

## LAWYERS OF THE YEAR 2017

### CHRISTOPHER L. NASSON

#### K&L GATES

When Frederick Weichel was granted a new trial and released from prison last April, Weichel and his legal team let out a collective sigh of relief.

Convicted in 1981 of the murder of Robert LaMonica in Braintree, Weichel had won a motion for a new trial in 2004, only to see the ruling overturned by the Supreme Judicial Court two years later.

“To say that Fred’s outlook was bleak is an understatement,” says Boston lawyer Christopher L. Nasson.

By the time Nasson joined Michael D. Ricciuti and the rest of Weichel’s pro bono legal team at K&L Gates in 2016, Weichel had served more than 35 years behind bars. But the lawyers’ discovery of a document known as the “Leahy report,” pointing toward another possible suspect in the murder, gave them hope that their client’s latest bid for a new trial might finally succeed.

“It gave us a puncher’s chance,” says Nasson, the lead lawyer in the case.

Indeed, the Superior Court judge who overturned Weichel’s conviction last spring cited the Leahy report. With that, Weichel was a free man. Prosecutors have declined to retry him unless new evidence comes to light.

As a former federal prosecutor, Nasson sees important lessons in the Weichel case. Dealing with a district attorney’s office that, he claims, put securing a conviction over doing justice “should be a lesson for all of us on both sides of the bar,” Nasson says.

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**Q.** *The Leahy report wasn’t turned over to defense counsel in the original case. Was it your firm that actually discovered its existence?*

**A.** It was. We filed a number of public records requests, and the document ended up being produced to us by the Braintree Police Department. When we received it, based on our dealings with the Norfolk District Attorney’s Office, we were cautious that they would recognize it for what it was. We were prepared for them to challenge its authenticity.

So rather than bring it out right away, we filed another records request, so they’d have to produce it to us a second time and couldn’t allege that somehow we had slipped it into the file or that the document wasn’t what it was said to be.

Once we got that document, we were firmly convinced that Fred was innocent. And we were confident that we had firm footing to file a new motion for a new trial. But we still realized that it was an uphill battle. The system is designed for decisions

that have been made to remain in place.

**Q.** *Gangster James “Whitey” Bulger wrote letters from prison claiming that Weichel wasn’t LaMonica’s killer. Were those letters an important aspect of the case, or just something that grabbed headlines?*

**A.** Everything is important when you’re trying to exonerate a man who’s been wrongfully convicted. I think that the media, because of the author of those letters, took more of an interest perhaps than we did. In our view, the Leahy report was the central piece of exculpatory evidence, and it was a piece of evidence that the commonwealth had withheld from Fred during his trial in the 1980s.

**Q.** *Describe the moment when you first found out Weichel was going to be set free.*

**A.** It was emotional. When I went in to court that day to argue for Fred, I’ve argued in court many times as a defense lawyer and as a federal prosecutor, but never had the stakes been that high. You have this incredible weight of a man’s life is in your hands. And then you compound that with the fact that our firm and the New England Innocence Project had dedicated so much time and resources to this, and my partner [now Superior Court Judge] Mike Ricciuti had put his heart and soul into this case.

For me, it was a tremendous relief. It was exhilarating. And it was also bittersweet, because not for a moment, as happy as everyone was, did it escape my mind that we shouldn’t be here — that nothing was going to give Fred the more than three decades back that he had been locked up for.

**Q.** *What’s the biggest lesson you took away from this case?*

**A.** One of the lessons that I’ve learned from working with Fred and working with the team that supported Fred is that it’s never



PHOTO BY MERRILL SHEA

That sort of perseverance you can apply as a lawyer across all of your cases, and it’s something that I really learned from Fred. As many injustices as had been done to Fred — the system had

by people. And people are inherently fallible. As earnest as a prosecutor may be, prosecutors will sometimes make mistakes. I think the key lesson here is that prosecutors need to put their egos aside. I think they need to remember that their utmost mission is to do justice, to identify the right thing, and then do whatever it takes to achieve that right thing.

Here, we had this gross miscarriage of justice because the DA’s Office focused entirely on securing a conviction, even when any reasonable objective person would’ve recognized that Fred was wrongfully convicted. So I really think the buck stops with the prosecutors. The prosecutors have so much power, they have so much responsibility, and they need to take that power and responsibility extremely seriously. And they can’t be afraid to acknowledge that they’ve made a mistake.

— MATTHEW COVE

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over. It sure seemed like it was over many times for Fred, but his persistence and his hope never really wavered. He just has this indomitable spirit, and I think if you asked most lawyers what Fred’s chances were back in the 1980s, the 1990s [and] even the early 2000s, they would’ve said, “That guy’s going to die in prison.”

completely abused him and been used to abuse him — he never gave up hope, and he always had faith.

**Q.** *What do you think needs to change so what happened to Weichel doesn’t happen to others?*

**A.** Our judicial system is a system that is designed, controlled and implemented