

James Gibson

James Gibson, age 23, was picked up by Area 3 detectives John O'Mara and Phillip Collins on the evening of December 27, 1989 following anonymous tips that Gibson was the shooter at the scene of a double murder resulting in the deaths of Lloyd Benjamin and Hunter Wash. Gibson's brother, Harold, was also implicated in the crime. Both Benjamin and Wash were shot in the head when exiting a garage at 5757 S. May Street on Chicago's south side. Gibson was brought into Area 3 but refused to speak with police. He only continued to say "I'm not a murderer." He did not confess to either of the murders on this day.

Reports from the days following Gibson's questioning reflect receipt of anonymous tips informing investigators the shooter was James Gibson. Area 2 received a call from an unidentified woman who claimed Gibson was responsible for the two murders and was, at that time, attempting to repair his disabled car with a view toward fleeing this jurisdiction after having attempted to sell the gun used in the crimes.

While at Area 3 for questioning (he was there for a total of 3 days), detectives took Gibson for a polygraph examination and later informed him that he "was not being truthful in his responses regarding participation and knowledge of the shooting of the victim."

Gibson was re-interviewed on December 29. He stated that on the morning of December 22, he was at a Ms. Davis' home. Upon leaving, Gibson "ran into" his neighbor Eric Johnson and Johnson's brother, who told him the insurance man "just got run over around the corner." According to Gibson, he later found out the victims had been shot, and the word on the street was that brothers "Harp" and "Bodine" were the perpetrators. Gibson also noted that "K.D." Johnson (an alias of Eric Johnson) had suggested robbing the insurance man a month ago, but Gibson refused to be involved.

Later on December 29th, detectives took Gibson for a polygraph test and informed him that he wasn't being truthful in his responses regarding participation and knowledge of the shooting of the victim. Gibson was re-interviewed and told detectives that on December 22, he was approached by Eric Johnson and Bodine who asked him to go with them and rob the insurance man. Gibson said he declined but in a few minutes later saw K.D. run into his house and come out dressed in different clothes. Johnson then told Gibson "we got paid from the insurance man, keep cool."

Detectives Tony Maslanka, John Paladino, Phillip Collins, and Thomas Ptak were assigned to follow-up on Gibson's statements that night. They first arrested Eric Johnson on outstanding warrant for an unrelated offence. Detectives then interviewed Johnson and Gibson in succession.

On December 30, 1989, James Gibson gave an inculpatory statement placing him at the scene of the murder. His statement came after three days of detention at Area 3 police station under the command of Jon Burge. He was released without being charged. Upon his release, and prior to his arrest, Gibson filed a complaint with the Office of Professional Standards claiming detectives had beaten him while he was in custody.

Gibson maintained his claim of physical abuse to his public defender and doctors after his arrest, and pictures of him depict a swollen, bruised rib cage. A forensic pathologist has advised the

Commission that the photos appear to be consistent with Gibson's claim. Based primarily on his inculpatory statement, Gibson was convicted of first-degree murder and sentenced to life in prison.

After returning home from Area 3 questioning on December 30 1989, Gibson submitted a complaint to the CPD Office of Professional Standards. Gibson alleged that from December 27 to December 30, 1989, at least two unknown white male detectives detained him without charging him for an excessive length of time, physically abused him by slapping, punching, and kicking him, and made physical threats against him. Gibson's sister, Lorraine Brown, who was present when Gibson was released from questioning, observed that he looked as if they had been in a fight (in the questioning room) and he told me he had been beaten by police. Ms. Brown then phoned OPS to lodge a complaint, and put Gibson on the line. She recalls that Gibson informed the investigator that the officers had beaten him and would not allow him to go to the bathroom so he had to urinate on the floor in the room while being handcuffed to the table.

On December 31, 1989, Gibson was returned to his residence after Assistant State's Attorney Linda Peters determined additional corroboration was needed before charging him.

Police arrested Gibson later in the evening of December 31 after police received approval following a series of signed statements from defendants Johnson and Webb and a series of polygraph tests taken by all three defendants.

Johnson later moved to suppress his statement on the basis that it was coerced by physical abuse. Johnson stated that he signed a statement he did not write or review because he "was tired of getting beat" and was told that if he signed he would be able to go home.

Gibson's public defender, Paul Stralka, sought and received a court order permitting his investigator to photograph Gibson. Investigator Martorana took pictures of the left and right sides of Gibson's chest and his buttocks and noted that "injuries are all of swollen areas." The pictures demonstrate swollen, tender regions around Gibson's ribs. Medical records from Cermak Health Services dated January 3, 1990, state that Gibson sought medical assistance because he had been "hit by police" and that "he was beaten up." Records also reflect that he had bruises on his ribs.

