba area of the Upper Peninsula of Michigan about 450 miles from the crime scene in Port Huron, Michigan. This is confirmed by at least nine disinterested alibi witnesses who were absolutely unimpeached at trial. At the exact time (around 9:00 am, November 5th) of the crime, his primary alibi witness, Michelle Woodworth, actually places him even farther away in Rock/Perkins, Michigan 20 miles north of Escanaba. In addition, Mr. Kensu has signed receipts indicating that he was in Escanaba late into the evening the very night before the murder. The evidence clearly shows that he was actually in Escanaba in the very early morning hours (about 1:30 am) and later morning hours around noon on November 5th. With the murder committed at about 9 am in Port Huron, how could Mr. Kensu be in two places at once? Driving is not plausible, since it would require him to drive at more at about 150 miles per hour, largely on two-lane roads, some of which were under construction.

It would also require that Mr. Kensu could somehow miraculously know the exact timing, schedule, and plans of Mr. Macklem so Mr. Kensu could arrive early at the parking lot and get into position to intercept Mr. Macklem when he arrived at the college. However, campus security testified that Mr. Macklem was not issued a parking permit required to park in the lot and, if he routinely parked there, he would have accumulated tickets. He had none.

Finally, there is absolutely no evidence or testimony that Mr. Kensu made any plans or preparations for the murder. There is no evidence or testimony that he told anyone that he was out to get Scott Macklem or that he was making preparation for a long and complicated trip. In fact, he was on a date – with restaurant receipts to prove it – late into the night the evening before the murder.

No Evidence Linking Mr. Kensu to the Murder

There was absolutely no evidence of any kind – documentary, forensic, or physical – that connected Mr. Kensu to the crime in any way. No murder weapon was produced. No gunshot residue was found on his clothing. An ammunition box found at the scene contained a fingerprint not belonging to Mr. Kensu. Police conducted a several-hour, warrantless and illegal search of Mr. Kensu's house, trailer, and property and found nothing incriminating.

Polygraph Examinations Support Innocence

Temujin Kensu was administered a polygraph examination by a well-respected former Michigan State Police polygraph expert that clearly demonstrated his innocence. Likewise, Michelle Woodworth, his former girlfriend and primary alibi witness, passed two polygraph examinations and swore under oath that Mr. Kensu was with her in the Upper Peninsula at the exact time of the shooting.

Conclusions of Those Who Have Reviewed the Conviction

The conclusion that Temujin Kensu is wholly innocent is not just that of Proving Innocence. In fact, we know of no one who has taken the time to review the case – except for those involved in the prosecution – who have come to any other conclusion. Below is a sampling of comments from some of those reviewers. These comments include those from distinguished, accomplished, and knowledgeable people in the law enforcement the judicial community, and government, including former FBI agents, local and state judges, prosecutors and police officers, law school faculty, a former Federal Prosecutor, a current Michigan Supreme Court Justice, a former Michigan Supreme Court Chief Justice, and a former United States Senator.

“Reading the trial transcript as an outsider, you just had this smell of the whole thing. I don’t see how they could convict the guy. Had I been the trial judge, I hope I would have had the guts to throw the case out.” – Thomas Brennan, former Michigan Supreme Court Chief Justice.

“There is no doubt in my mind that, if Mr. Kensu was adequately represented by an attorney and an experienced investigator, this case would not have resulted in a conviction. I do not mean to infer that Mr. Kensu is technically not guilty beyond a reasonable doubt. I firmly believe that he is innocent of the charges brought.” – John Boggs, private investigator and detective/sergeant for the Michigan State Police for over 16 years, court expert in death investigations.

“After administering the polygraph exam to Temujin Kensu, studying the case as to testimony, evidence, etc., in my opinion this is the worst case of a wrongful conviction ever seen in my 42 years in law enforcement.” – Chester S. Romatowski, Michigan State Police polygrapher for 25 years and 17 years with the Oakland County Sheriff's Department.

“My FBI career involved placing men in jail, not getting them released. Mr. Kensu is the first for whom I have actively supported the release of. If the investigation and evaluation of the evidence in this case had occurred properly in 1986, no law enforcement agency should have

identified Mr. Kensu as a suspect. Mr. Kensu deserves his freedom after having lost a good portion of his adulthood in prison for a crime he did not commit.” – Harold C. Copus, private investigator and retired Special Agent of the FBI.

“I have personally reviewed the documents from the various court cases. As a lawyer, I believe the evidence of innocence is compelling.” – U.S. Senator Carl Levin (retired) commenting on Kensu’s case.

“I’ve written about this case before, and it’s among the most egregious miscarriages of justice I’ve seen.” – Nolan Finley, Editor, The Detroit News

“I won’t list all of the wrongful acts that convicted innocent Fred Freeman (Temujin Kensu) and has caused him to spend almost his entire adult life in prison. I will just reiterate this is THE worst case of wrongful imprisonment I have been witness to.” – Jerry Hardesty, owner of Hardesty Investigations and President of the Michigan Council of Professional Investigators.

