

Due to misconduct on the part of a North Carolina prosecutor and a Durham police detective, a North Carolina judge ordered last week that an inmate who has been imprisoned for 19 years and who has repeatedly proclaimed his innocence will receive a new trial. Darryl Anthony Howard was arrested and convicted in 1995 for the 1991 killing of Doris Washington and her 13-year-old daughter at a public housing complex in East Durham. Howard has always insisted he had nothing to do with the crime.

Howard's case was taken up by the Innocence Project, a nonprofit legal organization that has freed 18 wrongly convicted individuals from death row in its 22 years of existence. In granting Howard a new trial, a Durham Superior Court judge wrote: "It is undisputed that there was and is no physical evidence connecting Howard to this crime scene or to these victims."

Sperm was found on the young girl and collected in an investigative rape kit. An autopsy revealed that the mother had been sexually assaulted. Howard was charged with the murders, but DNA tests excluded him as a match to the sexual assault evidence collected. At trial, Durham Police Department Detective D.L. Dowdy testified he never suspected that the murders involved sexual assaults and that he never investigated them as such. The prosecutor repeated that claim to the jury and suggested that the sperm on the teen was the result of consensual sex before the murder. However, the claims by the prosecutor and detective were contradicted by a police memo that both had in their files, a document uncovered within the past decade, but never produced to the defense trial team.

A few days after the bodies of Doris Washington and her daughter were found, police received a confidential tip that a drug gang had murdered Washington over an \$8,000 drug debt. The tipster reported that the murderers raped the mother before killing her and that the daughter was raped and killed after walking in on the scene. Washington had reportedly sold drugs at the crime-ridden housing complex.

The anonymous tip was provided to Detective Dowdy. It had more credence because nothing about a sexual assault had been publicly revealed. The police memo related to the anonymous tip was not provided to Howard or his defense attorney.

In last week's ruling, the judge concluded that the State presented materially misleading and false testimony and that the prosecutor also made a materially misleading and false argument to the jury. Howard's team had argued that withholding of the police memo violated his due process rights to have access before trial to any potentially exculpatory evidence.

New DNA evidence uncovered since the trial points to a career criminal known to be associated with the New York Boys, a gang of drug dealers who were in Durham in the 1990s. The recent, more sophisticated DNA tests showed that the sperm from the rape kit collected in connection with the Doris Washington murder matched that of a convicted felon, whose criminal history includes some 35 convictions and numerous assaults against women.

The State had 30 days in which to appeal the May 27, 2014 order allowing Howard a new trial and did so within days after the new trial order was entered. If the State had not appealed, the defense team could have moved to have Howard released from prison as he awaits a new trial. The case will now proceed to the North Carolina Court of Appeals.