

# *Man Freed After 18 Years in Prison Caused By Deceptive Photo ID*

The Brooklyn district attorney said the flawed photo lineup helped imprison Sheldon Thomas for a killing he did not commit. A judge ordered him released Thursday.



Sheldon Thomas said Thursday that he had visualized a moment of vindication many times. Credit...James Estrin/The New York Times

By [Hurubie Meko](#)

March 9, 2023

Sheldon Thomas, in a sharp suit, black tie and with his long dreadlocks tied behind him, walked freely with his arm around his grandmother Thursday for the first time in nearly 20 years. To the sound of applause, they headed from a Brooklyn courtroom into the world.

Just minutes before, Mr. Thomas, 35, had listened as a prosecutor with the district attorney's office outlined the lies, misdirections and dismissals by those in power that persuaded a jury to put him behind bars. He had been charged and sentenced to 25 years to life for a murder of a 14-year-old boy that prosecutors now say he did not commit.

As he listened Thursday, Mr. Thomas leaned slightly forward, his eyes fixed on the wood paneled wall in front of him. When it was his turn to speak — after the judge had declared him a free man — Mr. Thomas paused for a moment first.

“I’ve waited a long time for this day to happen,” he told the court, “and there’s so many times that I was in my cell, I would think of this moment — what I would say, who would be there.”

Standing at the front of the packed courtroom, Mr. Thomas said the faith he steadfastly held during his years in prison allowed him to forgive the detectives, the prosecutors and the judge who had cost him half of his life.

“God will judge them,” he said, “just as he has judged me right now.”

The case was the 34th conviction vacated after re-investigations by the district attorney’s conviction review unit, which was expanded in 2014, and it showed what can happen when checks in the criminal justice system break down.

The unit, which is examining about 50 other convictions, is part of a growing movement among prosecutors throughout the city and country who are re-examining cases where people may have been wrongly convicted, including prosecutions that relied on officers accused of official misconduct.

In September, the Brooklyn prosecutor’s office [announced that it was seeking to dismiss 378 low-level convictions](#) that relied on 13 former officers who committed crimes themselves. In November, the Manhattan district attorney’s office sought to [dismiss 188 misdemeanors](#), dating as far back as 2001. In 2021, the [Queens district attorney](#) sought to dismiss 60 cases following the misconduct of three detectives, and Bronx prosecutors sought to throw out 250 convictions that relied on a single officer who had been accused of lying.

Last year, payouts for police wrongdoing in New York City [reached \\$121 million](#), the highest since 2018.

For Mr. Thomas, one photograph had stood between him and his freedom.

In 2004, police officers showed the image of a young Black man to a witness, who chose him from an array of six as a suspect in the fatal shooting in East Flatbush. That identification withstood scrutiny through an indictment, trial and appeals over more than 18 years.

But the district attorney’s office said Thursday that detectives, prosecutors and the original trial’s judge knew from the outset that the photo in the array wasn’t actually the Sheldon Thomas they wanted to arrest, but a man who shared his name and had an address in the same precinct. They proceeded anyway.

On Thursday afternoon, Mr. Thomas appeared in court before Matthew J. D’Emic, a judge with the Brooklyn Supreme Court.

“We do not have confidence in the integrity of this conviction,” Charles Linehan, chief of the review unit, told the people in the crowded courtroom.

The prosecutor’s office said in its report that the man in the photo array and Mr. Thomas do not look alike, despite assertions in past years by police investigators, government lawyers, the trial judge and an appellate panel.



The police arrested Sheldon Thomas, right, in a murder in 2004, after knowingly showing a photo of a different Sheldon Thomas, left, to a witness to identify. Credit...via Brooklyn District Attorney’s Office

In a defense-commissioned study, prosecutors said, 32 law students of color examined a photo of Mr. Thomas, who is Black. Then they looked at the photo array. Twenty-seven correctly said Mr. Thomas was not in it.

Standing outside the courtroom on Thursday, District Attorney Eric Gonzalez told reporters that there were no winners. Mr. Thomas had spent nearly 19 years in prison, he said, and “there’s still a 14-year-old boy who lost his life.”

He said the exoneration corrected a miscarriage of justice, adding, “I apologize for the role that my office has played in his incarceration.”

The case that was the undoing of Mr. Thomas’s life started on Christmas Eve in 2004. People in a car shot at six others on the corner of East 52nd Street and Snyder Avenue in Brooklyn, killing the boy, Anderson Bercy, and wounding a man.

Detectives had “repeatedly harassed” Mr. Thomas for months after he had been arrested for pointing an inoperable gun at police officers, the district attorney said.

After the killing, investigators zeroed in on him, obtaining the photo of the man with the same name, according to the report. They prompted a witness to choose that incorrect picture, and then they arrested the Mr. Thomas they wanted, the report said.

Mr. Thomas had denied being in Brooklyn on the night of the shooting, telling investigators that he was in Queens until 3 a.m. on Dec. 25, according to the report.

But, the report said, Mr. Thomas was wrongly identified during three in-person lineups, prosecutors most likely failed to disclose false police testimony and used a witness with questionable credibility, and a defense counsel exacerbated the errors.

During a pretrial hearing a year and a half after Mr. Thomas was arrested, the lead detective, identified in the report as Robert Reedy, admitted on cross-examination that he had provided false testimony about the photo array, prosecutors said.

An email sent to an account associated with Mr. Reedy had not been returned by Thursday evening. And a man who answered a phone listed as Mr. Reedy’s hung up.

Later, also during pretrial hearings, another detective said that police knew of Mr. Thomas not just because of a picture, but because of an anonymous tip. He acknowledged that Mr. Thomas told them that he was not the man in the photo.

The judge ruled that the picture of the wrong man was of no legal consequence, that the men resembled one another, and that the police had other evidence giving them probable cause to make the arrest. Mr. Thomas’s trial went on.

While a co-defendant was acquitted, Mr. Thomas was convicted of second-degree murder, attempted murder and other counts.

Mr. Thomas said in court on Thursday that the family of Anderson Bercy, the victim, had been deceived for decades.

“It’s not just my life that was ripped apart by the due-process breakdowns and the miscarriage of justice, it was them as well,” Mr. Thomas said.

Police and prosecutors involved in wrongful conviction cases rarely face discipline, according to a [2020 report from the National Registry of Exonerations](#), which has archived all known cases in the United States since 1989.

A 2007 New York Police Department internal affairs investigation into Mr. Reedy’s actions in the case resulted in discipline for failing to document what the police called a “photo array mix up.” An allegation of perjury was found to be unsubstantiated.

Mr. Gonzales said after court on Thursday that the statute of limitations for perjury had run out.

Prosecutors wrote in their report that mistakes and deceptions were repeated over years, making a just outcome impossible.

“Each of these errors, on its own, deprived defendant of a fair trial,” they wrote. “Together the errors undermined the integrity of the entire judicial process.”

Susan C. Beachy contributed research.

<https://www.nytimes.com/2023/03/09/nyregion/brooklyn-exoneration-sheldon-thomas.html>

*Ref.: Man Freed After 18 Years in Prison Caused By Deceptive Photo ID.docx*

*10/03/2023 10:55*