



Senate Bill 534 FAVORABLE
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Senate Judicial Proceedings Committee Hearing
February 18, 2020

The Mid-Atlantic Innocence Project (MAIP) is dedicated to exonerating innocent people who have been wrongfully convicted in Maryland, Virginia, and Washington, D.C. and promoting policies to prevent and address wrongful convictions. MAIP supports Senate Bill 534 because it will help prevent wrongful convictions in Maryland that are based on the testimony of jailhouse informants.

Nationally, jailhouse witnesses played a role in 1 in 5 wrongful convictions of innocent Americans since 1989, including four wrongful convictions in Maryland. The wrongful convictions of James Owens and Clarence Shipley in Baltimore were based on lying jailhouse witnesses and cost taxpayers more than \$11 million in state compensation and civil lawsuits.

On February 5, 2020 a federal court vacated a Baltimore conviction that was largely based on jailhouse witness testimony. MAIP client Matthew Horner was convicted of the attempted murder of his wife in 2006, despite strong evidence that she shot herself in a suicide attempt. He was convicted in a bench trial in Baltimore County Circuit Court and the judge relied heavily on the testimony of a prolific jailhouse witness named Richard Shaffer.

Federal habeas relief was granted and the conviction was vacated based on Shaffer's unreliability and the state's failure to disclose and investigate key evidence. The case highlights the problems with jailhouse witness testimony and the need for Senate Bill 534.

Profile of Jailhouse Witness Richard Shaffer

After Horner's arrest, Shaffer and Horner were housed together in jail. Shortly thereafter, Shaffer approached police, telling them that Horner had confessed to not only this crime but also to murdering his brother, best friend, ex-girlfriend, and daughter. Horner claimed to have taken contemporaneous notes of that conversation, as well as his conversations with other confessing inmates.

Shaffer's Criminal History

- Between 1993 and 2015, Richard Shaffer faced more than **24 separate felony charges** including: one count of armed robbery, several counts of burglary and robbery, several counts of assault, and two counts of making a false statement to a police officer.
- Shaffer could have been sentenced to hundreds of years in prison; instead, he **served less than five years**.
- Of his 24 charges, **15 were dismissed, and only three resulted in any jail time**.
- In 2005, when he was housed with Horner, Shaffer was facing multiple charges that could have led to nearly 70 years in prison. Instead, Shaffer received probation.
- **Shaffer likely avoided charges for other crimes he committed**. Shaffer's ex-wife testified under oath that when he was violating protective orders against her and harassing her by phone, Shaffer could call "his guardian angel," a Baltimore County detective, who "would get things wiped away."



Reliability Problems

As a witness, Shaffer had a number of reliability problems, including:

- **Prior history of making false statements** to police officers.
- **Reported incorrect details of the crime in his initial statements to law enforcement**, such as the number of shots fired; detectives later admitted to “correcting” some of those details before Shaffer testified.
- **Initially claimed that Horner had confessed to murdering four other people.** Those alleged crimes were reported to the relevant authorities; none of them found the deaths to be suspicious, and all found no merit to the claims.

Key Evidence Not Disclosed

- **Shaffer’s cooperation deal:** Shaffer testified that he had been given a 20-year sentence, with all but four years suspended. That was a lie –he received time served for his cooperation. Prosecutors did not correct his testimony or disclose his actual deal to the defense.
- **History of acting as a jailhouse witness:** Shaffer had offered testimony about three other inmates, and had several charges dismissed for his cooperation. He was also a paid police informant. While he admitted to providing information to law enforcement, he denied receiving any benefit. Prosecutors did not correct this testimony or turn over records about Shaffer’s prior cooperation with law enforcement.
- **Record of unreliable statements:** Shaffer initially reported that Horner confessed not only to trying to kill his wife, but also to murdering four other people. The claims were investigated and found to have no merit. His initial statement got key details, such as the number of shots, wrong; detectives later admitted to “correcting” some of those details before Shaffer testified.

