

Mr. Lawton, how many witnesses have to recant to undermine our confidence in a verdict based on implausible testimony?

I confess that I am confused; seven recantations from independent witnesses are *too many* to be believed? Just how many liars have to recant to undo a conviction based on perjured testimony, Mr. Lawton? If seven is too many, will five or six do? Would you actually concede the reliability of the recantation evidence if there were only one or two? Or would you point to the non-recanting witnesses to defend your conviction?

Your suggestion that the claims of police intimidation and coercion only surfaced recently is belied by the trial record. In 1991, at trial, Darrell “D.D.” Collins – a juvenile - testified that he was interrogated for hours and threatened with arrest. It was under those circumstances that he provided a statement implicating Troy Davis. Collins “told [the detective] what he wanted to hear.” T. 1135. “ ‘Cause [Collins] was scared, [and] didn’t want to go to jail.” T. 1145. The police told him “if I don’t cooperate with them, that I’m gonna be in prison for ten to twelve years.” T. 1135.

Dorothy Ferrell called defense counsel, hours after testifying at trial, and confessed that her testimony implicating Troy Davis was false. When Ferrell was arrested and brought back to court, she let her perjured testimony stand out of fear that if she did not stick with the story she would be imprisoned for up to 10 years. The trial proceeded without any investigation into the claims of police coercion revealed at trial.

The clear record and undisputed circumstances of the eyewitnesses’ observations flatly contradict your suggestion that their recantations are incredible last-minute concoctions. Indeed, given the implausibility of the evidence used at trial, these recantations are hardly surprising.

When you presented these nine witnesses to the jury, you assured the jury that they could trust your witnesses. However, most provided implausible testimony.

Decades of scientific studies confirm that distance, lighting, duration of crime, weapon-focus, other race effect. can impede ability to encode sufficient detail to make an accurate identification later. Moreover, a witness’ memory of the assailant’s face is malleable. Even unintentional suggestions – let alone the overt pressure alleged here – can contaminate memory and lead the witness to confidently identify the wrong person. In the absence of expert testimony explaining that there is no significant correlation between accuracy and confidence, jurors typically put great weight on eyewitness certainty. Davis’ trial attorneys did not call an expert; the jurors were instructed they could consider certainty when judging the reliability of these identifications.

Dorothy Ferrell was standing at least 160 feet away from the scene. It is impossible to observe sufficient facial detail at that distance. What explains her selection of Davis? The detectives showed Ferrell a single photo of Davis prior to the official identification

and told her that he was the shooter. When later asked if she recognized the shooter from a group of five photos, she selected the photo previously shown to her.

The other witnesses were in the dimly-lit parking lot and in the line of fire during the few seconds that transpired from Sylvester “Redd” Coles’ threat to shoot Larry Young to the shooting death of Officer MacPhail.

Stephen Sanders – one of eight passengers in a van ordering food at the drive-thru window after a night of drinking – was unable to identify the shooter that night. A month later, Sanders still could not identify the shooter. Neither could his companions. Yet, two years later, Sanders identified Troy Davis at trial. Memory does not improve over time.

Antione Williams initially reported that he saw an armed man (instigator) arguing with Larry Young as the instigator stood in front of Young. Williams saw the instigator pistol-whip Young and shoot Officer MacPhail. (Redd testified that he was the only one hassling Young. Redd conceded, as did the other witnesses, that Troy Davis never said a word to Young.) Over the next ten days, Williams viewed the wanted poster prominently displayed at his place of employment, with the same photo of Davis shown used in the photo array. Even after repeated exposure Williams was only 60% sure that Davis was the shooter.

Harriet Murray was in the parking lot waiting for Young to return. She saw one man (later identified as Redd) hassling Young for his beer as he walked back to the lot. She heard that man threaten Young, “You don’t know me. I’ll shoot you.” (Redd admitted that he – and only he - made this threat.) Murray saw him pull a gun out of his waistband. At that point, she ran for cover.

Larry Young told the police, as he bled from his untreated head injury, that he was not sure who hit him because “everything happened so fast.”

Does the public have any reason to feel confident that these eyewitnesses were accurately identifying Officer MacPhail’s killer? It is not even a close question.

The State’s determination to kill Troy Davis will not change the truth – Troy Davis was convicted on implausible eyewitness testimony.