On March 13, 1990, Investigator Jose Ortiz interviewed Gibson by phone from jail. He identified Detectives Collis and O'Mara as the aggressors and stated that they punched him in the ribs and neck area approximately 30 to 40 times, kicked him in the groin area twice, and slapped him about 7 times, and further threatened to "beat the shit out of him."

Both detectives submitted affidavits denying any physical abuse was observed or occurred during the questioning from December 27, 1989 to December 31, 1989. All affidavits were addressed to their commander, Jon Burge.

Gibson and Stralka, Gibson's public defender, were present at the suppression hearing on February 14, 1991.

Stralka and Gibson created motions to 1.) squash his December 31, 1989 arrest based on lack of probable cause; 2.) suppress statements of Johnson and other witnesses; and 3.) suppress statements from Gibson after his 1989 arrest.

All of Gibson's motions were denied by Judge Richard Neville due to lack of independent corroboration via medical records, as well as testimony from offending detectives saying they saw no signs of aggression or violence during interrogation in December of 1989.

The court also found that Johnson was not credible and refused to suppress his statement.

Gibson's bench trial began on Oct. 7, 1991. Carla Smith (Johnson's sister), Detective Moser (took confession statement from Gibson) and Fernando Webb (originally identified by Gibson as the shooter) testified at the trial against Gibson.

During this trial, the judge quoted:

"I think that based on what I have just heard Mr. Gibson put himself in this statement at the scene of the incident and also indicates that he knew the incident was going to take place...the State can argue inferentially that he was doing something there to assist, and that I that's sufficient."

Based on evidence presented, the judge found Gibson guilty. The court concluded both Johnson's sister and Webb were credible.

Carla Smith testified on cross-examination that she had been asked to come to the police station on December 29, 1989 and was told that upon giving her statement her brother, Eric Johnson would be able to leave. Carla Smith stated that she did not read the statement she then signed.

Gibson immediately filed an ARDC complaint against his attorney, Stralka, on the basis that he did not permit Gibson to testify and did not present Gibson's alibi defense. The court later denied a motion for judgement of acquittal based on the lack of sufficiently credible witness to support a conviction. Gibson was then sentenced to life in prison.

In 1993, Gibson appealed his conviction on the following grounds: 1.) the State's failure to prove his guilt beyond a reasonable doubt; and 2.) ineffective assistance of counsel based upon his lawyer's failure to call alibi witnesses.

The Appellate Court found the evidence sufficient to support a conviction. It also found Stralka's failure to call alibi witnesses did not constitute ineffective assistance of counsel.

Gibson thereafter filed successive post-conviction petitions alleging ineffective assistance of counsel. These petitions were denied by the Circuit Court. The Appellate court also found Stralka's failure to present alibi witness did not materially alter the outcome of Gibson's trial. The Illinois Supreme Court denied a writ of certiorari.

In 1999, Gibson filed another petition for post-conviction relief, alleging that the prosecution knowingly induced Carla Smith to offer unfavorable perjured testimony. His petition was denied by the Circuit Court and on appeal.

In 2003 Gibson sought a writ of habeas corpus from the Northern District of Illinois. He again alleged ineffective assistance of counsel based on Stralka's 1.) failure to prevent alibi witnesses and alibi defense, 2.) failure to permit Gibson to testify at trial, 3.) failure to interview and investigate other witnesses, and 4.) failure to provide Gibson a legal copy of the police reports. His petitions for reconsideration and leave to appeal were thereafter denied.

In 2005, Gibson filled another petition for post-conviction relief regarding Eric Johnson's statement being included in the trial. This petition was denied.

The Illinois Torture Inquiry and Relief Commission reviewed Gibson's case in 2015 and found that, by a preponderance of the evidence, there is sufficient credible evidence of torture to merit judicial review.

James Gibson's case was heard by the Illinois Supreme Court, and on March 22nd, 2018 they reversed and remanded his case back to the lower court for further proceedings. The Supreme Court found that when the two accused officers, John Byrne and John Paladino, invoked their fifth-amendment rights against self-incrimination, an adverse inference should be found because there is no credible reason for refusing to do so. The Supreme Court decision stated, "a law-enforcement officer's refusal to answer these allegations under oath is not to be taken lightly. This decision by the Illinois Supreme Court is very important and is likely to have a great impact on several other torture cases where officers invoked their fifth-amendment right."

Awaiting a new trial, James Gibson is currently incarcerated at Stateville Correctional Center serving his life sentence.