

By Michael Kelley

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The federal Appeals Court panel has overturned the conviction of Michael M. O'Laughlin, convicted for the brutal beating of 58-year-old Annmarie Kotowski at Foxhollow apartments in 2000. The three-member judge panel concluded that no jury could possibly convict O'Laughlin with the evidence as it was presented.

The decision means that O'Laughlin would be released from prison and not charged with the crimes again, unless the state is successful in its further appeal.

District Attorney David Capeless, angered by the appeals court decision, has indicated a willingness to appeal the decision.

The ruling reversed a March 2006 Massachusetts Supreme Judicial Court decision which upheld the original 2002 conviction.

In May 2002, Michael O'Laughlin, 43, was found guilty by a Superior Court jury on one count of armed assault with intent to murder, one count of armed assault in a dwelling, one count of burglary, armed assault on an occupant, and one count of assault and battery by means of a dangerous weapon for the November 17, 2000 assault on Kotowski.

O'Laughlin was ordered to serve 35 to 50 years at the Massachusetts Correctional Institution at Cedar Junction.

The Massachusetts Appeal Court had initially reversed the conviction after ruling that the Commonwealth had failed to link O'Laughlin to the crimes.

The Commonwealth appealed that finding to the Supreme Judicial Court, which affirmed the convictions in 2006.

After exhausting all avenues of appeal throughout the court system in Massachusetts, O'Laughlin filed a petition for a federal review of his convictions. A website, www.freemichaelnow.com, was created to profess his innocence and point out areas where the prosecution erred.

In a written reversal decision, the Appeals Court found that it would be "overly speculative to conclude O'Laughlin to be the assailant beyond a reasonable doubt."

The three-judge panel ruled that the Commonwealth did not provide sufficient evidence identifying O'Laughlin as perpetrator of the crimes and that, as a matter of law; the trial court should have entered a not-guilty finding.

Capeless, however, said that there was "ample evidence, albeit circumstantial," to convict O'Laughlin of the crime.

After conferring with the Office of Massachusetts Attorney General Martha Coakley, which handles federal habeas petitions for the state, Capeless said her office will be filing a petition for a full bench review in the Appeals Court.

"The applicable legal standard is 'whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt,'" Capeless said.

"In the present case, the federal Appeals Court panel instead compared the evidence offered by the two sides, and then concluded that it was insufficient for conviction. That is the error that we will pursue on appeal of the decision."

The crime, took place in the early morning hours of Nov. 17, 2000 at the Foxhollow apartments where both Kotowski and O'Laughlin lived. O'Laughlin also worked at the complex as its maintenance man and had a master key to the facility.

Kotowski was brutally beaten by a baseball bat, which broke nearly every bone in her face and left her unable to remember what had occurred. The attack also left Kotowski with permanent nerve damage, and impaired hearing and eyesight, keeping her from returning to work as a school teacher.

According to the prosecution, O'Laughlin had been using cocaine that night, but had run out of the drug, as well as money to buy more. In the hours leading up to the attack, records indicated that O'Laughlin placed more than a dozen phone calls trying to buy some drugs.

It is thought that O'Laughlin had gained access to Kotowski's room where he planned to steal valuables and money to perhaps pay for the drugs. The police allege, Kotowski woke up when O'Laughlin entered her apartment and beat her.

A neighbor called police when he heard Kotowski's screams as well as sounds of the attack. Police got to the scene several minutes later.

A baseball bat with O'Laughlin's name on it was found near the scene of the crime, but tests failed to produce any evidence connecting him to the crime.

Although Kotowski's apartment was covered in blood, no blood was found on O'Laughlin, in his apartment, or on the baseball bat.

Despite O'Laughlin's initial intent was allegedly to rob Kotowski, nothing was taken from her apartment, despite cash and expensive jewelry being in plain view.

At the hospital while being treated from her injuries, Kotowski was asked if O'Laughlin attacked her. Reportedly Kotowski shook her head no. The Commonwealth, however, indicated she was not coherent enough at the time to answer the question.

Some think that Kotowski's estranged husband, David was a more fitting suspect. After being married for 30 years, her husband found that in 1999, Kotowski was having an affair. The couple, it has been reported, separated two months before the attack and five days before it, Kotowski had been talking about divorcing her husband.

When police searched David Kotowski's vehicle, they found towels matching those in the apartment in a plastic bag in the truck. The towels reeked of bleach.

David's involvement was investigated and he was eventually cleared of the charges.

According to the website, O'Laughlin had never been convicted of a crime before and he was wrongly convicted and sentenced in Kotowski's beating because there was no eyewitness to the attack and no physical evidence tying him to the crime.