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Costs of Prosecutorial Misconduct

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People v Derrick Redd

County: Queens

Incarcerated on Charges: November 2008

Date of Conviction: November 3, 2011

Date of Sentencing Hearing: January 4, 2012

Date Awarded New Trial: July 6, 2016

Comments of Appellate Court:

The Court stated in [*People v Redd*](#), 2016 NY Slip Op 05392 (NY SCt, App. Div., 2nd Dept., 7-6-16) that “the judgment of conviction must be reversed and a new trial ordered as a result of pervasive prosecutorial misconduct. During opening statements as well as on summation, the prosecutor repeatedly engaged in improper conduct, including”:

- “Misstating the evidence”
- “Vouching for the credibility of witnesses with regard to significant aspects of the People’s case”



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- “Calling for speculation by the jury”
- “Seeking to inflame the jury and arouse its sympathy”
- “Improperly denigrating the defense”
- “Improperly cast the prosecutor as an unsworn expert witness in his own case”

****Estimated Cost of Incarceration to NYS Taxpayers: \$1,420,480**

Cost Calculation:

- **3,088** (Days Spent Incarcerated) X **\$460** (Cost per Day of NYS Inmate) = \$1,420,480

People v Eddie Andre

County: Queens

Year Convicted: 1988

Charges Dismissed: October 1994

Incarceration: 6 Years

Cause of Conviction:

“The court held that the prosecution should not have been permitted to introduce Robinson’s entire testimony from the first trial and that the prosecution made an improper closing argument to the jury.”

****Estimated Cost of Incarceration to NYS Taxpayers: \$1,007,400**

Cost Calculation:

- **6** (Years) X **365** (Days in a Year) X **\$460** (Cost Per Day of NYS Inmate) = \$1,007,400



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People v Jaime DeJesus

County: Bronx

Incarcerated on Charges: August 2013

Date of Conviction: November 2, 2015

Date of Sentencing Hearing: November 19, 2015

Date Awarded New Trial: December 8, 2015

Comments from the Court of Appeals:

“The only purpose of the prosecutor’s improper comments was to suggest to the jury, in this one-witness identification case, that the complainant was not the only person who had implicated the defendant”

“These cumulative errors were not harmless, since the evidence of the defendant’s guilt was not overwhelming, and there is a significant probability that defendant would have



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been acquitted if not for the violation of his right of confrontation, the prosecutor's improper statements in summation, and the courts improper statements during deliberation."

****Estimated Cost of Incarceration to NYS Taxpayers: \$623,760**

Cost Calculation:

- 1,356 (Days Spent Incarcerated) X \$460 (Cost Per Day of NYS Inmate) = \$623,760

Dewey Bozella v County of Dutchess

County: Dutchess

Year Convicted: 1983

Incarceration: 26 Years

Settlement: 7.5 million dollar

Cost to Prosecute: 9.4 million

Interest on Borrowed Money: 529.5k

Legal fees for 5 years: 1.36 million

- County issued bonds that will take 5 years to payback by taxpayers or it would have been coming out of the county budget, which is comprised of 169 million.

Cause of Conviction:



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“Perjurious testimony by the prosecution's two key witnesses, but informants rewarded for their testimony.”

****Estimated Cost of Incarceration & Settlements to NYS Taxpayers: \$23,154,900**

Cost Calculation:

- 26 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$4,365,400
- 7.5 million (Settlement) + 9.4 million (Cost to Prosecute) + 529.5k (Interest on Borrowed Money) + 1.36 million (Legal Fees to County) = \$18,789,500
- \$4,365,400 (Incarceration Cost) + \$18,789,500 (Settlement/Prosecution Cost to County)
 = \$23,154,900

Jeffrey Deskovic v City Of Peekskill

County: Westchester

Year Convicted: 1991

Incarceration: 16 Years

Settlements: 41.6 million

- Putnam County Paid: 10 million
- Westchester Paid: 6.5 million
- Peekskill Paid: 5.4 million
- He used 1.5 million to start his foundation for Jeffrey Deskovic Foundation for Justice

Cause of Conviction:

“False confession and prosecutor misconduct of ignoring exculpatory DNA evidence.”



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****Estimated Cost of Incarceration & Settlements to NYS Taxpayers: \$66,186,400**

Cost Calculation:

- 16 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$2,686,400
- 41.6 million (NYS Settlement) + 10 million (Putnam County Settlement) + 6.5 million (Westchester County Settlement) + 5.4 million (Peekskill Settlement) = \$63,500,000
- \$2,686,400 (Incarceration Cost) + \$63,500,000 (NYS County Settlement Costs)
 = \$66,186,400

People v Ruddy Quezada

County: Kings

Year Convicted: 1993

Incarceration: 24 Years

Settlements:

- New York State, April 2017: *\$4.5 million
- Current pending lawsuit against City of New York for *\$44 million

Cause of Conviction:

“Prosecutor misconduct of failing to disclose exculpatory reports that the prosecution's key witness was coerced to testify against Ruddy Quezada.”

