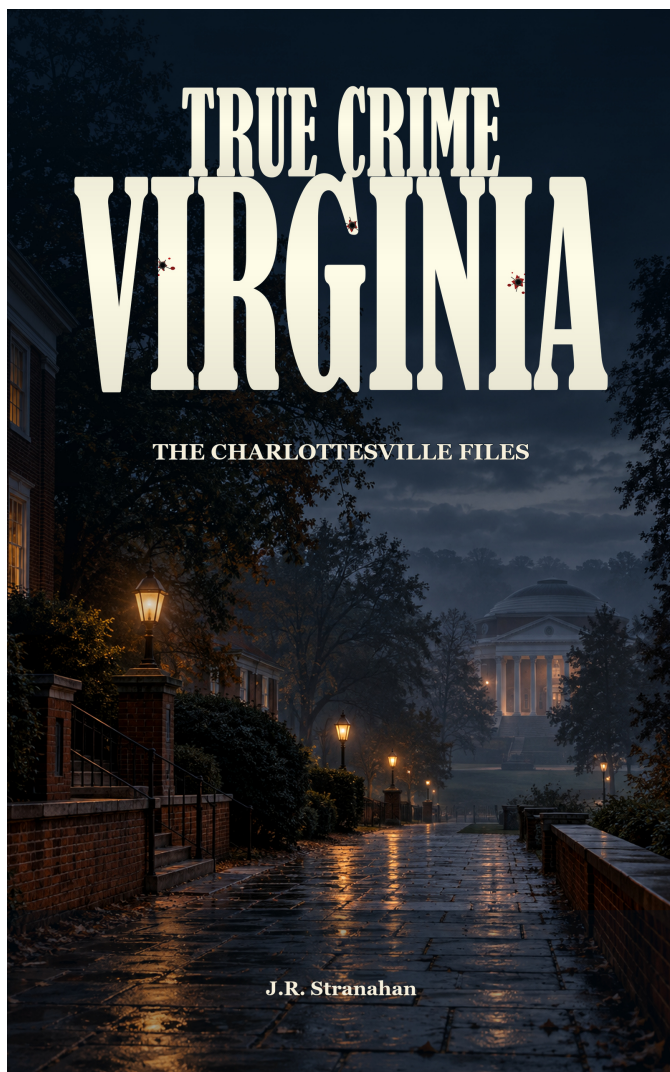


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Rebecca Lynn Williams

The apartment in Culpeper

Rebecca Lynn Williams was nineteen years old and the mother of three children. She and her husband, Clifford, lived in a ground-floor apartment at Village Square in Culpeper. Shortly before eleven on the morning of June 4, 1982, a neighbor saw her walking toward the apartment with her two-year-old child and her eight-month-old baby in a stroller. Her oldest child was at school. Clifford was at work.[RW1]

Near noon, people at the apartment complex flagged down J. L. Jackson, a police officer who also lived there. Rebecca lay partly in the doorway of her home. She had been stabbed and was bleeding heavily. A neighbor brought a sheet to cover her. Jackson went inside and brought out the two small children.

Rebecca could still tell those helping her that a man had raped her. She described a Black man, a stranger, acting alone. Clifford arrived with their oldest daughter before the ambulance left. At Culpeper Memorial Hospital, an emergency operation failed to save her. She died at 2:05 that afternoon.[RW1]

Her children had lost their mother within a few hours of the neighbor seeing her return home. The medical examination documented thirty-eight stab wounds. Fourteen could have caused death. Evidence of a recent sexual assault supplied another part of what had happened inside the apartment, but it could not yet supply the attacker's name.

The investigation continued for almost a year without an arrest. Eventually, the case reached a jury through a confession obtained in another county from a man with an intellectual disability. That man, Earl Washington Jr., would be condemned to death. Years later, DNA testing would establish that the confession had carried the prosecution toward an innocent defendant. Still more years would pass before another man pleaded guilty to Rebecca's rape and murder.[RW2]

The long history is often told through Washington's escape from execution. It also belongs to Rebecca. The evidence collected after her death remained capable of answering questions that the first prosecution had appeared to settle.