“Temujin Kensu has served 30 years in prison for a crime he did not commit. ... Mr. Kensu’s case is a perfect example that begs for clemency. Judges in both state and federal court have recognized significant flaws in his trial and the lack of evidence against him.” –Ryan M. Shannon, Dickinson Wright, PLLC

“There is no doubt in my mind that Temujin Kensu did not commit this murder and in order to gain a conviction against him several inappropriate things occurred. Mr. Kensu’s conviction and continued incarceration is a terrible miscarriage of justice. My heart goes out to the Macklem family for the loss of their son, but the wrong person is paying for this crime with his life in prison.” – Herbert C. Welsler, retired detective lieutenant with 31 years in the Port Huron Police Department (Note: The very same department that originally helped to convict Mr. Kensu).

“There wasn’t the evidence to convict him. It just wasn’t there. There’s a lot more information behind what appeared at trial. It’s some scary shit.” – Hank Glaspie, a private investigator and former FBI special agent.

“I spent my entire career putting bad guys behind bars where they belong. But this case is a true tragedy. Our criminal justice system failed this time because of faulty police work, overly zealous prosecution, admitted perjury by a jailhouse snitch, a flawed witness identification process, and a drug-addicted and incompetent defense attorney. It was Kensu’s ‘perfect storm’.” – Ross Parker, retired career federal prosecutor.

“I reached the firm conclusion that Temujin Kensu did not commit or have any involvement in the murder for which he was convicted. I view Mr. Kensu’s conviction and continued incarceration as an egregious miscarriage of justice, one that is a blot on the system of justice that I tried to serve during my 35 years of practice.” – Jonathan E. Maire, attorney and former Ingham County assistant prosecutor and City of Lansing Municipal Judge.

“The inadequacy of his defense attorney, problematic police and prosecution practices, and outlandish assertion that he chartered a plane from the Upper Peninsula to commit murder were quite shocking. It is atrocious that this kind of miscarriage of justice could take place in our state, leaving an innocent individual in prison for multiple decades. I truly hope that Fred is able to

receive the freedom he deserves one day very soon.” - Stephanie Chang, former Michigan State Representative a current State Senator.

“We firmly believe that Mr. Kensu could not have murdered Scott Macklem.” – Bridget McCormack and David Moran, Co-Directors of the Michigan Innocence Clinic of the University of Michigan Law School. (Note: McCormack is now Chief Justice of the Michigan Supreme Court.)

“It’s time for action to release this wholly innocent man so he can return to his family and friends.” – Donna McKneelen, retired Co-Director of the Cooley Innocence Project at the Thomas M. Cooley Law School.

“I believe, as any reasonable individual who has looked at the record of his case must believe, that Mr. Kensu is fully innocent of the crime for which he has spent of over 30 years in prison.” – former State Senator Steven Bieda

“In this case, I am convinced that Temujin Kensu did not commit this murder and had no role in it. He is truly innocent, and I encourage the Governor to grant clemency.” – Ronald Bretz, a professor of law with the Thomas M. Cooley Law School of Western Michigan University.

“There’s no doubt that, the more you look at this case, it is essentially the ultimate template for wrongful convictions and the failures that lead to them.” William Proctor, founder of Proving Innocence and retired TV investigative reporter and journalist.

“It’s mind-boggling. You would like to think that somewhere in the system somebody is going to come forward and say, ‘Come on. You’re putting away an innocent man here.’ It’s incomprehensible to me.” – Sam Gunn, a 30+year veteran attorney.

It is important to realize that not one of these reviewers were paid (except for some expenses) and that every law enforcement and private investigator who conducted a review was at first highly skeptical of Mr. Kensu’s innocence. Yet each and every one of them has come to the exact, same, tragic conclusion: that an innocent man was framed for murder and the city and county responsible are simply unwilling to admit what they did, to re-open the case, or to even conduct the most basic interviews or demand answers from the principals involved.

Would the prosecution have us believe that all these reviewers and investigators of Kensu’s case were “duped”? Are we now mocking the credibility and integrity of Michigan State Police Detectives, Agents of the F.B.I, two Michigan Supreme Court Justices, a U.S. Senator, members of the judiciary and multiple prosecutors? And if they were all so “easily duped”, then are we to deny the validity of all their many, many years of past, honorable, and dedicated service? According to Port Huron, the only such “professionals” that can be “trusted” to “assess” this matter are they themselves alone! Should we not be offended by such an absurd implication?

Who was truly duped? Dozens of experts or a simple jury that listened to countless hours of hateful, insightful, inflammatory and completely unproven rhetoric while not hearing about polygraphs, lies, false evidence, faked photographs, perjury, secret deals, hidden transcripts, witness intimidation, deception and deceit.

The question is: If the evidence, any bit of evidence, shows that Mr. Kensu is guilty of Macklem’s murder, where are all the prosecutor’s prominent disinterested authorities to back up that claim? They do not exist.

