

Mullins-Johnson free after 12 years

Released from prison following review of niece's murder case

Colin Perkel
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TORONTO -- A man who spent more than a third of his life in prison for a rape and murder that may have never taken place stepped into the sunshine Wednesday, freed on bail from a 12-year "hell" while Ottawa decides whether he fell victim to another Canadian miscarriage of justice.

William Mullins-Johnson fought back tears as he emerged from a Toronto courthouse just minutes after an Ontario Superior Court judge set him free on \$125,000 bail pending the results of a federal review of his case.

"The last 12 years has been nothing but hell for me - and my family," Mullins-Johnson said, his voice catching.

"What I went through was a sickening state of affairs."

The 35-year-old Mullins-Johnson, of Sault Ste. Marie, Ont., was convicted in 1994 of sodomizing and strangling his four-year-old niece Valin Johnson, who was found dead in her bed on the morning of June 27, 1993.

No forensic evidence linked him to the crime but he was found guilty based on testimony from pathologists, one of whom was Dr. Charles Smith, whose handling of 40 suspicious child deaths since 1991 is currently under review.

Two experts, including Ontario's chief pathologist, now say Valin was never sexually abused or strangled. They argue she in fact died of natural causes, possibly from choking on her own vomit caused by a chronic stomach ailment.

"That trial I went through in '94 was not a practice in justice, it was a practice in injustice," said Mullins-Johnson, who expressed anger at the "utter humiliation" he has endured.

It now falls to Justice Minister Irwin Cotler to decide whether to quash the guilty verdict and order a new trial, hand it back to the Ontario Court of Appeal, or simply dismiss the application.



Bill Mullins-Johnson wipes away tears after walking out of court in Toronto on Wednesday after serving more than 12 years for the rape and murder of his four-year-old niece. Mullins-Johnson was released on bail pending review of his case. (CP PHOTO/Frank Gunn)

Cotler's decision to investigate indicates there may be "a reasonable basis to conclude a miscarriage of justice has occurred," said Crown prosecutor Ken Campbell, who did not oppose bail.

"We're prepared to agree the interests of justice dictate that the applicant should be released from custody."

In court, Mullins-Johnson sat quietly in a dark suit and tie provided by his lawyer as Justice David Watt agreed to grant bail, then asked him if he had anything to say.

"I appreciate what the parents of my niece have gone through - they lost a little girl in all this," Mullins-Johnson said. "Through no fault of my own or anyone else, she lost her life. I loved that little girl and she loved me."

A businessman uncle, Gord Boissoneau, put up bail surety of \$75,000, while the other \$50,000 came from Mullins-Johnson's mother, Laureena Hill, with whom he will have to stay in Toronto for the time being.

"I didn't think they were going to release him today, which scared the hell out of me," said Hill, who has always believed her son was innocent. She said she prayed for Mullins-Johnson nightly.

"It was the same thing every night: that they would find evidence to be able to prove Bill's innocence."

Lawyers for the Association in Defence of the Wrongly Convicted called on Cotler to make a decision quickly.

"It's difficult for human beings and it's difficult for institutions, it seems, to admit when they make terrible mistakes," said lawyer James Lockyer, a director of the association.

"But I'm sure the time will come when they finally acknowledge the terrible mistake they made in this case."

In Toronto, Cotler defended the system for reviewing wrongful-conviction claims.

"We have been dealing with these matters that come before us expeditiously and I hope effectively," he said.

Michael Lomer, the lawyer who previously had appealed the case unsuccessfully to the Supreme Court of Canada, said Wednesday he was overwhelmed by a sense of relief now that his client had finally been released.

Also on hand for the bail hearing was Newfoundlander Ron Dalton, who spent more than eight years in jail for killing his wife even though her death was an accident.

The adjustment to life without bars is going to be tough for Mullins-Johnson, Dalton said.

"It's a big cruel world out there and he's a long ways from out of the woods on all this yet."