A confession and a shirt

Washington worked on a farm near Bealeton and lived with his sister in Fauquier County. Police arrested him in May 1983 for unrelated offenses. During questioning in custody, the investigation turned to the killing in Culpeper. The officers' account became the foundation of the murder case.[RW3]

According to the record accepted on direct appeal, Washington spoke with an officer from Warrenton on May 21. After an earlier period of questioning and a break for lunch, he made statements about stabbing a woman in Culpeper. Investigators responsible for Rebecca's case came to see him. They found him asleep and postponed their interview until the following morning.

On May 22, Harlan Lee Hart and Curtis Reese Wilmore questioned him. Hart was a Culpeper police officer; Wilmore was a Virginia State Police investigator. They advised him of his rights and obtained a signed waiver. Washington had difficulty reading, so the warnings were read aloud. His school records and examination placed his IQ around sixty-nine. He had attended special education classes through the ninth grade.[RW3]

The interrogation produced an account of entering Rebecca's apartment, taking her into a bedroom, sexually assaulting her and stabbing her. It also produced mistakes. Washington initially described the victim as Black, although Rebecca was white. He understated the number of stab wounds. He said no one else was present, although two children were in the apartment. When officers drove him to the complex, he had difficulty identifying the place where the crime had occurred.

These discrepancies later appeared in the federal appellate record. The judges who discussed them in 1991 emphasized that the statements had emerged through questions and suggestions over two days. Washington had not simply delivered an uninterrupted description of a crime he remembered. His initial errors were followed by further questions and corrected responses. An expert opinion submitted during the litigation described him as highly suggestible and inclined to follow other people's cues.[RW4]

The prosecution nevertheless had a particular reason for calling the confession reliable. Washington supposedly knew about a shirt left in the apartment. If that knowledge had come from him independently, it could seem to connect him to an object associated with the crime scene.

The shirt's actual route to the police was more complicated than a discovery during the original search. About a week after Rebecca's death, Clifford moved a dresser from the apartment to his parents' home. The family found a shirt among the clothing. Clifford said he did not recognize it and that it did not fit him. By the time it reached investigators weeks after the murder, the shirt had been washed and Clifford's father had worn it while working on a truck.[RW5]

In the officers' account, Washington said he had left his shirt behind because it had blood on it. He was shown the shirt and identified it by the place where a patch had been removed from a pocket. At trial, he denied that it was his and denied making the incriminating admissions attributed to him. His sister, who washed his clothes, said he had never owned such a shirt.

The shirt was admitted into evidence. The state Supreme Court explained that its significance lay in the identification, rather than in laboratory testing of material on the fabric. Washing, wearing and handling it therefore did not make it inadmissible for the purpose for which prosecutors offered it. That ruling left the jury to decide whether Washington's alleged acknowledgment connected him to it.[RW5]

The connection depended on the same questioning that had produced the confession. There was no separate scientific identification of Washington as the person who had worn it during Rebecca's murder.

The evidence the jury did not hear

At his 1984 trial, Washington denied guilt. His defense included an alibi that he had been working at home. No other witness directly corroborated or refuted that account. The jury convicted him of capital murder and rape and fixed his punishment for the murder at death. The death verdict rested on the vileness of the crime. The judge entered the final death sentence on March 20, 1984.[RW6]

Washington challenged the confession, the refusal to move the trial and the admission of evidence. The courts considered his limited intellectual functioning. A psychologist had found him competent to stand trial and able to understand the rights explained to him. The trial court accepted that assessment and found his waiver valid. On November 30, 1984, the Supreme Court of Virginia affirmed the conviction and sentence.

Those rulings placed great weight on what the record then showed about the interrogation. They accepted the officers' evidence about the statements and the circumstances in which they had been made. The result left Washington under a sentence of death for Rebecca's murder.[RW6]

A different body of evidence had received little attention at trial. A royal blue blanket from Rebecca's bedroom bore semen stains. Laboratory reports described blood-group and enzyme characteristics in those stains. Four yielded type A and PGM type 1 results. Washington's blood type was O and his PGM type was 2-1. His lawyer had received the reports but had not understood their potential importance or consulted experts about them. The jury heard neither the blanket evidence nor an explanation of the discrepancy.[RW7]

The testing belonged to the forensic methods then available. It involved blood-group characteristics and an enzyme used in typing biological

material. It did not offer the later DNA profile that would identify an individual source. Even so, Washington's lawyers argued that the results could have given jurors a concrete reason to question the confession.

