

Brooklyn Woman Framed for Manslaughter by Disgraced NYPD Detective Louis Scarcella is Vindicated After Spending 10 Years in Prison

NEW YORK, February 23, 2016 – The Legal Aid Society and Hughes Hubbard & Reed LLP today joined a motion by Kings County District Attorney Kenneth Thompson to vacate the 1998 manslaughter conviction against Vanessa Gathers. Disgraced NYPD Detective Louis Scarcella was the chief investigator on Ms. Gathers’ case, and his coerced confession from Ms. Gathers was the only incriminating evidence presented against her at trial. Ms. Gathers spent ten years in prison following her wrongful conviction, but at long last, her name is cleared.

Today, in a joyous courtroom packed with Ms. Gathers’ family, friends and legal team, Justice Matthew J. D’Emic granted the motion to vacate her conviction. The decision follows two and a half years of exhaustive legal and investigative efforts by lawyers from The Legal Aid Society and Hughes Hubbard. After an extensive investigation, fueled in large part by the results of a successful FOIL litigation against the NYPD, The Legal Aid Society and Hughes Hubbard arrived at the firm conclusion that Ms. Gathers had no involvement in the 1991 assault on Michael Shaw in his Crown Heights apartment, but rather had been framed by Detective Scarcella. Over several written and oral presentations in 2015, the attorneys made the case for her innocence to Mr. Thompson’s Office and the District Attorney himself.

“Today’s result represents the culmination of two and a half years of intense work by stellar defense lawyers at our firm and at The Legal Aid Society,” said Ted Mayer, Managing Partner of Hughes Hubbard. “But the true hero of the story is our client, Vanessa Gathers. We are grateful to District Attorney Thompson for recognizing the overwhelming evidence of innocence and for taking the decisive action that Vanessa’s case deserved.”

A woman with no prior criminal convictions and no experience in dealing with the NYPD, Ms. Gathers, who lived around the corner from Michael Shaw, had the gravest misfortune of crossing paths with Detective Louis Scarcella in 1992. It was Scarcella who interviewed Ms. Gathers then based on a supposed “tip” for which there was no proof; Scarcella who put her in the witness category at that time, having no basis to do otherwise; Scarcella who then abandoned the investigation for five years; Scarcella who was forced out of Brooklyn Homicide North in 1997 by a supervisor and sent packing, in humiliating fashion, to the 77th Precinct to solve “cold” cases and who made the Shaw case the first he picked off the shelf; Scarcella who then coldly and efficiently set upon Ms. Gathers – conveniently still living in the same building, conveniently still cooperative and conveniently still without sophistication in dealing with the NYPD – and no one else, this though there was still no evidence suggesting her involvement; Scarcella

who interrogated her using now widely controversial accusatory interrogation techniques which are cautioned as high risk when employed against individuals as to whom there is no evidence of guilt, such as Ms. Gathers; Scarcella who extracted a confession from her, thereby miraculously “solving” a cold case in about a single day, as only he could; Scarcella who arrested her on the sole basis of her confession; and Scarcella who was the chief witness against her at trial. No evidence at trial implicated Ms. Gathers in the crime save the confession Scarcella had obtained. As the lead prosecutor acknowledged in her summation, “this is a confession case. There was no eyewitness. There are no fingerprints. There is no evidence other than the defendant’s statement to establish her guilt of these crimes.”

Ms. Gathers recanted the coerced confession almost immediately and has done so consistently and steadfastly ever since, including in connection with parole applications where it would have been to her advantage to admit guilt. The Legal Aid Society and Hughes Hubbard argued to the District Attorney’s Office that there were numerous reasons to credit the sincerity of that recantation: (1) the confession has never been corroborated by any physical evidence linking Ms. Gathers to the crime scene; (2) it contained no information which would demonstrate that Ms. Gathers possessed actual knowledge of the facts of the crime that were not already known to Scarcella and which could therefore easily have been supplied to her by him during the interrogation; (3) the confession contains significant inaccuracies and a critical omission undermining its reliability; and (4) the confessed conduct, being the accomplice in an assault on an elderly neighbor, would have been so aberrational for Ms. Gathers that it was impossible to accept as credible – as of the date of her arrest by Detective Scarcella, she had no history of violence, no history of drug abuse, and no criminal convictions. But for her debacle of an encounter with Detective Scarcella, she had never before had any run-ins with the NYPD and since her release in 2007 after ten years in jail, Ms. Gathers has been a law-abiding and productive member of society, a valued employee, a loving mother and daughter.

In short, the case The Legal Aid Society and Hughes Hubbard presented to the District Attorney’s Office was a chilling one. “Following his demotion, Detective Scarcella picked up a five year-old cold case, and then went for the quickest arrest he could,” said Lisa Cahill of Hughes Hubbard. “In the absence of any evidence, he coerced a false confession from an innocent woman, sending her to prison for 10 years. Detective Scarcella had no pretensions to being Sherlock Holmes. The search for truth seemed to have no role in his investigation.”

