

MISCARRIAGES OF JUSTICE

Stefan Kiszko

THE jailing last week of Ronald Castree for the murder in 1975 of 11-year-old Lesley Moiseed, 32 years after her death, brings to a close one of the most shocking miscarriages of justice ever to have tarnished the criminal justice system.

Stefan Kiszko, an innocent man who was naïve and vulnerable, was locked away for 16 years for Lesley's murder (see *Eyes passim*), even though the incontrovertible evidence that he could not have been the killer was available *before* his trial in 1976. Scandalously it was buried – almost certainly deliberately – and Mr Kiszko was left to rot in jail while the perpetrator went free.

It was the same evidence that was used last week at Bradford crown court to link 54-year-old taxi driver and comic dealer Castree to the crime: semen found at the scene where Lesley was sexually assaulted and stabbed to death. New DNA evidence showed it to be a "match" for Castree.

Even without the DNA evidence, however, it was still known all those years ago that the semen could not have been Kiszko's because he had a condition that rendered him sterile and unable to produce sperm. That proof of innocence was hidden from the original trial at Bradford crown court, which instead relied on Kiszko's false confession.

The confession was extracted after he was held by police for seven weeks without access to a solicitor, during which time he also confessed to having exposed himself to three young girls a few days before the killing. That never happened either; and the three girls later admitted inventing the story of a "flasher" in the hysteria that followed the discovery of Lesley's body.

Mr Kiszko had a dud legal team headed by David (now Lord) Waddington, the former Home Secretary, who ran a defence of manslaughter on the grounds of diminished responsibility. Wrongly jailed as a child sex killer, he was so beaten, abused and despised by fellow inmates he later developed schizophrenia. It was only thanks to his devoted mother, Charlotte, who worked tirelessly and eventually found solicitor Campbell Malone to take up his case, that Mr Kiszko's conviction was finally overturned in 1992.

No drugs to Hyde

TWENTY ONE months ago, a road haulier named Geoff Hyde took a phone call that triggered a prison term of 22 years on a charge of cocaine smuggling – a crime his family, staff, business associates and friends maintain he did not commit.

The 59-year-old answered the call to his mobile on 27 February last year from a man claiming to be a friend of a fellow haulier. The caller said one of his lorries coming from abroad needed emergency brake repairs and asked if his mechanic could do the work at the yard Hyde used in Chertsey.

Hyde said he would see if there was room and call back, which he did. He then moved one of his trucks to make space, alerted a driver due that evening about the arrival, let in the supposedly "stricken" lorry and the "mechanic", and left for the night. In fact the lorry was under surveillance and contained 77 kilos of cocaine valued at £4m. Police swooped after the driver, Francisco Ibanez Cantero, and "mechanic", John Town, unloaded the drugs into a van.

Hyde was alerted and returned to the yard to give police keys to the office. He was arrested, and after a night in the cells he made two fatal mistakes. First, he declined offers to call a solicitor. Second, during a 27-minute interview, he lied to police, failing to tell them about the phone calls and saying instead that he had spoken to the visitors at the gate. He later told the court he simply panicked: "I had been thinking all night long that I had been set up and I thought they [the police] would say, you are connected because this bloke has phoned you."

Which, of course, is exactly what the police did think. But apart from the calls to his mobile,



Kiszko



Castree

Did Lord Lane, the then lord chief justice, express concern or regret that the system had failed so miserably? No. For most of his judgment he underlined what appeared to him to be the strengths of the prosecution case against Mr Kiszko. He dismissed the suppressed evidence, botched investigation and the inept defence in a few short sentences.

Mr Kiszko died a year after his release and his mother died six months later. No one was ever called to account for the initial injustice; and in 1995 the stipendiary magistrate in Rochdale threw out charges of perverting the course of justice against one police officer and a former forensic scientist after the detective who had led the investigation, Det Chief Superintendent Jack Dibb, died. Dismissing the case, Jane Hayward ruled that retired superintendent Richard Holland and former forensic scientist Ronald Outeridge may have been in the dock "for acts or omissions which in reality are those of Mr Dibb".

Or, she said, he might have made statements to them "which would excuse any criminal liability on their part". Both had been accused of excluding from the evidence any reference to tests which showed Mr Kiszko was not the killer. The detective maintained that if the laboratory had told him the samples were not a match, Mr Kiszko would not have been charged. The scientist, however, said he had no doubt that he had told the investigating officers that Mr Kiszko's sample contained no sperm heads and that the differences between the findings were discussed.