Reasons Kensu Was Wrongfully Convicted

When the facts and evidence of Mr. Kensu's case are presented to someone unfamiliar with this injustice, they are immediately incredulous. They usually say, "How could that have happened?" They find it just unbelievable that Mr. Kensu was convicted with all the evidence demonstrating he was innocent and the paucity of evidence that he was connected to the crime in any manner. So how did it go so wrong?

An ugly truth about our criminal just system is that juries sometimes make mistakes. (Cases overturned with DNA evidence across our nation demonstrate that wrongful convictions are far too common). Juries are normally a very reliable vehicle for delivering justice; but sometimes they get it wrong, especially when deceived and misled by an unscrupulous, unethical, and, indeed, illegal prosecution. To that point, consider the following:

A Phantom Air Flight

First of all, the prosecutor presented to the jury a wild and unsubstantiated theory, as discussed earlier, that Kensu chartered a plane to fly from Escanaba to Port Huron and back to commit the murder. In doing so, the prosecutor called as an expert his personal pilot and friend to testify (but did not reveal that to jurors). This undoubtedly had an impact on the jury and allowed them to disregard the solid alibi of nine disinterested witnesses who place Kensu in Escanaba around the time of the murder. In commenting on this phantom flight, one of the jurors, Richard Pelligren, said in an interview after the trial, *"It was circumstantial, all circumstantial. We have no evidence"*.

A competent defense counsel would have objected to this outlandish, ridiculous, and totally unsupported theory. But Mr. Kensu did not have one. (More on that later). A fair judge would have ruled this "fairy tale" inadmissible, but there was not one as well. And incredibly, the jury bought the "tale".

The Jailhouse Informant or "Snitch"

With no evidence that Mr. Kensu was in any way involved in the crime, Prosecutor Cleland did the next best thing: he manufactured that evidence, not just with the "Phantom Flight", but with creating a "witness". Cleland's key witness, Philip Joplin, was a jail house informant and career criminal. At trial Joplin testified that Mr. Kensu spontaneously confessed to him, a complete stranger, in a holding cell before trial. Joplin, a six-time convicted felon in Jackson Prison, denied in front of the jury that he had received any promise or benefit as a result of his testimony. He later admitted in a videotaped interview and to others that he had fabricated this story. For his false testimony Joplin was promised he would not be returned to prison, and, despite his record and escape conviction, he was placed in a community program and given other favors, including money, a VCR, clothes, and cigarettes. This, in effect, "bribery" to elicit false and illegal testimony was not revealed to the jury by the prosecutor or the trial judge, again permitting the jury to dismiss Kensu's rock-solid alibi. Corrections documents undeniably confirm that the prosecution and the judge did, in fact, intervene to provide Joplin placement within Port Huron (not back to prison) – a clear case of both judicial and prosecutorial misconduct. (Note: Joplin before trial tried to withdraw his false testimony but was threatened by the prosecutor with severe repercussions if he did so.)

Dubious Prosecution "Witnesses"

The prosecution likes to suggest that there were three "witnesses" that identified Mr. Kensu as being Scott Macklem's killer. That is completely misleading. Though several people in the parking lot heard the shot that took the victim's life, no one actually saw that shot.

The three “witnesses” offered by the prosecution were Cathy Ballard, Richard Krueger, and Rene Gobeyn.

First, Cathy Ballard did not pick Kensu from the photo or in-person line-ups and. In fact, she picked a James Loxton from the in-person line-up, someone who looks nothing like Mr. Kensu! Note that Cathy Ballard again in 2008 stated that she did not pick Mr. Kensu as the suspect in the crime.

Second, Richard Krueger did not pick Mr. Kensu from either the photo or in-person line-ups. He also picked James Loxton from the in-person line-up! More astounding, Krueger was never in the parking lot in question but actually in a lot farther away near the McMorrان Arena – and Krueger saw his “suspect” an hour before the murder! (meaning that Kensu would have had to have been in Port Huron at least by 8 am). Krueger saw no crime take place, and his alleged “suspect” was likely nothing more than a college student who had every reason to be there. However, at trial, under pressure from the prosecutor, and without any objection from Mr. Kensu’s drug addicted lawyer, Krueger indicated it was Mr. Kensu he saw in another parking lot.

These two are “witnesses”? Really?

Third, Rene Gobeyn, was the prosecution’s primary scene witness. He claimed he saw Mr. Kensu in what he admitted was only “a few seconds glance” at a vehicle in motion leaving the parking lot with a driver who “had a hat down to his eyes, collar up to his chin, and his head down”. Gobeyn’s “identification” was finally made only after illegal and improper hypnosis and after being shown a series of manipulated and suggestive photos highlighting Kensu among the others presented. In the in-person line-up, Gobeyn admitted actually knowing two line-up members, meaning that Kensu was the only one left as the “brown-haired male” police were seeking.

(Note: Harold Copus, a former Special FBI agent and professional investigator, has said that given the direction of the vehicle moving through the parking lot and the direction and angle of the shotgun wound, it would be impossible for the driver to have shot Scott Macklem. There would have had to have been a driver and a passenger – who pulled the trigger – to commit the murder. Gobeyn claimed to see only one person in the vehicle).