The stakes of that omission grew while Washington remained on death row. According to the National Registry of Exonerations, a stay halted his scheduled execution in September 1985 with nine days remaining. Further lawyers took up the case and pursued postconviction relief.[RW8]

State collateral proceedings ended without an evidentiary hearing. The federal district court also dismissed Washington's petition without one. In December 1991, the Fourth Circuit required a closer examination of the unused forensic evidence. Judge J. Dickson Phillips wrote that the allegation could not properly be resolved on the existing papers. The court ordered a hearing on whether counsel's failure had been professionally deficient and whether presenting the evidence could reasonably have changed the verdict or sentence.[RW9]

The decision left the conviction standing while reopening that particular claim. It rejected or found procedural obstacles to other challenges, including attacks on the confession's legal admissibility. At the same time, the opinion recognized a distinction that mattered to the forensic issue: an admissible confession could still contain weaknesses that a jury should weigh against evidence pointing elsewhere.

Phillips discussed the factual errors, Washington's suggestibility and the uncertain history of the shirt. The prosecution's evidence had been sufficient to support a verdict, the court said, but that did not make every possible doubt fanciful. Reliable evidence excluding Washington as the rapist could have changed the way the jury considered the statements attributed to him.[RW9]

What the stains could mean

At the hearing ordered by the Fourth Circuit, the dispute focused on the composition of the blanket stains. If they were pure semen, the reported types did not fit Washington. The defense also argued that they did not fit Clifford. That raised the possibility of biological evidence from another man in the bedroom.[RW10]

The Commonwealth offered a different explanation. Rebecca's biological characteristics were type A and PGM 1. Clifford had type O blood and PGM 1, but he was a nonsecretor: his ABO blood-group characteristics would not appear in his semen in the same way as those of a secretor. The prosecution maintained that the stains could have come from intercourse between Rebecca and Clifford, with her bodily fluids determining the reported ABO type.

The laboratory analyst who had examined the stains, Deanne Dabbs, testified that their appearance was consistent with a mixture. The defense experts questioned whether a mixture had been established. They acknowledged limits in determining its presence from the report alone. The hearing also considered the number of stains and the absence of blood in them, in contrast to blood mixed with material collected from Rebecca's body.

The district judge accepted the Commonwealth's explanation as sufficient to make the forensic evidence inconclusive. He rejected Washington's ineffective-assistance claim. He also treated the lawyer's failure to present the evidence as a strategic choice that might have avoided further sympathetic testimony from Rebecca's husband.[RW10]

On the next appeal, the Fourth Circuit rejected that supposed strategy. The lawyer had never understood what the report might mean before trial. His later answer to a hypothetical question about what he might have done could not turn that failure into an informed decision.

Nevertheless, the majority affirmed the denial of relief in September 1993. Judge J. Harvie Wilkinson's opinion concluded that the

inconclusive evidence did not undermine confidence in the outcome. The majority again relied on details in Washington's statements that the officers said he had supplied without prompting. His supposed knowledge of the apartment, the sexual assault, the shirt and other particulars continued to support the conviction.[RW11]

Senior Judge John D. Butzner dissented. He argued that the original laboratory report had not identified the mixture now being used to explain away the discrepancy. More fundamentally, the jury had never been allowed to compare that scientific evidence with the weaknesses in the confession. Even uncertainty in the laboratory evidence could matter when placed beside uncertainty about the statements. He would have granted a new trial on guilt and punishment.[RW11]

Butzner's opinion did not free Washington. The majority's judgment controlled. The death sentence survived another examination, although the judges agreed that the lawyer's omission could not be treated as an informed strategy.

DNA and executive clemency

New DNA testing brought the case before Governor L. Douglas Wilder. The results included genetic characteristics belonging to someone other than Rebecca, Clifford or Washington. The question had moved beyond the earlier dispute about blood-group typing, but the Commonwealth had not yet accepted that Washington was innocent.[RW12]

In January 1994, Wilder commuted the death sentence to life imprisonment with the possibility of parole. The official clemency account described new evidence that the jury and reviewing courts had not considered. It also retained the familiar argument that Washington possessed knowledge only the perpetrator would have had.

