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JOHN J. BARTER AND SHARON L. BECKMAN WITH CLIENT FRANCES CHOY (CENTER)

MERRILL SHEA

On Sept. 29, 2020, Frances Choy walked out of prison after spending 17 years behind bars for first-degree murder and arson following the death of her parents in a house fire.

Waiting for her in the parking lot were Boston solo John J. Barter, Sharon L. Beckman, director of the Boston College Innocence Program, and other members of the defense team that worked for years on getting Choy's two life sentences vacated.

On April 17, 2003, Choy was 17 years old and looking forward to her senior prom and attending college in the fall. But a fire at her Brockton home that night resulted in the deaths of her parents, Jimmy and Anne Trinh Choy, and left her orphaned, homeless and facing criminal charges.

After two mistrials, she was convicted at her third trial and sentenced to life without parole.

But Superior Court Judge Linda E. Giles vacated the convictions on Sept. 17, citing multiple problems with the case, including prosecutorial misconduct, with documented evidence of racial bias against Choy.

Giles wrote in her order that prosecutors made

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racist jokes about Asians, mocked caricatures of Asians using imperfect English, and exchanged numerous images of Asian people, some accompanied by pejorative comments.

Choy is the first woman of color exonerated in Massachusetts since 1989, according to the National Registry of Exonerations, and the state's first Asian-American exoneree.

Friends since 1981, Barter and Beckman became involved in the case in 2011 and 2016, respectively, and formed a team to work toward Choy's exoneration. Included on that team were Sarah Carlow, a 2020 BC Law student, and BC Law Professors Charlotte Whitmore and Claire Donohue.

“I've been involved with other exonerations and there is nothing else like it in the law,” Beckman says. “It is so overwhelming watching someone who was wrongly incarcerated and locked up for 17 years walk out of prison.”

Q. What was your first step in working toward Choy's exoneration?

BARTER: As soon as the guilty verdict came in, [Choy's trial lawyer] Joseph Krowski called me and asked if I would agree to take the case. I began working on the case for a few years, trying to get various information and transcripts. I ran into Sharon and told her about the case, and that's when the BC Innocence Project became involved.

BECKMAN: When John discussed the case with me and said he believed in Frances' innocence, I knew he wouldn't be saying that if she wasn't innocent. Our main action item at the time we teamed up was the remaining factual investigation. We were waiting on more discovery, and then we had to pull it all together to draft our motion for post-conviction relief.

Q. When did you realize that you had a claim of racial discrimination on your hands?

BARTER: As discovery went on over several years — the court wouldn't allow funds to be expended for the purchase of the transcripts of the first two trials, so I had to purchase those myself and it took several years for them to be completed — I had outlined about a dozen or so issues for the motion.

When Sharon came along and looked at the racially biased

emails, she formulated what I considered to be a brilliant argument on racial bias that went from 12th in my memo to first. It really set the stage for understanding the case in so many ways. And listed first, it provided perspective on all the other issues. This was really a case where we could have succeeded on multiple issues. There were jury instruction issues, closing argument issues, Brady issues. And when you see a case that has so many failures and shortcomings, it really paints a picture of an innocent person.

BECKMAN: There really was a laundry list of system failures. And unfortunately, the factors in Frances' case are well known as factors contributing to wrongful convictions nationwide. There was an incentivized accusation by an immunized absent witness; faulty forensics; exculpatory evidence pointing to a different perpetrator; a false, retracted alleged confession; multiple judicial errors; and, very disturbingly, prosecutorial misconduct.

Q. How should instances of prosecutorial bias be handled by the courts?

BECKMAN: Racial bias against a defendant by the trial prosecutor is such a flaw in the foundation of the system that it should be considered to be structural constitutional error. The explicit record of anti-Asian discrimination alone should automatically vacate Frances' conviction. While the judge didn't reach the constitutional issue, for me personally it helped to understand how a 17-year-old high school student with no history of any crime or behavioral problem ends up in jail.

Q. Could Choy's case lead to systemic change?

BARTER: We can hope so. The tide really turned on this case in 2019 when a new ADA was assigned to the case and we received thousands of pages of discovery that had not been provided in the previous five years, despite court orders. Sometimes a change begins with one person who does what the law requires them to do. I'm an eternal optimist. The primary objective for prosecutors should be to see justice done, not to have one more conviction on your list or one more affirmed conviction on your list.

BECKMAN: The Boston College Innocence Project is part of a statewide group working to produce a report that will recommend best practices for every DA's Office and the AG's Office. Our goal is to produce the report by this spring with recommendations and best practices about how to identify wrongful convictions that have occurred — and prevent them from happening in the future. No one case stands alone, and each case is a really important learning opportunity for all of the actors in the system. I do have hope about reform both in Massachusetts and beyond.

Q. What impact did the pandemic have on the case?

BARTER: We were on a Zoom call with Frances when we found out [that the government wasn't going to oppose the motion for post-conviction relief]. She's there in a little box on the screen, and there was no chance to go out for ice cream or shake hands. These are the times we live in.

BECKMAN: I'm looking forward to the vaccine and a time when the whole team can be together with Frances and her family to celebrate the end of the nightmare. I will say that seeing her re-inhabit her own life has been the most rewarding and beautiful aspect of this experience. I look forward to everything that happens next for her. It won't all be rosy, but it will be really beautiful to watch.

— Correy E. Stephenson