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### Man Loses Another Round In Long Appeal Of Murder Conviction Judge Decides Not To Give Richard Lapointe A New Trial

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More than 20 years after Richard Lapointe was sent to prison for the rape and murder of his wife's 88-year-old grandmother, a Superior Court judge has rejected the latest challenge to the mentally disabled man's conviction, saying possible problems with the criminal case were not so serious as to deny Lapointe a fair trial or undermine confidence in the jury's verdict.

Superior Court Judge John J. Nazzaro, in a 51-page ruling issued late Friday, turned back arguments that prosecutors had withheld material evidence, that Lapointe's trial and appellate lawyers were incompetent, and that new evidence proved Lapointe was innocent.

The decision is another defeat in what is now a third round of appeals filed on behalf of Lapointe, who was convicted in the 1987 killing of Bernice Martin of Manchester. But Lapointe's lawyer, Paul Casteleiro, said the legal battle would continue.

"In the deepest parts of my heart, I don't have any doubts of his innocence," Casteleiro said. "When I heard we lost, I was very sad. And once I read it, I was kind of angry, because I think it's a clearly wrong decision."

Casteleiro has 10 days to seek permission to file an appeal, and if granted, will have 20 more days to submit the case to the Appellate Court.

Supervisory Assistant State's Attorney Michael O'Hare, who argued the case for the state, praised the ruling.

"I think Judge Nazzaro's factual determinations were correct and I think he applied the law properly and I think he reached the correct result," O'Hare said Saturday night.

He said he was confident the ruling would be upheld on appeal, and said the jury's original verdict was correct.

"The evidence in this case leaves no doubt in my mind that Richard Lapointe committed the offenses for which he was convicted," O'Hare said.

Martin was found unconscious in her burning apartment March 8, 1987. She had been bound, raped, strangled and stabbed 11 times.

Lapointe told police he had gone to Martin's home that evening to check on her at the request of a relative. He smelled smoke near the apartment and said the door was warm to the touch. But rather

than seek emergency help, he went to a neighbor's house and called his wife. Only later, after returning to the apartment and seeing smoke emanating from under Martin's door, did Lapointe call 911.

Lapointe became a suspect based on his curious behavior — including repeatedly inquiring if he was a suspect — and his knowledge that Martin had been sexually assaulted, apparently before that was discovered by police. After multiple interrogations, he signed statements confessing to the crime, which became key evidence at his trial. But supporters say those statements were coerced by police and contain erroneous details that indicate they were false confessions.

A jury convicted Lapointe in 1992 and he was sentenced to life in prison without the possibility of parole. The state Supreme Court affirmed the conviction four years later.

But the appeals continued, and in the newly decided case, lawyers for Lapointe argued that prosecutors had withheld evidence that bolstered Lapointe's alibi, and that once the evidence was discovered, Lapointe's appellate lawyer failed to press the issue.

The evidence was a note written by a detective suggesting the fire in Martin's apartment might have been burning for 30 to 40 minutes before it was discovered. Based on that estimate, Lapointe would have been at home with his wife at the time of the attack.

But the detective testified in a hearing before Nazarro that the 30 to 40 minutes represented the "absolute minimum" amount of time the fire had been burning. Several other fire experts testified, in what Nazarro described as a "prototypical battle of the experts."

"It is impossible to establish with precision when the fire was set," Nazarro concluded. He said that at best, the evidence indicated a range of possible times — included during a 45-minute period during which Lapointe does not have a solid alibi. As a result, Nazarro said failing to turn over the note to defense attorneys did not require ordering a new trial because that additional evidence would not have created a reasonable doubt in the jury's minds.

Lapointe's lawyers also argued that DNA testing on a pair of gloves and a pubic hair found in the apartment established that Lapointe could not have been the killer. The samples tested belonged to a male, but not to Lapointe, leading his lawyers to argue that "all evidence leads to but one conclusion: the gloves were worn by the assailant during the commission of the offenses."

But Nazarro rejected that conclusion, saying there was no proof the samples belonged to the killer, and that the evidence did not exonerate Lapointe or prove his innocence. The fact that Lapointe was not the source of those samples, Nazarro wrote, "does not prove that [Lapointe] did not commit the assault and murder."

Robert Perske, leader of a group known as the Friends of Richard Lapointe, said he was shocked at Nazarro's ruling.

"I am crushed. I never expected this. Oh man, I never dreamed it would go this way," said Perske, who visits Lapointe regularly and talked to him on the phone earlier this week.

*Staff writers Hillary Federico and [Rick Green](#) contributed to this report.*