Often overlooked in evaluating Gobeyn’s credibility (or, more accurately, lack thereof), is his totally unreliable “identification” of the suspect vehicle leaving the parking lot. Gobeyn gave the police at various times different vehicle models, makes, manufacturers, and colors. He changed the suspect vehicle dramatically from a “pinkish-tan Mazda RX 7” (pre-hypnosis) to later a “metallic-gold to light brown Ford Escort station wagon” (post hypnosis)! In other words, he first saw a sports car and later remember it as a station wagon. And this is a guy who was in a “Small Auto Body Class” and would have been very familiar with the different body styles common then.

This man can claim to ID a suspect obscured in a car but cannot even ID in any consistent and reliable way a vehicle? (Of course, no vehicle was ever tied to Kensu.)

Gobeyn was even more equivocal and unreliable when it comes to license plate numbers. He gave twelve wildly differing alleged “plate numbers”. Of the license plates Gobeyn identified, the prosecution focused on 882-DHH, which was then found to have been destroyed by Rinke Cadillac almost a year and a half before the murder when Mr. Kensu was living in Washington State.

It's important to realize that, though Gobeyn claimed to "really look at the car" and to "write the plate number down on his notepad in the parking lot". The two witnesses right there with him (Cathy Ballard and Robert Mervich) both noted that Gobeyn did not write anything down, did not even seem to notice the vehicle, and did not comment to them whatsoever. Neither Mervich nor Ballard had any reason to lie "for" Kensu; neither of them knew him.

Gobeyn was, in fact, a young man in a college criminal justice program seeking to impress and ingratiate himself with the Port Huron police department, of which he actually knew some of the personnel. He wanted to be both a "star witness" in a high-profile case and, by his own admission, "a cop". That explains a lot of his testimony.

In summary, Mr. Kensu's defense has nine unimpeached witnesses placing him at least 450 miles from the murder scene (actually now 10, with another key witness, Elizabeth Stier found in police reports not revealed to the defense). The prosecution offers two witnesses who identify another man as the suspect in the in-person line ups, and a third who can't tell the difference between a sports car and a station wagon yet is expected to reliably identify Mr. Kensu obscured within a moving automobile. Extremely dubious prosecution witnesses Krueger and Gobeyn are important because they are the only two people to indicate that Kensu was even in Port Huron at the time of the crime. No one else did.

Which set of witnesses – the prosecution's or the defense's – is believable?

A Cocaine and Alcohol Addicted Defense Counsel

A major reason Mr. Kensu was convicted is a major reason most wrongfully imprisoned people are falsely convicted – bad lawyering. It is undisputed that Mr. Kensu was represented by an incompetent, court appointed lawyer named David Dean, who was an active drug addict during the trial. Dean, a Port Huron disgraced former prosecutor, already accused of embezzling tens of thousands of dollars from the prior firm he worked with, was a known alcoholic. He was repeatedly banned from the jail for appearing there drunk and he was known to virtually live at the bar he owned, "Wall Street".

Mr. Dean was also an acute cocaine and "crack" addict and generally known to be so within the legal and law enforcement community in Port Huron. (This was surely known by Prosecutor Cleland who was undoubtedly delighted that he would be facing an incapacitated counselor as Mr. Kensu's defender). In taking on Mr. Kensu's case, Mr. Dean had been just released from probation by the State of Ohio for using cocaine in 1985. He was later disgraced and disbarred from the practice of law in Michigan, in part for his substance abuse. (Dean died in Cambodia in 2018; undoubtedly drug use contributed to his demise).

Mr. Dean managed to present and ingratiate himself to the young and legally naive Mr. Kensu and Dean was then later appointed by the same court that controlled Kensu's very freedom. Dean was actually under multiple drug investigations before, during and after the time of this case and was eventually arrested yet again, prosecuted, and, as noted above, disbarred.

Mr. Dean was barely able to function and bungled the entire trial. He failed to raise key objections at trial and, most importantly, in an appalling violation of Mr. Kensu's constitutional rights, even prevented Mr. Kensu from testifying on his own behalf.

Unbelievably, in testament to David Dean's raging cocaine addiction and his unethical behavior, while the trial plodded on, he stole and sold all Mr. Kensu's possessions for drugs! This is proven by storage facility records, Dean's own handwritten directives, a forged power-of-attorney, and affidavits from the people he sold these items to in exchange for "crack rocks".

Note: In an astounding conflict of interest Mr. Dean was representing lead Port Huron investigator Detective Bowns in a case around the time he was also representing Mr. Kensu (and not revealing that relationship to Mr. Kensu). Mr. Bowns was suing the City of Port Huron to return to him unemployment compensation monies that he lost after being arrested in the Michigan State Police gambling sting operation, discussed later in this document.

