

The National Registry of EXONERATIONS

JOY WOSU

Other New York Cases with False or Misleading Forensic Evidence



In December 1992, an Erie County, New York grand jury indicted 41-year-old **Dominic Okongwu**, 31-year-old **Louis Eze**, and 32-year-old Joy Wosu on 68 counts of rape and sexual abuse of Okongwu's twin seven-year-old daughters in Buffalo.

The indictment accused the three defendants of raping the girls on three different occasions in 1991, the last time on November 28, which was Thanksgiving Day.

Okongwu, a Buffalo public school teacher, and his wife were Nigerian citizens. After the twins were born in 1984, his wife became ill and returned to Nigeria. Okongwu was working two jobs and left the children with a babysitter and her boyfriend. In 1988, Okongwu came under suspicion when medical examinations of the girls revealed abnormalities on their hymens that could have been the result of sexual abuse.

Although suspicion eventually shifted to the babysitter's boyfriend (who would later be convicted of stabbing a woman to death, a Family Court judge found that Okongwu neglected the girls and both were placed in foster care in December 1990. A family court judge appointed Eze, a distant relative of Okongwu who worked as a chemist, to supervise Okongwu's weekend visitations with his daughters.

In December 1991, the girls' foster mother, Ollie McNair, came into their bedroom and found one of the girls lying on top of the other in a manner suggestive of sexual contact. McNair later told police that when she asked what they were doing, one of the girls said they were doing it because that's what their father did to them when they went to his house.

McNair notified Child Protective Services which opened an investigation. Investigators said the girls described in vivid detail how they were raped on three occasions. A physician examined the girls and said he found physical evidence of sexual abuse. In December 1992, Okongwu, Eze and Wosu, a federal employee who also was a distant relative of Okongwu, were arrested on charges of rape, sodomy and endangering the welfare of a child.

All three went on trial in Erie County Supreme Court in November 1993. The girls testified that in June 1991, Eze picked them up at their foster home and took them to a community celebration known as the Juneteenth Festival which they attended with Okongwu and Wosu.

One of the girls testified that after the festival, they returned to Okongwu's home and Wosu and Eze left. Okongwu then took them to the basement where he tied them to a chair and taped their mouths shut and then raped and sodomized them. The other girl testified that Eze and Wosu also were present. Both girls said their father threatened to kill them if they told what happened.

The girls said that on September 12, 1991—their seventh birthday—Eze picked them up from McNair's house and they attended a birthday party with Okongwu and Wosu. After the party, the girls said they were taken to Okongwu's home where they were again raped in the basement by Okongwu. They both said that after they were raped, they had birthday cake with Eze and Wosu.

The third incident, according to the girls, occurred on November 28,

State:	New York
County:	Erie
Most Serious Crime:	Child Sex Abuse
Additional Convictions:	
Reported Crime Date:	1991
Convicted:	1993
Exonerated:	2009
Sentence:	25 years
Race/Ethnicity:	Black
Sex:	Female
Age at the date of reported crime:	33
Contributing Factors:	False or Misleading Forensic Evidence, Perjury or False Accusation, Inadequate Legal Defense
Did DNA evidence contribute to the exoneration?:	No

1991, which was Thanksgiving Day. They said they were at Okongwu's home for Thanksgiving dinner with Eze and Wosu. After dinner, the girls testified that the adults took them to the basement where Okongwu, Eze and Wosu raped and sexually abused them.

The prosecution also called Dr. Stephen Lazoritz to testify. Lazoritz examined the girls on January 6, 1992, less than a month after they first said they had been raped. Lazoritz said one of the girls had less hymen tissue than would be expected and some scar tissue. He concluded "beyond a reasonable degree of medical certainty" that she was abused.

As for the second girl, Lazoritz said he was less sure she had been abused, but that if she "made a statement that she was sexually abused, I would say, with a reasonable degree of medical certainty, that these findings were consistent with that abuse."

During cross-examination, Lazoritz conceded that he had examined one of the girls in 1988—three years prior to any alleged sex abuse—and made similar findings of lack of hymen tissue and scarring. The defense attorneys did not pursue questioning about a 1988 examination of the girl's sister by another physician.

Jan Henry, director of a non-profit mental health agency, testified about the psychology of child sexual abuse and why some children don't reveal the abuse. She also testified, without defense objection, that out of approximately 50 to 100 child sex abuse cases she had encountered, only one involved a false allegation.

Wosu testified in her own defense and denied she sexually abused the girls. She said that she was at the Juneteenth Festival, but was not with Eze, Okongwu and the girls. In addition, Wosu testified that she had Thanksgiving dinner with her fiancé, not the Okongwus, and her fiancé testified and confirmed her account. Wosu testified that she was at the girls' birthday party, but that it was at a restaurant and she did not go to Okongwu's home afterward.

Eze also testified and denied sexually abusing the girls, and said that the girls' birthday party was at a restaurant. Okongwu testified and also denied sexually abusing the girls. He said he could not think of any reason why the girls would fabricate the claims against him, Eze and Wosu.

On November 26, 1993, Wosu, Eze and Okongwu were convicted of multiple counts of rape, sodomy, incest and endangering the welfare of a child. Eze was sentenced to 35 2/3 to 107 years in prison. Okongwu was sentenced to 50 years in prison. Wosu was sentenced to 25 years in prison.

Over the next 17 years, all three convictions were vacated and new trials ordered.

Although the decisions came down at different times from different courts, all of the decisions were based on the failure of the defense attorneys at trial to hire their own medical experts as well as their failure to show that both girls had been examined by physicians in 1988 and both had the same tissue scarring that Lazoritz said was proof the girls had been sexually abused in 1991.

The courts held that the defense attorneys failed to bring in evidence showing that medical studies at the time raised questions about the reliability of hymenal examinations as a basis for determining the occurrence of sexual abuse.

The courts also were critical of the defense for failing to challenge the prosecution's child sex abuse expert's claim that she had seen only one fabricated case out of 50 to 100 cases she had encountered.

Ultimately, the charges against all three were dismissed.

Eze's convictions were vacated by the Second Circuit U.S. Court of Appeals in 2003 and he was released on bond. The charges against him were dismissed in 2007.

Wosu's convictions were vacated by the Appellate Division of the New York Supreme Court in October 2008. On October 22, 2009 the charges against her were dismissed, and she was released.

Okongwu's convictions were vacated by the Appellate Division of the New York Supreme Court in March in 2010. As the prosecution prepared for a retrial in Okongwu's case, his daughters, by then 26 years old, refused to testify and said that their accounts had been false and that there had been no rapes or sexual molestations.

One of the twins said in a sworn affidavit: "My foster mother and her friend...told us that if we did not do this the right way, we probably would be sent back to Africa. We were terrified that we would starve to death or be abandoned somewhere in Nigeria...I was born here, but did not know that that made me a United States citizen." She said she would not testify at a retrial because "the allegations I was forced to memorize and told to recite back in November 1993 are untrue."

The other sister said in her affidavit: "The counselors, our foster mother and district attorneys coached us on what to say and how to say it. As I look back, I don't think anyone listened to us."

In December 2010, the prosecution dismissed the charges and Okongwu was released.

All three sought compensation in the New York Court of Claims, but were denied. Eze filed several federal lawsuits for civil rights violations, but all were dismissed. Okongwu filed a federal civil rights lawsuit in 2014.

– *Maurice Possley*

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