The commutation preserved conditions concerning Washington's conduct in prison and cooperation with correctional officials. It removed the immediate prospect of execution while leaving him convicted. The official account even observed that he might use the evidence in a retrial

if the legislature supplied a procedure allowing it. Executive clemency had changed his punishment; the promised meaning of the confession still stood in the way of an acknowledgment of innocence.[RW12]

On June 1, 2000, Governor James S. Gilmore III directed the state forensic laboratory to undertake further DNA testing with more advanced methods. According to the official pardon account, the available evidence excluded Washington from semen taken from Rebecca's body. His DNA was not located elsewhere in the apartment. Some material had deteriorated and could not be tested.[RW13]

Gilmore granted an absolute pardon on October 2, 2000. His explanation was carefully limited. He concluded that a jury with the new evidence would have reached a different verdict because of reasonable doubt. He did not then declare that the evidence had conclusively established Washington's innocence or identified Rebecca's murderer.

The significance of the qualification becomes clearer in the later official record. A DNA profile from semen on the blue blanket matched Kenneth Tinsley. Material from Rebecca's body had appeared to yield a different profile. That apparent difference left open a theory involving more than one perpetrator, even though Rebecca had described a single attacker.[RW13]

Washington's pardon also did not immediately open the prison gates. He had pleaded guilty to separate burglary and malicious-wounding charges arising from the unrelated 1983 offenses. Those convictions had resulted in consecutive fifteen-year sentences. He remained confined on that separate basis after the pardon. The National Registry records his release on February 12, 2001.[RW14]

In 2004, at Washington's request and expense, Dr. Edward Blake performed additional DNA testing. The results placed Tinsley's DNA in both locations: the material from Rebecca's body and the material on the blanket. An external audit of the state laboratory, ordered by Governor Mark R. Warner, confirmed the reliability of Blake's testing, according to the subsequent revised pardon.[RW15]

The biological evidence no longer supported the distinction on which the possibility of two different semen sources had rested. The record could now carry Rebecca's case toward a prosecution of Tinsley and Washington's case toward an unequivocal statement of innocence.

How the confession acquired authority

Washington had filed a civil-rights action in September 2002. By then, the questions extended beyond whether the original confession had been legally admissible. His lawyers challenged the creation of evidence that had made it appear independently reliable.[RW16]

A central document was Wilmore's report of May 24, 1983. It represented Washington as having supplied pertinent information that only the perpetrator would know. The report did not specify the particular information. Years later, Wilmore had expressed doubts about how the record described the interrogation.

In 1993, he and Hart met with Assistant Attorney General John H. McLees Jr. Wilmore said the case troubled him because it depended on the confession without corroborating physical evidence. Later that year, he discussed the shirt account with McLees. He thought an officer must have mentioned the shirt before Washington did.

McLees recorded these conversations. Wilmore could not recall the precise exchange with complete certainty. He also denied that, at the time of trial, he had believed his testimony was inaccurate. He described that testimony as a general summary, rather than a verbatim account. But he said that, if specifically asked at trial who first mentioned the shirt, he would have answered that he had.[RW16]

That distinction reached the basis on which the confession had repeatedly been accepted. An answer affirming information supplied by an interrogator has a different evidentiary value from an unprompted fact that only the person present could know. The claimed independence of Washington's knowledge had influenced the prosecutor's presentation, the later appellate assessment and Wilder's explanation for withholding

an absolute pardon.

The civil case narrowed as it proceeded. Claims involving coercion, withheld evidence and failures to investigate did not all survive. The fabrication claim against Hart was dismissed, and claims against other officers were withdrawn. The issue reaching the Fourth Circuit in 2005 concerned Wilmore's alleged creation of false evidence in his report.[RW17]

The court held that qualified immunity did not prevent that claim from going forward. Deliberately fabricating evidence that foreseeably caused a conviction could violate a clearly established constitutional right. In reaching that legal conclusion, the judges had to take the disputed facts in the light most favorable to Washington. They were deciding whether the claim could proceed, rather than determining that he had already proved it.