“This day belongs to Ms. Gathers who has steadfastly maintained her innocence – at trial, at sentence, and before repeated Parole Boards – for nearly two decades. The exoneration constitutes justice delayed, but finally, justice not denied for this innocent woman,” said Seth Steed of The Legal Aid Society. “We commend District Attorney Thompson for being true to his promise to conduct serious re-investigations of convictions from an era marked far too often by law enforcement misconduct. There is

still much to do to eradicate these wrongs and to restore public confidence in the justice system, and The Legal Aid Society looks forward to working with DA Thompson in the future."

Last week, the District Attorney's Office informed Ms. Gathers' lawyers that it planned to move to vacate her conviction, which led to today's court proceeding.

The Legal Aid Society and Hughes Hubbard's successful partnership on this case began in the summer of 2013. A few months prior, former District Attorney Charles Hynes had agreed to vacate the murder conviction of David Ranta based in large part on "some questionable conduct" by Scarcella. That decision prompted a slew of complaints from the defense bar and convicted defendants about other questionable Scarcella convictions, and the then-District Attorney Charles Hynes announced his intention to review a minimum of 50 other murder convictions Scarcella had worked on. Because of its appellate work, The Legal Aid Society was the last counsel of record in approximately 25 of these cases and the Society began a project to investigate those cases. The Society announced this at a meeting of its Board of Directors. Hughes Hubbard's Managing Partner, Ted Mayer, a member of the Board, suggested that large firms in the City partner with The Legal Aid Society on the cases. Numerous firms, including Hughes Hubbard, heeded the call. Ms. Gathers' exoneration is the second achieved by The Legal Aid Society since Mr. Thompson was elected, the first being the Robert Hill case, which Legal Aid secured in May 2014 with the assistance of lawyers at Davis Polk & Wardwell.

Since the summer of 2013, Hughes Hubbard, on a pro bono basis, and The Legal Aid Society have devoted literally thousands of attorney hours to the case, including in FOIL litigation with the NYPD and through a massive reinvestigation of the crime. Mr. Mayer was personally involved in the effort along with Partner Marc Weinstein.

Today's victory for Ms. Gathers is a major win for Hughes Hubbard's white collar group especially. Lisa Cahill, who has been with that group since its inception, led the team with the assistance of lead associate Alexandra Shookhoff. It is no coincidence that Ms. Cahill's earliest mentor was the late U.S. District Judge T.F. Gilroy Daly, for whom she clerked, and who successfully represented Peter Reilly in one of the most significant false confession cases in modern times. In large part because of the involvement of playwright Arthur Miller, Peter Reilly's successful fight to have his conviction overturned was widely publicized and that case helped sensitize the public to the possibility of false confessions. Ms. Gathers' case now stands as the latest proof that false confessions are really no longer an abstract idea or concept, but a reality. At last count, the National Registry of Exonerations had a tally of 221 exonerations in cases involving false confessions. Today that number rises to 222.

Mr. Steed and David Crow were the lead attorneys from The Legal Aid Society on Ms. Gathers' case. In addition to Mr. Mayer, Mr. Weinstein, Ms. Cahill and Ms. Shookhoff,

the Hughes Hubbard team consisted of David Shanies, John Turrettini, Alejo Cabranes, Casey Duffy, Ryan Kim and Brittany Cohen, and paralegal Nikki Garton.

For Hughes Hubbard, and Messrs. Weinstein and Shanies specifically, this is the second exoneration from a wrongful murder conviction achieved in the past seven months. Both lawyers were involved also in a Brooklyn state court proceeding seeking a new trial for incarcerated Firm pro bono client Ruddy Quezada. Weinstein and Shanies succeeded in overturning that conviction by proving that prosecutors had withheld from the defense crucial evidence about a witness who was arrested and held captive in a hotel to compel him to testify for the government at trial. Mr. Quezada was released after serving nearly 24 years in prison.

About Hughes Hubbard

Hughes Hubbard & Reed LLP is an international law firm founded in 1888 by the renowned jurist and statesman Charles Evans Hughes. It has been ranked for eleven years, including five years in a row as the top-ranked New York-based firm, on *The American Lawyer's* A-List of what the magazine calls “the top firms among the nation’s legal elite.”

About The Legal Aid Society

The Legal Aid Society's Pro Bono Practice is the leading pro bono program in the nation with some 3,000 attorneys, legal professionals, and law students – primarily from New York's major law firms and corporate law departments as well as New York area and national law schools – participating each year and handling 3,000 matters on behalf of Legal Aid clients. During the Society’s operations for more than 135 years, the major New York City law firms have served as partners with The Legal Aid Society in securing the fundamental legal rights of low-income New Yorkers in critical need of counsel but unable to afford it.

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