Witnesses like Shaffer have inherent reliability problems, and their testimony deserves special scrutiny. Despite the lessons of cases like Horner, Shipley, and Smith, it is not clear that this happens on a uniform basis. In fact, both the state and the individual prosecutors who sponsored Shaffer have continued to defend the lack of investigation into Shaffer’s background and the failure to disclose critical information about his history. It therefore is clear that Senate Bill 534 is needed to ensure that prosecutors are taking seriously their obligation to investigate the reliability of jailhouse informants, to disclose what they find, and to help prevent wrongful convictions.



SUMMARY OF RICHARD SHAFFER'S CHARGES AND POSSIBLE SENTENCES

Date	Case # *	Charge	Sentence/ Outcome	Possible Sentence (Max) **
8/27/93	00718819C3	Robbery	other plea, dismissed	15y
		Break & Steal-Shop Etc	other plea, dismissed	1y or less
		Theft \$300+ Value	Other plea, dismissed	18m
3/23/99	2C00105093	Assault 2 nd Dg.	Forwarded to Circuit Court	10y
		Violate Ex-parte/ Prot. Order	Forwarded to Circuit Court	1y or less
3/27/99	1C00105337	Assault 2 nd Dg.	Forwarded to Circuit Court	10y
		Violate Ex-parte/ Prot. Order	Forwarded to Circuit Court	1y or less
4/26/99	6C99196931	Burglary- 4 th Dg.	Other plea, Nolle Pros.	3y
		Violate Exparte/ Pro Order	Other plea, Nolle Pros.	1y or less
4/26/99	6C00106938	Assault 2 nd Dg.	Other plea, Nolle Pros.	10y
		Mal Dest. Prop Val. +\$300	Other plea, Nolle Pros.	60d
7/20/01	4C00151078	Con-Motor Veh- Unlawful Taking	Other plea, Nolle Pros.	5y
		False Statement to Officer	Other plea, Nolle Pros.	6m
5/27/04	6C000210734	False Statement to Officer	Other plea, Nolle Pros.	6m
		Resisting Arrest	Guilty, \$200 Fine	3y
12/11/04	2C00220229	Armed Robbery	Forwarded to Circuit Court	20y
1/7/05	Civil Case 03C05000223	Habeas Corpus Petition w/ Bail Review	Bail review- granted, bail set at 10k cash, D have no contact w/ V	
3/11/05	03K05001046	Armed Robbery	Guilty, Probation (same terms and conditions)	20y
Part of Horner plea deal.		Robbery	Guilty plea, No Sentence	15y
		Assault 2nd Dg.	Guilty plea, No Sentence	10y
		Theft, Less than \$500 Value	Nolle Pros.	18m



		Burglary, 1st Dg.	Guilty plea, No Sentence	20y
		Burglary, 3rd Dg.	Nolle Pros.	10y
		Burglary, 4th Dg.	Nolle Pros.	3y
3/26/12	3B02155975	Theft, 10k, Und. 100k	Other Plea, Stet.	15y
		Con-Theft, 1k- Und. 10k	Other Plea, Stet.	10y
2/6/12	000000HC69270	Driving with Suspended License	Probation Before Judgment	1y
4/27/15	03K15002164	Burglary- 1 st Dg.	Nolle Pros.	20y
		Burglary- 4 th Dg.	Nolle Pros.	3y
		Theft \$1k- Und. \$10k	Jail Term: 10 years Suspended: 8 y, 6m Unsuspended: 1 y, 6m Probation: 3 y Court recommends work release.	
		Malicious Dest. Of Prop. Less than \$1k	Serve time: 1 y 6 m Probation: 3 y Credit Time Served: 1	60d
7/7/15	03K15003603	Theft Less \$1k Val.	Guilty Jail Term: 18 m Suspended: 18m Probation (supervised): 2y	18m

* Each case, charge, and sentence included in this exhibit is public record that may be found on the Maryland Case Search database. See <http://casesearch.courts.state.md.us/casesearch>.

** The possible sentences for each crime listed in this exhibit reflect the statutory maximum for a particular offense. See Maryland Sentencing Guidelines Manual, Appendix A (2018).