

# The Columbus Dispatch

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## CRIME & THE COURTS

# Supreme Court refuses to hear case of former cop cleared in wife's death



Douglas Prade

By **Mike Wagner** & **Randy Ludlow**

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Twice-convicted and once-cleared, a former Akron police captain freed in his ex-wife's death could be headed to prison or a new trial.

In a 4-3 vote, the Ohio Supreme Court yesterday refused to hear Douglas Prade's appeal of an appellate-court decision that reinstated his conviction for the brutal murder of his physician wife.

Prade served nearly 15 years in prison for aggravated murder, but he was freed by a trial-court judge who found he was wrongly convicted when DNA testing on a bite mark on his ex-wife's lab coat showed it was not from him.

However, the 9th District Court of Appeals in Akron later ruled that the judge was wrong to overturn Prade's conviction in the 1997 murder of Margo Prade.

The appellate court ruled that Prade's conviction was justified by overwhelming circumstantial evidence. The court also said that retesting of DNA evidence produced more questions than answers.

Prade, 68, who was released in early 2013, was allowed to remain free while the Ohio Supreme Court considered his appeal.

Justices Terrence O'Donnell, Judith Ann Lanzinger, Sharon L. Kennedy and Judith L. French voted against hearing the appeal.

Justices Paul E. Pfeifer and William M. O'Neill and appellate judge Jeffrey Froelich, sitting in place of Chief Justice Maureen O'Connor, voted to accept the case. The justices issued no opinion explaining their votes.

Lisa Gates, Prade's attorney, said the Akron resident is disappointed.

"Judge (Judy) Hunter got it exactly right when she overturned Doug's conviction," said Gates, of the Jones Day law firm in Cleveland. "She is the one who heard all the witnesses and reviewed the new evidence. We think the appellate decision was wrong and the original decision should never have been reversed."

A hearing in the case is scheduled for Friday in Summit County Common Pleas Court. Prosecutors have filed a motion saying that Prade has "no right to be free from custody" and will ask Judge Christine Croce to order him back to prison. Croce took over the case after Hunter retired.

The larger legal issue is whether Prade will receive a new trial. Hunter said in her ruling that Prade would receive a new trial if her ruling was overturned. But it's unclear if, or how, the appellate ruling affects Prade's right to a second trial.

April Wiesner, spokeswoman for the Summit County prosecutor, said the office is asking the appellate court for clarification on how its ruling impacts a new trial, but ultimately is opposed to Prade standing trial again.

"We intend to return Prade to prison, where he belongs," Prosecutor Sherri Bevan Walsh said in a statement.

Lawyers from the Ohio Innocence Project, which represented Prade for nearly a decade, issued a statement saying it will continue to fight to prove his innocence. "He is now entitled to a new trial, and we are confident he will be vindicated," its statement said.

Gates said her office is moving forward with plans for a new trial and looks forward to presenting new evidence to a jury. She will also ask Judge Croce to allow Prade to remain free on bond pending the new trial.

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Prade was sentenced to life in prison with a chance for parole after 26 years, in the 1997 murder of his 41-year-old ex-wife. She was shot six times at close range in her van in a parking lot behind her medical office. A severe bite mark was found on her arm.

Prade's case was highlighted in *The Dispatch* series "Test of Convictions," which exposed flaws in Ohio's evidence-retention and DNA-testing systems. *The Dispatch* reviewed more than 300 DNA cases and helped arrange for testing in 30 cases. So far, six men, including Prade, have been freed or were found wrongly convicted. Four others were found guilty by the testing results.

With no witnesses to the slaying, key to Prade's conviction in 1998 was a bite mark found on Dr. Prade's lab coat. During his trial, an expert testified that the mark matched Prade's teeth.

After years of declaring his innocence, Prade finally won DNA testing of the lab coat, and specifically the bite mark. Testing results showed that Prade's DNA didn't match the traces of saliva left on the coat.

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**K D (KLD)**

This is really sad. If DNA doesn't match they shouldn't be left in jail.

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**CASTIN STONE (DAILYREADER)**

KLD - you watch far too much C.S.I. . He was not convicted based only on DNA and you don't need DNA to find him guilty to begin with. Just because someone elses saliva was found on her lab coat does not exonerate him.

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