A list of Canadians who have been exonerated after being wrongfully convicted, and others who are trying to clear their names:

William Mullins-Johnson: Man from Sault Ste. Marie, Ont., convicted in 1994 of sodomizing and strangling four-year-old niece. No forensic evidence linked him to crime, but he was found guilty based on testimony from pathologists. Ontario Superior Court judge freed him on bail Wednesday while Ottawa decides whether his case is miscarriage of justice.

Robert Baltovich: Toronto man convicted in 1992 of murdering girlfriend Elizabeth Bain even though her body was never found. After appeal hearing in September 2004, Ontario Court of Appeal ordered new trial, citing unfair and unbalanced charge to jury during first trial. Baltovich's lawyers argued that notorious serial killer Paul Bernardo is stronger suspect in Bain's murder.

Steven Truscott: Fourteen years old in 1959 when sentenced to hang for murder of 12-year-old Ontario schoolgirl Lynne Harper. Sentence later commuted to life in prison; paroled in 1969. Has lived in Guelph, Ont., since 1970. Federal justice minister has asked Ontario Court of Appeal to review case.

Guy Paul Morin: Tried twice for 1984 killing of nine-year-old Christine Jessop in rural southwestern Ontario. Acquitted in 1986; convicted at retrial in 1992 and imprisoned. Exonerated in 1995 on strength of DNA evidence and awarded \$1.2 million in compensation.

David Milgaard: Sixteen years old when convicted in 1969 murder of Saskatoon nursing aide Gail Miller. Spent 23 years in prison before being exonerated by DNA evidence in 1997. DNA evidence also helped catch Miller's real killer, Larry Fisher, who was convicted in 1999. Milgaard awarded \$10 million in compensation.

Donald Marshall: Nova Scotia man convicted in 1971 of murdering Sandy Seale. Spent nearly 19 years in prison before being exonerated by royal commission report in 1990. Compensated with lifetime pension of \$1.5 million. Returned to public eye in 1999, when legal challenge he launched produced landmark Supreme Court of Canada ruling on native fishing rights.

Rodney Cain: Nova Scotia man spent nearly two decades behind bars after being convicted in 1986 of murdering a man outside after-hours club in Toronto. Justice minister ordered conviction overturned in May 2004, citing new evidence that strongly suggested Cain was acting in self-defence. Currently free on bail while Ontario court decides whether to order new trial or exonerate him.

Romeo Phillion: Granted bail in July 2003 after spending more than 30 years in prison for 1967 murder of Ottawa firefighter Leopold Roy. Phillion confessed to killing while in custody for robbery charge, but later claimed confession was ill-advised joke. Case being reviewed by Justice Department.

James Driskell: Winnipeg man spent more than 12 years behind bars after being convicted in June 1991 of killing friend Perry Harder. Was released on bail in November 2003 after new evidence showed key witnesses were paid for testimony and given immunity from prosecution for other crimes. Convicted without confession, witness or murder weapon.

Kyle Unger: Conviction in 1990 murder of 16-year-old Manitoba girl Brigitte Grenier called into question in September after DNA testing found that hair samples tendered at his trial didn't belong to him. Currently serving life sentence in Mountain Institution in Agassiz, B.C.

Some of what was said Wednesday after an Ontario judge granted bail to Bill Mullins-Johnson, who maintains he was wrongly convicted in the rape and murder of his four-year-old niece:

"It's sickening. What I went through was a sickening state of affairs." - Bill Mullins-Johnson.

"I hope that my family comes to understand that nothing was done to my niece - not by me, and not by anybody else." - Mullins-Johnson.

"There may be a reasonable basis to conclude a miscarriage of justice has occurred. The interests of justice dictate that the applicant be released from custody." - Prosecutor Ken Campbell.

"You have to take some good out of these situations, (and) the good that we can take here is hopefully that the same sort of thing won't happen again." - Lawyer David Bayliss.

"It was the same thing every night: that they would find evidence to be able to prove Bill's innocence." - Laureena Hill, Mullins-Johnson's mother, of her prayers.

"It's difficult for human beings and it's difficult for institutions, it seems, to admit when they make terrible mistakes, but I'm sure the time will come when they finally acknowledge the terrible mistake they made in this case." - Lawyer James Lockyer.