****Estimated Cost of Incarceration & Settlements to NYS Taxpayers: \$8,529,600**



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Cost Calculation:

- 24 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$4,029,600
- \$4.5 million (NYS Settlement) + \$4,029,600 (Cost of Incarceration) = \$8,529,600

People v David McCallum

County: Kings

Year Convicted: 1986

Incarceration: 29 Years

Settlements:

- Current pending lawsuit against family of NYPD Officer who coerced McCallum to falsely confess for *\$50 million

Cause of Conviction:

“Police misconduct of coercing false confessions from McCallum and Stuckey.”

****Estimated Cost of Incarceration & Settlements to NYS Taxpayers:** \$4,869,100

Cost Calculation:

- 29 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$4,869,100



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People v Darryl Austin

County: Kings

Year Convicted: 1988

Incarceration: 13 Years (Died in Prison)

Settlements:

- New York City, January 2015: *3.85 million

Cause of Conviction:

“Police misconduct by NYPD homicide detective, and perjurious testimony by the prosecution's "star" police informant eyewitness.”

****Estimated Cost of Incarceration & Settlements to NYS Taxpayers: \$6,032,700**

Cost Calculation:

- 13 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$2,182,700



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- **\$3.85 million** (NY City Settlement) + **\$2,182,700** (Cost of Incarceration) = **\$6,032,700**

People v Matthew Melendez

County: Harlem

Incarcerated on Charges: January 30, 2011

Date Awarded New Trial: June 7, 2016

Comments of Appellate Court:

“At one point, he rolled up a piece of paper and placed it in front of a gun. He used this prop, over repeated objection, to demonstrate a police officer’s testimony regarding muzzle flashes.”

“Subsequently, the prosecutor used a laser pointer to demonstrate how the shots fired by defendant would have gone wide of their mark. He also used this demonstration to argue that defendant’s bullets would have shattered and thus explain the absence of ballistics evidence from defendant’s gun. No expert ballistics testimony was presented during the trial.”

“These comments were based upon facts not in evidence, something defense counsel specifically noted in at least two objections that were overruled. Moreover, they tended to



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lead the jury away from the issues before them in this case. As a result, they were improper...”

****Estimated Cost of Incarceration to NYS Taxpayers: \$1,051,560**

Cost Calculation:

- 2,286 (Days Spent Incarcerated) X \$460 (Cost Per Day of NYS Inmate) = \$1,051,560

People v Tejpaul Rupnarine

County: Schenectady

Incarcerated on Charges: January 2013

Date Awarded New Trial: June 2, 2016

Comments of Appellate Court:

“During his summation, the prosecutor remarked that defendant failed to provide an “innocent explanation” for his actions or that it was necessary for him to do so. Indeed, a recurring and substantial theme in the prosecutor's summation was defendant's inability to provide an innocent explanation for his conduct following the incident-giving rise to the charges against him or for the presence of incriminating evidence at the crime scene. We agree with defendant that these comments improperly shifted the burden of proof from the People to defendant.”

“Based on the foregoing, we conclude that defendant was prejudiced by the comments in the prosecutor's summation and a new trial is required.”

****Estimated Cost of Incarceration to NYS Taxpayers: \$722,660**



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Cost Calculation:

- 1,571 (Days Spent Incarcerated) X \$460 (Cost Per Day of NYS Inmate) = \$722,660

People v Habib Abdal (aka Vincent H. Jenkins)

County: Erie

Year Convicted: 1983

Incarceration: 17 Years

Settlements:

- New York State, January 2002: *2 million

Cause of Conviction:

“Eyewitness misidentification and prosecutorial misconduct.”

****Estimated Cost of Incarceration & Settlements to NYS Taxpayers: \$4,854,300**

Cost Calculation:

- 17 (Years) X 365 (Days in a Year) X \$460 (Cost Per Day of NYS Inmate) = \$2,854,300
- \$2 million (NYS Settlement) + **\$2,854,300** (Cost of Incarceration) = \$4,854,300



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*****Total Cost to NYS Taxpayers Resulting From 11 NYS Wrongful Convictions**

Note : These represent only a small fraction of total prosecutorial misconduct and wrongful convictions-This research project is ongoing

\$118,452,860