

Shook Hardy Mass Tort Pros Help Nix Pa. Murder Convictions

By James Boyle

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The Delaware County Courthouse in Media, Pennsylvania, where a judge recently agreed that new DNA testing of evidence recovered from a 1997 murder scene was enough to overturn the convictions of three men serving life sentences for the crime. (iStock.com/phillyskater)

Deep experience dealing with expert testimony on complex scientific evidence and local knowledge of the Philadelphia suburbs made Shook Hardy & Bacon LLP partners John Lyons and David Haase a perfect fit for the team that recently helped vacate the decades-old convictions of three men accused of murdering a 70-year-old woman.

A Delaware County, Pennsylvania, judge last month overturned the convictions of Derrick Chappell, 41, Morton Johnson, 44, and Samuel Grasty, 47, for the 1997 killing of Henrietta Nickens, agreeing that newly tested DNA evidence taken from Nickens' home did not match the three defendants.

Lyons, who is originally from the Philadelphia area and practices out of Shook Hardy's New York office,

started working with the Pennsylvania Innocence Project in 2016 to represent Chappell pro bono. Haase, meanwhile, joined the effort shortly after joining the firm's office in Philadelphia in 2019.

Both attorneys spent years reviewing the case to advance arguments that more advanced DNA testing would yield new evidence to clear Chappell and his co-defendants. As natives of the Delaware County area, the two said their familiarity with the region gave them an extra interest in the case's outcome.

"It was an easy yes to get involved," said Haase. "The courthouse is 10 minutes from where I live, and I am familiar with the community."

According to court records, Nickens was brutally beaten to death in the bedroom of her home in Chester in October 1997, and the three defendants were quickly arrested on multiple counts of second-degree murder, burglary and conspiracy to commit murder. Chappell, Johnson and Grasty were tried separately in 2000 and 2001, convicted of second-degree murder, and sentenced to life. The Innocence Project and Centurion Ministries have been working with the defendants since their convictions to have their fates reversed.



John Lyons

David Haase

"I started working with the Innocence Project when I joined Shook Hardy about eight years ago," Lyons said. "There was an extensive review of the case and the records from the substantial number of appeals before I joined. I was going through that and the underlying records and available evidence, and there were gaps in the arguments that didn't make sense 25 years later."

For instance, Lyons said, the district attorney at the time initially charged the trio with sexual assault, in addition to murder, until testing of semen found on the woman did not produce a match for any of the three defendants. As a result, prosecutors moved forward with a slate of charges without the sexual assault element, even though there was no physical evidence tying them to the crime scene, Lyons said.

Instead, much of the prosecution's case relied on testimony from a fourth man, Richard McElwee, who claimed that he acted as lookout while Chappell, Johnson and Grasty broke into Nickens' house, murdered her and robbed her. McElwee pled guilty to third-degree murder and received a six-to-12-year prison sentence in 1999.

After working on the case by himself for several years, Lyons said he was looking for a fresh set of eyes when Haase joined the firm in August 2019. Like Lyons, whose practice focuses on toxic sort and other product liability claims, Haase came to the team with years of his own experience on complex civil litigation matters. Lyons said the pair were able to bring strategic thinking from a different perspective than the more criminally focused attorneys from the Innocence Project.

Working together, it soon became clear that their bid to overturn their client's conviction would rely on DNA technology and techniques that had not been available during the original trial. Crime scene photos from the murder showed the victim was savagely beaten, with blood everywhere, according to Haase. The new DNA testing, including analysis of skin cells left behind by fingertips on clothing and bedsheets, did not yield a match for any of the convicted defendants. And given the grisly nature of the attack, Lyons said that the lack of any DNA evidence tying the three men to the crime scene would be nearly impossible.

"There was zero physical evidence, including hair, footprints, DNA, fingerprints or anything from these three gentlemen in the small bedroom where the horrendous crime took place," Haase said.

And for a case involving interpretations of scientifically complex DNA evidence, the pair's experience in often similarly complex environmental and toxic tort claims came in handy.

"We were able to use our expertise with witnesses on huge exposure cases," Haase said. "On the civil side, that usually means monetary exposure. We are used to working with expert witnesses to accurately convey their opinions to the court. That made an impact on the final result, in addition to the excellent work ... by the Innocence Project and Centurion."

While all the materials were collected at the time of the murder, the defense team argued that the availability of improved technology and methods meant that more recent testing should be considered new evidence to support vacating the convictions as part of a motion for post-conviction relief that was filed in June 2022.

"There was a green jacket in the home, and the [district attorney] suggested it belonged to one of the defendants," Haase said. "The new technology enabled us to determine that none of the wearer's DNA on the jacket matched them."

Haase and Lyons also pointed to bodily fluids found on a bedsheet, including semen that had already been shown not to match the three defendants. The district attorney had previously offered theories for the DNA, including that it came from an earlier consensual encounter by the victim with another person, or that the three defendants brought the fluid to the scene, which Haase called a "ridiculous" theory.

The new DNA testing technology enabled the defense's experts to determine that the bodily fluids, including blood and urine from the victim, had ended up on the bedsheets at nearly the same time as the semen, Lyons said.

"We were able to offer the opinion that the sexual assault and physical assault all happened contemporaneously," Lyons said. "These were not separate actions."

Even as the new evidence helped clear his client, Lyons said they'd been unable to find a true match for the collected DNA. In the meantime, Chappell, Johnson and Grasty remain in prison as the Delaware County district attorney has 30 days from the judge's March 28 order to decide whether to appeal the decision. A bail hearing for the trio is scheduled for May 18.

"The appeal is our next decision point," Lyons said. "If the district attorney doesn't appeal, they then have to decide on having a new trial."

The district attorney's office did not immediately return a message seeking comment.

--Editing by Jay Jackson Jr.