Mr Kiszko's solicitor, Mr Malone, had called for a full inquiry into the miscarriage but it was never granted. Nor did the trial of Ronald Castree provide any answers. Praise for new DNA techniques and police persistence overshadowed the fact that Castree was only allowed to escape justice for so long because of the worst kind of cover-up.

no evidence was found to link Hyde to the drugs consignment, despite searches of his house, office and car.

Hyde had never been in trouble. Since 1974 he had built up his company, which employed 11 staff, and made a good living with a salary of £100,000 a year, a house in Surrey and a small apartment in Spain. Every penny of his income and expenditure was accounted for. When investigators for the Crown Prosecution Service looked into his affairs to pursue a "proceeds of crime" confiscation order, they reported that "as far as can be determined all expenditure by the defendant has come from legitimate sources".

Hyde's defence pointed out that he had used his own mobile phone, whereas the others involved had used unregistered, untraceable, pay-as-you-go phones. Indeed, the man who rang Hyde and another who acted as a go-between with the van driver could not be traced.

There was no recording of the phone calls, but the prosecutor imagined a sinister dialogue for the jury with the two men discussing the consignment. That, and the fact that Hyde originally lied about the calls, is all it took to secure a conviction. He was sentenced to 22 years, the driver to 18 years and the "mechanic", who pleaded guilty, to 12 years.

No one connected with Hyde, it seems, accepts his guilt and he is planning to mount an appeal. But so little evidence – a 27-minute interview and an examination of his mobile phone records – leaves little to pull apart. And with no trial irregularities or legal points to appeal, the family's only hope is that somehow they can unearth new evidence which points to his innocence – or that the real culprits will be caught.

CHILD ABUSE

Second opinion

A PAEDIATRICIAN who wrongly diagnosed dozens of children as having been sexually abused, leading to false allegations against two nursery nurses in Shieldfield, Newcastle upon Tyne, has been found guilty of serious professional misconduct.

Dr Camille De San Lazaro (pictured) has been banned from acting as an expert witness on child sexual abuse "in any legal proceedings or otherwise" for an unlimited period. The high court ruling overturns a previous decision by the General Medical Council in May 2005 that De San Lazaro was not guilty of serious professional misconduct even though the GMC had found some of her work in the Shieldfield case "inappropriate, irresponsible and unprofessional" (see *Eyes* 1133 & 1136).

The judgment followed an appeal by the Council for the Regulation of Healthcare Professionals against De San Lazaro and the GMC after a complaint by nursery workers Dawn Reed and Christopher Lillie. They brought the case after a nine-year ordeal in which they were falsely accused of sexually assaulting children in their care.

Initially they were charged with abusing six children. They were acquitted when the case went to Newcastle crown court in July 1994 when the judge ruled video interviews with children inadmissible and the crown offered no further evidence.

After the acquittal, Newcastle city council, their employer, appointed four people – three social workers and a clinical psychologist – to review the case.

Despite Reed and Lillie's acquittal, the panel branded them as depraved and sadistic child abusers who procured children for a paedophile ring to be filmed for child pornography.

The exact number of children they were supposed to have abused was never fixed, but the number escalated from the concerns of the mother of a two year old boy to more than 60 children, many of whom were awarded compensation for abuse. De San Lazaro had examined 53 children and her medical reports confirming sexual abuse were the main evidence against Reed and Lillie.

The pair went into hiding until they sued the council and the review team for libel. In July 2002 in the high court Mr Justice Eady awarded them £200,000 each in damages.

He found the council not guilty, accepting its defence of qualified privilege in publishing the report. But he found the review team guilty of malicious libel "because they included a number of fundamental claims which they must have known to be untrue".

De San Lazaro was "unbalanced, obsessive and lacking in judgement", the judge said. "Where physical findings were negative or equivocal, Dr Lazaro was prepared to make up (for) the deficiencies by throwing objectivity and scientific rigour to the winds in a highly emotional misrepresentation of the facts."

The judge said there was no basis for the review team's allegations about the existence of a paedophile ring and concluded: "The allegations of child abuse against Christopher Lillie and Dawn Reed are untrue. They are entitled to be vindicated and recognised as innocent." De San Lazaro was suspended from her job after the 2002 libel trial but reinstated in 2004.

Despite the high court's finding in April of serious professional misconduct, De San Lazaro is still a senior lecturer and honorary consultant in paediatrics at the University of Newcastle, with clinical duties at the Royal Victoria Infirmary. The hospital trust told the *Eye* she was reinstated "because she is a competent paediatrician".