Character Assassination without Objection

Much of the prosecution's "case" against Mr. Kensu presented at trial was simply totally unsubstantiated character assassination. Days were spent painting Mr. Kensu before the jury as a very dangerous man who could have easily murdered people. The prosecutor had Crystal Merrill (Scott Macklem's girlfriend) on the stand for hours vilifying and demonizing Mr. Kensu (without any objections from his drug-addicted lawyer who appeared to be in a stupor) with false, bizarre and completely fabricated stories on Mr. Kensu's "misdeeds" that would have been easily disproven had Mr. Kensu had competent counsel. These fantastic stories and alleged "events and incidents" (completely unwitnessed by a single living soul at that time apparently) ranged from tales of "high-speed chases", "bullet-riddled telephone booths", "secret banking transactions", "a house of women and weapons", and so much more, each tale being easily discredited when actually investigated. (For example, the "bank" (Citizens in Flint) she identified had no idea who Mr. Kensu was or what she was talking about).

Crystal Merrill presented these wild stories despite the fact that (according to her own sworn testimony) she had "no knowledge of the crime". Also, despite the fact that even Crystal's own mother, Bonnie Merrill, testified that Crystal never told any of these stories until after Scott's death, and that after Mr. Kensu broke up with her, she was "depressed, withdrawn, and crying". She also recounted her one meeting with Mr. Kensu who was "nice and polite" noting that Crystal seemed comfortable with and attracted to Mr. Kensu.

This unsubstantiated character assassination attack presented by the prosecution without objection by defense counsel or the court was discounted even by Michigan Court of Appeals Judge, the Honorable Douglas Shapiro, in Mr. Kensu's state appeal. In fact, in Mr. Kensu's first appeal to the Court of Appeals in 1988, the Court blamed trial counsel for "failing to object" to hours upon hours of such unsupported testimony totally unrelated to the murder of Scott Macklem.

Complete Lack of a Real Investigation

What is unquestionable from the beginning of this matter is the complete bungling and lack of investigation into Scott Macklem's murder. To begin with, the Port Huron Police Department's lead detective in Macklem's murder, was John Bowns, a disgraced officer who had never conducted a murder investigation. Prior to the Kensu case, Mr. Bowns was charged by the Michigan State Police and Michigan Attorney General's Office with illegal gambling and numbers running. In 1982, Bowns was terminated by the Port Huron Police Department for conduct unbecoming a police officer and neglect of duty. Despite his misconduct and unprofessionalism, he was rehired by the department about a year before the Kensu case. Detective Bowns presided over an incredibly incompetent investigation, failed to follow standard investigative procedures and practices, and took a "tunnel vision" approach, focusing almost exclusively on Mr. Kensu as the sole suspect.

This "tunnel vision" and rush to judgment occurred despite the fact that Scott Macklem, the murder victim, had been followed and threatened by two men who were visibly upset with him. Common sense suggests that it's much more likely that these two men had something to do with the crime than a man about 450 miles away living his own life. But no one cared to do a real investigation. They had their man – and the real killer remains free. Without any evidence whatsoever linking Mr. Kensu to the crime, police and prosecutors focused exclusively on him as their only suspect within hours of the murder.

It would take pages to highlight all the failures of the prosecutor/police investigation, but they include:

- Failing to attempt to identify the two individuals who Scott Macklem clearly knew from past contact who allegedly came to confront him at his workplace.
- Failing to properly secure the crime scene, fingerprint the victim's vehicle and belongings, gather evidence or attempt to locate witnesses or possible security video.
- Failing to properly interview and record the accused, Mr. Kensu. (Standard police protocol in all state and federal jurisdictions).
- Failing to conduct an impartial and professional suspect witness line-up.
- Never revealing the fact that Beth Stier – who was with Mr. Kensu in Escanaba into the early morning of the very day Scott Macklem was murdered – was pulled out of high school class and interviewed by the police.
- Failing to record numerous other interviews such as that of James Kilbourne who only recently confessed that he was repeatedly questioned by Cleland, Bowns and others. (This was, in fact, completely withheld by Port Huron as with so much other evidence).
- Failing to perform proper forensics or to properly secure evidence for analysis.
- Failing to perform proper toxicology on the victim's blood samples when it was alleged that he was involved in substance abuse, as was Ms. Merrill by the admission even of her ex-husband.
- Failing to identify and interview Scott Macklem's coworkers, classmates and friends or even to determine where the victim was the night before the murder, and why he was skipping school more and more but still on campus when killed. Police also failed to attempt to identify who he was allegedly "running from", where witnesses noted that Macklem appeared to be "running from the direction of the Student Center towards his car". (It could not have been the "mystery suspect" in the "mystery vehicle" since clearly this car was already by Macklem's (according to witnesses like Rene Gobeyn!). So, he must have been running from someone else! Perhaps the person who actually shot him?)
- Failing to thoroughly interview Crystal Merrill about her whereabouts the night before and the morning of the murder, as well as failing to properly interview either the victim's own parents, (who initially admitted they knew nothing about Mr. Kensu and that their son had never mentioned him). Moreover, police made no effort to even try to interview Scott Macklem's own brother, Jeff, a failing so great that it belies belief!