Judge Dennis Shedd underscored the limit in a separate concurrence. Many of the broader allegations were no longer before the court. The question was whether deliberate or reckless misconduct had caused the deprivation at issue. The failure of a prosecution, however severe its consequences, did not automatically establish every civil claim against every investigator.[RW17]

A jury later considered the surviving case in Charlottesville. In May 2006 it found for Washington and awarded \$2.25 million against Wilmore's estate. The University of Virginia School of Law, whose students had assisted Washington's lawyers, reported the jury's finding that the officer had fabricated evidence. The award concerned the harm of Washington's wrongful conviction and confinement on death row.[RW18]

The estate challenged the outcome. Contemporary settlement coverage reported its argument that Wilmore had himself disclosed troubling discrepancies, and that he had enjoyed a reputation for integrity. Negotiated terms in 2007 contemplated setting aside the verdict and ending the litigation. The National Registry subsequently recorded a completed \$1.9 million settlement. The case ended through settlement

rather than an appellate decision affirming the jury's verdict.[RW19]

Rebecca's case reaches another defendant

In April 2007, Kenneth Tinsley pleaded guilty to Rebecca's rape and murder. Governor Timothy M. Kaine recorded the disposition in Washington's revised absolute pardon. Tinsley received two life terms in addition to the two life terms he was already serving for an earlier rape and robbery conviction.[RW20]

The official account joined the guilty plea to the DNA results. It identified Tinsley as the source of material recovered from both Rebecca's body and the blanket. The same account expressly declared Washington innocent of the crimes against her.

Kaine signed the revised pardon on July 3, 2007. Its language went beyond Gilmore's finding that a reasonable jury would have reached a different verdict. After the additional testing, audit and Tinsley's conviction, the Commonwealth formally acknowledged that Washington had not raped or murdered Rebecca.[RW20]

For Rebecca's family, the criminal record now named another man responsible for her death. Rebecca died in June 1982. Tinsley pleaded guilty nearly twenty-five years later.

Her name remained on medical findings, laboratory records, appellate decisions and pardon documents throughout that interval. Each record addressed a different question: what injuries killed her, whose biological material was present, whether a jury had enough evidence, whether a lawyer's omission required a new trial, whether an officer fabricated evidence, whether a governor should intervene. The first verdict had identified the wrong man.

Rebecca had told those helping her that one stranger attacked her. The investigation owed her an answer that identified that person accurately. The eventual correction restored Washington's innocence to the official account and placed Tinsley's guilty plea in it. It could not restore the

nineteen-year-old mother who had returned to her apartment with two small children on a June morning.

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Rebecca Lynn Williams

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<https://law.justia.com/cases/virginia/supreme-court/1984/840776-1.html>

. The recorded time of death is 2:05 p.m.; the account is paraphrased without inventing last words.

[RW2]: Washington v. Murray, 952 F.2d 1472 (4th Cir. 1991), part I, investigation interval: <https://law.justia.com/cases/federal/appellate-courts/F2/952/1472/368059/> . Governor Kaine, revised absolute pardon, July 3, 2007, paragraphs 9 through 12, 2008 SD2, PDF pages 12 and 13, printed pages 8 and 9:

<https://rga.lis.virginia.gov/Published/2008/SD2/PDF> . The later official account controls the present identification of innocence and perpetrator.

[RW3]: Washington v. Commonwealth, 1984 opinion, May 1983 arrest/interrogation narrative, competency discussion and note 2:

<https://law.justia.com/cases/virginia/supreme-court/1984/840776-1.html>

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[RW4]: Washington v. Murray, 952 F.2d 1472, part II-A and note 5, with part III on the distinct admissibility claims: <https://law.justia.com/cases/federal/appellate-courts/F2/952/1472/368059/> . This note explicitly discusses incorrect details, later questions and suggestions, and expert evidence concerning suggestibility.

[RW5]: Washington v. Commonwealth, shirt history and admissibility discussion:

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. Washington v. Murray, 952 F.2d 1472, part II-A, fuller handling history and sister's testimony: <https://law.justia.com/cases/federal/appellate-courts/F2/952/1472/368059/> . The accounts differ in the order of washing and family use; narrative states only their common material facts and does not invent an exact handling sequence.