"I loved that little girl and she loved me." - Mullins-Johnson.

"We have been dealing with these matters that come before us expeditiously and, I hope, effectively." - Justice Minister Irwin Cotler.

<http://truthinjustice.org/mullins-johnson.htm>

Mullins-Johnson acquitted in 1993 death of niece

Mon. Oct. 15 2007



by John Musselman

An Ontario man who spent 12 years in prison for the 1993 death of his four-year-old niece was acquitted by a provincial court on Monday.

William Mullins-Johnson becomes overwhelmed with emotion while testifying in Osgoode Hall in Toronto on Monday, Oct. 15, 2007.

William Mullins-Johnson, of Sault Ste. Marie, broke down and hugged supporters after an Ontario Court of Appeal justice apologized for the wrongful conviction.

"It is regrettable that as a result of flawed pathological evidence you were wrongfully convicted and you spent so long in custody," said Justice Dennis O'Connor.

Ontario Attorney General Michael Bryant also apologized for the suffering Mullins-Johnson has endured.

"I wish to extend our sincere, profound and deepest apology to Mr. Mullins-Johnson and to his family for the miscarriage of justice that occurred," said Michal Fairburn, a lawyer for Bryant.

The court ruling came after Crown prosecutors said a forensic expert noted there was no evidence of homicide or sexual injury in the case.

Mullins-Johnson had been asking the appeals court to quash his conviction, enter an acquittal and acknowledge his innocence.

The court's decision came as a "tremendous relief" at the "end of a long battle" Mullins-Johnson told reporters.

His lawyer, James Lockyer, added that he was pleased with the decision.

"They can't recreate the past, they can only deal with the present," Lockyer said.

"I think what they did today was the right thing to do."

In an emotional retelling of the events that led up to his niece's death Mullins-Johnson broke down in tears as he recounted the horrific morning the child was found dead.

"I couldn't believe what I was seeing," Mullins-



Dr. Charles Smith, whose pathological findings wrongfully convicted William Mullins-Johnson.



James Lockyer lawyer for William Mullins-Johnson speaks to CTV's John Musselman following his client's acquittal on Monday, Oct. 15, 2007.

Johnson told the court through sobs during his appeal hearing.

He said he was heartbroken after Valin Johnson had been discovered dead in her bed.

But he described his life following the event as "hell" because he was charged, convicted of first-degree murder and imprisoned in connection with the death.

"It destroyed me. It ruined my name. It ruined my reputation. It ruined any opportunity I had," Mullins-Johnson said.

Mullins-Johnson was freed on bail in 2005 pending a ministerial review after it was revealed key forensic evidence that could have been used in his defence was mislaid by pathologist Dr. Charles Smith.

A coroner's review of Smith's cases found he came to questionable conclusions in 20 child autopsies, 13 of them resulting in criminal charges. Smith's work is also the subject of a public inquiry scheduled to begin next month.

Earlier this year, federal Justice Minister Rob Nicholson referred the case to the Ontario Court of Appeal after he acknowledged a "miscarriage of justice may well have occurred."

Crown prosecutors had said on Monday that an acquittal is imperative because the evidence that sent Mullins-Johnson to prison is unreliable.

In an opening statement, Crown prosecutor Ken Campbell said six "world renowned experts" found there was "no evidence of homicide and no evidence of sexual injury" to indicate Valin was sexually assaulted and strangled.

Ontario's chief forensic pathologist, Dr. Michael Pollanen, testified there were anal and neck injuries, which were used to support a finding of sexual assault and homicide, were misread by Smith.

Pollanen said the bruising around the girl's neck was more likely caused by blood pooling after death, while the small lacerations found on a tissue sample appeared to have been made accidentally during the sample collection process.

The subsequent autopsy was unable to determine an exact cause of death.

Mullins-Johnson is being represented by Lockyer and David Bayliss, lawyers representing the Association in Defence of the Wrongly Convicted.



Valin Johnson, whose death courts found was wrongfully attributed to William Mullins-Johnson.