The Prosecution's Misconduct and Unethical Behavior

The principal role of a prosecutor in our criminal justice system is to convict the guilty and protect the innocent. True justice cannot be achieved in our system if prosecutors fail to follow that mission. Temujin Kensu was convicted because the prosecutor in his case totally and dreadfully failed: he neither prosecuted the guilty nor protected the innocent.

The wrongful conviction of Temujin Kensu must be understood in the context of small-town politics. The Mayor of Croswell, Michigan was an influential man in local Republican politics. The murder of his son, Scott Macklem, a tragedy no family should endure, received widespread media attention, and generated great pressure for a quick resolution. Although the weight of evidence in the case overwhelmingly tips the scales in favor of Kensu's actual innocence, he was convicted. This wrongful conviction resulted in major part from misconduct, incompetence, and collusion on the part of the police, the court, and Kensu's own defense counsel – all of whom were intent on not displeasing or incurring the wrath of an aggressive, unprincipled prosecutor.

The county prosecutor, Robert Cleland, played the primary role in this miscarriage of justice. This three-term St. Clair County Prosecutor lost his race for Michigan Attorney General in 1986, but not his appetite for political power. When the Macklem case crossed Cleland's desk, he needed a quick win to enhance his reputation as a tough prosecutor and to advance his career, eventually becoming a Federal Judge.

Cleland caught the break he wanted when the sister of the murder victim's fiancé suggested that her former boyfriend, Mr. Kensu, may have been the killer. Cleland became determined to swiftly "prove" Kensu's guilt (disregarding all the evidence of actual innocence) and in doing so he used every devious means at his disposal – including soliciting perjured testimony, hiding evidence from the defense, and influencing others in the justice system to buy into this injustice.

Prosecutor Misconduct

To be perfectly clear, there is no question of prosecutor misconduct in this conviction. The Chief Justice of the Federal Court, Eastern District of Michigan, Denise Page Hood, in 2010 overturned Kensu's conviction. (Judge Hood's decision was overturned by the US 6th Circuit Court of Appeals in 2012 solely on procedural grounds (tardy filing of habeas) having nothing to do with his actual innocence.) In doing so, she declared that the prosecutor's office engaged in official misconduct to convict Mr. Kensu by illegally soliciting perjured testimony. The Chief Justice clearly saw that Mr. Joplin, the prosecution's key witness and a six-time convicted felon, lied when he said that Mr. Kensu spontaneously confessed to him that he committed the murder. (As noted earlier, Mr. Joplin later admitted that he was coerced by the prosecution into lying and received favors for doing so. An official document signed by the assistant prosecutor and judge confirms this illegal solicitation of perjury and the granting of community placement rather than a return to Jackson prison.)

In 2017, the Sixth Circuit Court of Appeals affirmed Mr. Kensu's other claims of prosecutorial misconduct and malfeasance to include proving beyond a reasonable doubt that the prosecutor and Port Huron officials deliberately and maliciously withheld critical photographic evidence from the defense for years – a clear "Brady" violation. (The Sixth Circuit then referred the case to Federal Judge William Bertelsom in Kentucky who then unfortunately issued a very flawed ruling that this important photographic evidence did not effect the outcome of Kensu's trial. This is being appealed by the Michigan Innocence Clinic.) The original photo line-up of possible suspects shown to witnesses was not presented to the jury. The prosecution illegally altered and changed those photos deceitfully before trial, and then not only lied about this to the jury but presented a completely fabricated photo board. Then, in shocking violation of the pre-trial rules, prosecutor Cleland deliberately elicited testimony that Mr. Kensu's photo was taken "from the mug file", thus telling the jury he had been arrested for a crime he had not been convicted of simply to further inflame their passions and animus against him.

Other Unethical Prosecutorial Behavior and Actions

Here are just a few examples of questionable prosecutorial behavior or outright misconduct that distorted justice and led to a wrongful conviction:

- As noted previously, if Prosecutor Cleland was truly interested in justice why did he present to the jury a wild, totally unsubstantiated theory that Mr. Kensu could have flown from Escanaba to Port Huron and back to commit the murder. That unsupported presentation was highly unethical, if not illegal.
- Michelle Woodworth, Mr. Kensu's primary alibi witness stated police investigators, when executing an illegal search warrant in the Upper Peninsula, threatened her that, if she supported Mr. Kensu and testified on his behalf, they would have social services take away her soon-to-be-born child. This is hardly proper and ethical behavior of the police, which legally are instruments of the prosecution.

Moreover, Ms. Woodworth was deliberately not called to testify either by Prosecutor Cleland or cocaine and alcohol addicted defense counsel Dean, (though records and notes indicate they both knew she was living with her parents in Burton, Michigan at trial time). Equally well-understood is the devastating (again deliberately so) effect this had on the jurors and Mr. Kensu's alibi defense; more so because his alibi witnesses saw her with him on that same day, leaving jurors to wildly speculate why she was not there to testify. Ms. Woodworth, now a 53-year-old mother of two and business owner living in Titusville, Florida, has always insisted on Mr. Kensu's complete innocence.