[RW6]: Washington v. Commonwealth, disposition, confession analysis and death-sentence review:

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. These reports concerned blood-group/PGM characteristics, not the later individual DNA profiles.

[RW8]: National Registry of Exonerations, Earl Washington Jr., narrative on the September 1985 execution date and stay, updated July 20, 2023: <https://exonerationregistry.org/cases/10938> . Used narrowly for this interval; no original stay order was inspected.

[RW9]: Washington v. Murray, 952 F.2d 1472, full opinion, especially part II-A, note 5 and part V: <https://law.justia.com/cases/federal/appellate-courts/F2/952/1472/368059/> . Decided December 19, amended December 31, 1991. The remand concerned one ineffective-assistance claim and did not vacate the criminal conviction.

[RW10]: Washington v. Murray, 4 F.3d 1285, opening account of the evidentiary hearing, testimony of Lee, Stoney and Dabbs, district findings, and notes 1 and 2:

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. Scientific explanations are the parties' competing positions and the court's historical assessment, not independent testing by the author.

[RW11]: Washington v. Murray, 4 F.3d 1285, Wilkinson majority on counsel's hypothetical strategy, prejudice and confession details; separate Butzner dissent:

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. Majority judgment affirmed September 17, 1993; dissent would grant a new trial. The opinions predate the definitive later DNA results.

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<https://rga.lis.virginia.gov/Published/1994/SD2/PDF> . Header dates the grant January 14, 1994; continuation says January 17. Narrative therefore uses January 1994. The entry records the new characteristics, continued reliance on apparently independent knowledge, parole and conduct conditions.

[RW13]: Governor Gilmore, entire Washington absolute-pardon entry, 2001 SD2, PDF page 5:

<https://rga.lis.virginia.gov/Published/2001/SD2/PDF> . Governor Kaine, July 3, 2007 revised pardon, paragraphs 5 through 8, 2008 SD2, PDF pages 12 and 13: <https://rga.lis.virginia.gov/Published/2008/SD2/PDF> . The first records the June testing order and October 2, 2000 grant; the second explains the apparent difference between the body and blanket profiles then considered. Neither establishes two attackers.

[RW14]: Governor Gilmore, 2001 SD2, PDF page 5, separate guilty pleas and thirty-year sentence:

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<https://rga.lis.virginia.gov/Published/2008/SD2/PDF> . Blake testing and external audit are described through this original official record; the laboratory worksheets and audit report were not independently examined.

[RW16]: Washington v. Wilmore, 407 F.3d 274, official PDF pages 4 through 7, May 24 report, McLees memoranda and September 2002 filing: <https://www.ca4.uscourts.gov/Opinions/Published/041818.P.pdf> . The opinion reproduces Wilmore's qualifications about memory and about his understanding of his trial testimony; narrative preserves both.

[RW17]: Washington v. Wilmore, official PDF pages 7 through 14, majority disposition and notes, and pages 15 through 17, Shedd concurrence and notes: <https://www.ca4.uscourts.gov/Opinions/Published/041818.P.pdf> . April 28, 2005 interlocutory affirmance of denial of qualified immunity on the narrow fabrication claim. This was not a civil verdict or a ruling establishing all allegations.

[RW18]: Emily Williams, UVA School of Law, May 11, 2006, opening account of the civil verdict and discussion of participating students and counsel: <https://www.law.virginia.edu/news/200605/wrongfully-convicted-death-row-inmate-wins-civil-suit-help-virginia-law-students> . Original institutional coverage supports the \$2.25 million award and jury finding; the estate's role is also recorded in the contemporary settlement report in note [RW19]. No independent reading of the verdict form or complete civil trial transcript is claimed.

[RW19]: Alan Cooper, Virginia Lawyers Weekly, March 27, 2007, settlement report and estate counsel's response: <https://valawyersweekly.com/2007/03/27/earl-washington-case-settled/> . At publication the settlement remained subject to approval and contemplated setting aside the verdict. National Registry, concluding litigation paragraph, subsequently records the completed \$1.9 million settlement: <https://exonerationregistry.org/cases/10938> . No final approval order or approval date is asserted. The Registry's erroneous

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