

Rapist lands hearing to reconsider DNA evidence against him

By **Patriot Ledger staff and news services**

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WORCESTER — A Massachusetts man who has spent 27 years in prison for a rape he says he didn't commit has been granted a hearing to reconsider DNA evidence in the case.

Worcester Superior Court Judge Richard T. Tucker scheduled a hearing for Sept. 9 to consider the merits of the case against Benjamin LaGuer, 48, who has maintained claims of his innocence.

LaGuer has lost several attempts for a new trial and for parole. He is serving a life sentence after being convicted of breaking into the home of a 59-year-old neighbor, beating and raping her. The neighbor was found bound and beaten on the morning of July 13, 1983. LaGuer was later charged, convicted and sentenced in 1984.

LaGuer's attorney had filed the latest motion, claiming that 2002 DNA evidence linking LaGuer to the crime had been contaminated. He has attracted some high-profile backers over the years, but that support faded after DNA testing linked him to the crime.

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Convicted rapist LaGuer gets another day in court

LaGuer gets another day in court

By Karen Nugent TELEGRAM & GAZETTE STAFF

WORCESTER — Convicted rapist Benjamin LaGuer, who for the last 27 years has insisted he did not brutally rape and beat his 59-year-old neighbor, will get another chance to make his case.

A hearing on a motion for a new trial for Mr. LaGuer, 47, who has been denied parole four times for the 1983 Leominster rape, is scheduled for Sept. 9 in Worcester Superior Court before Judge Richard T. Tucker.

According to Mr. LaGuer's lawyer, Robert E. Terk, new evidence, including testimony from Annie K. DeMartino, a former longtime Fitchburg city councilor, will be introduced.

Mrs. DeMartino, also a former mental health aide who sometimes drove the Leominster woman to appointments, has disclosed a previously undisclosed relationship between the woman, who died in 1999, and another suspect at the time, according to documents prepared by Mr. LaGuer and Mr. Terk.

The presumption is the woman had a tendency to confuse the identities of Latino or African-American men.

The 52 pages of documents includes a seven-page "glossary of names" associated with Mr. LaGuer's case, such as journalists, professors and political figures who wrote letters in his defense or covered his case, as well as lawyers, doctors, and police officers.

The documents claim the woman used antipsychotic drugs — which has been brought up at previous hearings — and describes "her indiscriminate (falsely) accusing of many other colored men of the same disputed offenses."

The document says the woman's daughter said her mother was diagnosed with schizophrenia and was institutionalized in the 1950s, and that Mrs. DeMartino in

2007 revealed that the woman was taking antipsychotic drugs, including Haloperidol, at the time of the trial.

The documents say a trial prosecutor said she had not used antipsychotic drugs for about two years.

In addition, the document goes into great detail about the collection and testing of DNA evidence that, in 2002, tied him to the crime.

"A panoply of withheld evidence shed new light on the analytic assumptions underlining a March 2002 DNA result of Forensic Science Associates. DNA testing did not clear him, as it should have, because FSA matched his DNA to samples taken from his apartment, not from the original rape kit," the documents say.

Mr. LaGuer has served 27 years of a 1984 life sentence. He was last denied parole in June 2010, following an April 2010 hearing at which Mr. LaGuer's then-lawyer, retired Judge Issac Borenstein, claimed that a juror in the 1984 conviction was racially biased, that police mishandled evidence and that the woman, who was raped and beaten in her apartment for more than eight hours, was mentally ill and misidentified him.

The Parole Board, however, cited violent prison violations made by Mr. LaGuer since he has been jailed, and the fact that he has refused to take part in sex offender rehabilitation programs or transitional programs. Members also pointed out the discovery of 26 pages of pornographic material hidden in his cell. Also, he once called the Leominster woman at her nursing home, posing as a priest. Mr. LaGuer said he was trying to evaluate her mental state.

"I am innocent," Mr. LaGuer again proclaimed in a statement yesterday. "I hope this hearing is the first step to exposing the truth about DNA evidence."

"The language of evidence tampering and concealment of key police and forensic reports may seem gutter to some with fancy law degrees, but these are the facts that prosecutors have crawled out of a sewer with, to defend a verdict which is based on racial bias and abuse of authority," he said in the statement.

Mr. Terk yesterday said he believes his client is innocent or he would not have taken the case.

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LaGuer to try for new trial again

By Hunter Amabile, hamabile@sentinelandenterprise.com
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WORCESTER -- A man who has served 27 years in prison after being convicted of the rape and beating of his 59-year-old neighbor in Leominster in 1983 will have another chance to plead his case.

Benjamin LaGuer, 47, who has been denied parole four times since being convicted in 1984, has a hearing on a motion for a new trial on Sept. 9 in Worcester Superior Court before Judge Richard Tucker.

"It's been a long-standing battle, and we believe we have info previously not available to the court which entitles (LaGuer) to a new trial," said Robert Terk, LaGuer's lawyer, who practices out of Fitchburg.

The motion for a new trial comes on the back of new evidence, including testimony from former Fitchburg City Councilor Annie DeMartino.

DeMartino, who worked as a mental-health aide, sometimes drove the victim to appointments. In the new evidence, DeMartino tells of a previously undisclosed relationship between the woman and another suspect.

LaGuer's case said the woman used antipsychotic drugs, contrary to what was stated by a previous prosecutor, and that her daughter admits her mother was diagnosed with schizophrenia and institutionalized in the 1950s.

This is one of many of LaGuer's pushes to clear his name and get out from behind bars.

"Anyone else would've stopped and had the doors locked behind him decades ago," Terk said. "He is a very unusual individual."

Terk, who first became involved in the case in 1986, resumed the case a year ago and describes his relationship with LaGuer as a "spiritual connection that happens very rarely between client and attorney," he said.

Over the years, the case has drawn a lot of public opinion.

Mayor Dean Mazarella, a former police officer, was one of the first officers on scene the night of the crime, and he ranked the crime one of the five worst things he saw on the job.

To Mazarella, it seems like LaGuer comes up with a new pile of evidence to stand on every so often that gains some supporters, but is usually shot down.

"This guy has had more new and improved stories than they've had for soap suds," Mazzarella said.

The biggest problem now is there aren't any more people around to bring forward as witnesses, Mazzarella said.

For the doubters, Terk cites confidently the 34 pages he will present on Sept. 9 in LaGuer's defense.

As far as the possibility for a new trial goes, Terk and his client are not getting too far ahead of themselves.

"We take it step by step, day to day," Terk said, noting that there is no need to get disappointed if the case does not make it to trial.

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