If the prosecution truly believed in justice, rather than railroading an innocent man to prison, why would they threaten the defense's key alibi witness? Why wouldn't they call this critically important witness to testify?

- The prosecution has ignored a highly respected homicide investigator, Herb Welser, who served the Port Huron Police Department for decades, solved countless crimes, and, after having extensively investigated the case, declared that Mr. Kensu is actually innocent. For standing up for justice and taking a principled stand against his own police department, Mr. Welser, also a deeply religious Christian, has been mocked and belittled by the prosecution.
- Another example has recently come to light of unethical behavior, if not outright misconduct, by the prosecutor. What was not known to Mr. Kensu, until he spoke with Ms. Woodworth in 2017 for the first time in over 17 years, was that, in 2010 prior to the beginning of his previous Public Hearing, St. Clair County Prosecutor Melissa Keyes, in what can only be called an egregious, unethical act, pressured Ms. Woodworth to write a statement for the Hearing insulting and belittling Mr. Kensu while omitting any of her personal knowledge of his actual innocence of the crime! Right after submitting that letter to Ms. Keyes, Ms. Woodworth revised the letter to include her direct knowledge that Mr. Kensu was wholly innocent and sent it to Ms. Keyes requesting that the revised letter be used. However, Ms. Keyes, against Ms. Woodworth's wishes, chose to submit the first letter that omitted Mr. Kensu's innocence. Ms. Keyes shamelessly ignored and failed to relate this to the Parole Board or even acknowledge the obvious truth of Mr. Kensu's innocence that Ms. Woodworth was attempting to communicate to the Board.

Again, this is a prosecution that's interested in truth, in justice?

Ms. Woodworth, a devout Christian and member of multiple religious and youth programs including running a "Karate for Christ" program at several schools in Florida, has since written a detailed explanation of this matter, which she will testify to under oath, confirming this terrible, further injustice fomented by the St. Clair County Prosecutor's Office, with the full knowledge and support of Chief Prosecutor Mike Wendling.

In conclusion, the prosecutor's office has displayed a stubborn disdain for the truth, the law, integrity, fundamental fair play, justice, and the very principles of freedom upon which this nation was founded. If prosecutors are permitted to charge and prosecute people with no evidence, as they did in Mr. Kensu's case, then we all face the dire possibility of wrongful conviction by any politically aspiring prosecutor more interested in "winning" than justice. And families that have been victimized, like the Macklems, face the possibility of never knowing the truth or ever receiving the justice they deserve.

Possible Conspiracies or Collusion

Mr. Kensu does not freely use the word "conspiracy" in defense of his innocence. But those who are attracted to "conspiracy" or "collusion" in his case do have two basic choices:

1. If one believes Mr. Kensu's conviction was just, then one must believe that several conspirators assisted him in committing the murder and at least nine alibi witnesses colluded to provide an air-tight alibi.
2. If one believes he was wrongfully convicted, then there are reasons to believe in a conspiracy or collusion to accomplish that.

A Conspiracy to Commit the Crime and Cover it Up

Those who oppose Mr. Kensu's release are implicitly alleging a "conspiracy". It would be a conspiracy so vast that it boggles the mind. For example:

- Are we to believe that both Mr. Kensu and Ms. Woodworth, immature young people at the time of this crime, conspired together to "trick" two experienced polygraph examiners? Mr. Kensu and Ms. Woodworth had not spoken for years when she passed her last test.
- Were Chester Romatowski and Port Huron's own examiner, Christopher Lanfear, "wrong" only in this case, or have they falsely accused or passed scores of others leading to other egregious outcomes and false charges or exonerations?
- Were all the many witnesses that saw Mr. Kensu and Ms. Woodworth in Escanaba around the time of the murder part of some "collusion"? Did they work together to make sure all their "stories" were straight?
- What about the physical evidence proving Mr. Kensu's car was broken down in the K-Mart parking lot in Escanaba the night before the murder? Did others help him "fake" receipts for parts, a check for an auto pump, the phone call from the Flap Jack Shack next to the K-Mart's clearly noted on his phone bill?
- Paul Demars, Beth Stiers, and Jeff McNamara state that Mr. Kensu was with them in Escanaba late at night prior to the murder. Were they part of this "conspiracy"?
- What about the person(s) who transported Mr. Kensu (or let him drive) from the phantom landing strip in Port Huron to kill Scott Macklem and then travel back to that strip for the flight back to Escanaba? More conspirators?
- Who provided all the detailed information about Scott Macklem's habits and schedule such that Mr. Kensu would be at the exact right place at the exact right time to commit the killing and then rush back to the airplane?

It would have been completely impossible for Mr. Kensu to murder someone without the help of so many others, a cabal you might say. Not to mention that he must have been a real charmer to entice so many alibi witnesses, many of whom did not know him well, to lie and commit perjury on his behalf.

A Conspiracy to Convict Mr. Kensu

Though “conspiracy” or “collusion” to convict Mr. Kensu may be hard to prove in a court of law, there are plenty of facts to support a conclusion that there was an “agreement” (partly implicit, partly explicit) to engage in violative conduct to both secure and sustain this wrongful conviction. Consider the following:

- As to Philip Joplin’s full, sworn and videotaped confession, Officer John Bowns, Prosecutor Thomas Houlihan, Detective Cliff Reifert, Prosecutor Robert Cleland, and Judge James Corden all did, in fact, act in concert to suborn perjury from Joplin, to coach him in his knowingly false testimony, to promise him rewards, to provide him cash, gifts, and leniency on his sentence and did, in fact, conspire for lack of any better term to violate all protocols and return Joplin to Community Placement, even petitioning the MDOC to assist them with this (an act absolutely forbidden by Joplin’s escape history!)

Whether one calls this an “agreement”, “collusion”, a “cabal”, or a “conspiracy”, there is no question that all of this took place and documentation identified by Joplin and secured by Mr. Kensu’s attorneys and supporters confirm every element of this “conspiracy”. This includes Port Huron prosecutors threatening Joplin if he “testified for Kensu” (also confirmed in Joplin’s written correspondence). This also includes Joplin being placed in “protective confinement” in Macomb County to “hide” him from Mr. Kensu’s attorney and investigator as well as the media.

- There was an “agreement” to deny Mr. Kensu and his principal alibi witness a polygraph to include Prosecutor Cleland vociferously fighting to keep Mr. Kensu from taking one and to hide its results if and when he passed it, only because he knew that he would (and did) pass such a test, as would (and did) Ms. Woodworth.
- As early as 1990 there was an unquestionable collusive “agreement” to hide the suspect line-up and photographic evidence, now admitted even by the U.S. Court of Appeals, but alleged by Mr. Kensu since 1990! Dozens of FOIA requests and requests by counsel and Mr. Kensu’s wife, private investigators and members of the media display years and years of varying incredible and preposterous “reasons” given for denial of access to these photos. Note the following:

By the time of his 1990 evidentiary hearing, Officer John Bowns perjured himself about these same photos (that is now admitted he lied about at trial) claiming “not to know where they were” and testifying “Detective Hudson was asked to look for them”. Hudson in turn noted he was never asked to look for those photos, which contrary to the lie of the County were never once “missing”. (Thus, they’re being found right with the other hidden evidence in 2008 after years of being told they were “not permitted to be released”, “had been destroyed” or “could not be located”.)

At the second half of the 1990 Hearing, (which Mr. Kensu was not allowed to attend) Judge Corden (knowing that new appellate counsel would not know the difference) claimed to have “found” the photos of suspects in question “right there on his desk” and inserted into the appellate record a misleading set of jail basement photos showing Mr. Kensu already in Port Huron jail “greens” (uniform) and even more clearly Judge Corden knew exactly what type of photos these were. These photos of Mr. Kensu in jail greens could not be the “original counsel-less photos used to secure

the arrest warrant” as these were taken in jailhouse uniform! This was no “mistake” by the seasoned trial judge and prosecutors Lord and Houlihan as well as all the assembled officers who were fully aware of what was being done. Fraudulent and deceptive photos were deliberately inserted into the appellate record to deceive both new counsel and, more importantly, the Michigan Court of Appeals! And tragically, this shameless deceit worked for another 18 years.

- The record clearly displays the St. Clair County Prosecutor’s Office endlessly denying access to evidence and records in this case for such reasons as “pending appeal”. (There is not now and has never been any such rule, which would be preposterous on its face as they claimed that Mr. Kensu’s lawyer “could not access” the very records required for the appeal, “because the case was on appeal”!)

Another manipulation seemed to imply that the records would not be released because the case was “old and not on appeal” (while a new appeal was being prepared by yet another former judge and prosecutor who came to Mr. Kensu’s defense). Later, in what can only be called a criminal abuse of the process, multiple St. Clair County prosecutors claimed that Mr. Kensu’s attorney could not have the records in his case, even for appeal “because he was acting as an agent for Mr. Kensu, and prisoners cannot access records under the Michigan Freedom of Information Act”. This is a limitation that in no way was ever held to apply to a defendant seeking the records in his own criminal conviction, especially via counsel!

If this was not a “collusive” or “conspiratorial” act by a small host of interwoven actors within the prosecutor’s office, then they should be called into account for their years of improper and illegal denials for this patently false “reason”; especially since they no longer use that canard, (having been caught with their pants down in the photo scandal).

To sum up: Is there a huge “conspiracy” among the scores who believe in, support and fight for Mr. Kensu – an alleged “mishmash” of “duped”, “wrong”, “biased”, “dumb”, or “agenda-driven” paraprofessionals and legal experts as well as honest, law-abiding citizens from nurses to teachers, to business owners and veterans of our military including combat veterans? Or is it far more likely that a small handful of people in Port Huron looking to close a tragic and controversial case, failed to do their job, to properly investigate, to consider the facts? That they quickly accused the wrong man and then to protect themselves from shame, ridicule and scrutiny, prosecuted him and secured his conviction with a host of less-than-noble (or lawful) actions?

May 10, 2019