

Man convicted of murdering N.J. trooper wins freedom after 49 years

Sundiata Acoli, 85, was an exemplary prisoner who appeared before the state parole board four times, to no avail

By Caren Chesler

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An 85-year-old convicted murderer who had been repeatedly denied parole was ordered released on Tuesday by a divided New Jersey Supreme Court, 49 years after he was involved in the fatal shooting of a state trooper.

Sundiata Acoli, a former Black Panther who was part of the ultranationalist Black Liberation Army, was convicted of murdering New Jersey State Police officer Werner Foerster in an altercation that began with a traffic stop on the New Jersey Turnpike.

He was sentenced to life in prison with the possibility of parole after 25 years and became eligible for release in 1993 because of good behavior. He appeared before the parole board four different times and was denied after each appearance.

New Jersey Gov. Phil Murphy (D) and the law enforcement community staunchly opposed granting Acoli his freedom, and the parole board has repeatedly done the same, pointing to inconsistencies in his account of the murder and the fact that he has said he blacked out and does not recall shooting Foerster.

But the New Jersey high court disagreed, saying the parole board's job is not to determine who Acoli was at the time of the murder but rather who he has become. The 3-to-2 ruling cited the Parole Act of 1979, which says inmates shall be released when they are eligible, unless there is a preponderance of the evidence showing a substantial likelihood they will commit another crime.

The court said the parole board seemed to ignore Acoli's renunciation of violence, two decades of being infraction-free, completion of multiple vocational programs and counseling sessions and his advanced age. "It is difficult to imagine what else might have persuaded the Board that Acoli did not present a substantial likelihood to reoffend," the majority wrote.

Bruce Afran, Acoli's lead attorney, said his client was kept behind bars because his crime involved the killing of a police officer. While tragic, he said, that fact does not justify denying someone their statutory rights.

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There's a lot of resentment about the fact that a police officer was killed. And that's what has driven this delay over these years," Afran said. "This decision is saying when someone is eligible for parole, the board must release him unless there's a true factual basis to show the inmate cannot be trusted to return to the community."

Murphy said in a statement that he was "deeply disappointed" by the ruling, noting that a New Jersey law enacted in 1996 requires that anyone convicted of murdering an on-duty police officer is sentenced to life in prison without the possibility of parole.

"I profoundly wish this law had been in place when Acoli was sentenced in 1974," Murphy said. "Our men and women in uniform are heroes, and anyone who would take the life of an officer on duty should remain behind bars until the end of their life."

Acting attorney general Matthew J. Platkin and Colonel Patrick J. Callahan, the state police superintendent, also denounced the court's decision. Callahan said he called Foerster's widow after the ruling and that she was as devastated and disappointed as he was.

"Acoli's release is not only an injustice for the Foerster family and the men and women who serve within the New Jersey State Police, but to every law enforcement officer in this country who dedicates their lives for the safety of the citizens we are sworn to protect," Callahan said. "While we cannot change the laws in place when this murder occurred, I was hopeful that understanding the risks law enforcement officers face on a daily basis would have helped to keep Acoli in prison for the remainder of his life."

Joseph Russo, first assistant public defender in the state's Office of the Public Defender, said the court's ruling means New Jersey's parole board can no longer ignore what's known as the age-crime curve — the fact that as inmates approach the later stages of life, the likelihood of them committing a crime greatly diminishes. Nor can the board minimize or ignore an exemplary prison record and positive psychological reports.

"The bottom line: the board, going forward, cannot 'cherry-pick' selective portions of the record to justify a predetermined conclusion to deny parole solely based upon a hyperfocus on the underlying crimes," Russo said. He then quoted Raymond Brown, a civil rights attorney who during oral arguments before the court said the parole board essentially "froze Mr. Acoli in 1973."

Acoli, formerly known as Clark Edward Squire, was 36 years old on May 2, 1973, when state trooper James Harper stopped him for a defective taillight just after midnight. His two passengers — Assata Shakur, born JoAnne Chesimard, and Zayd Malik Shakur, born James Costan — also were members of the Black Liberation Army.

Harper called for backup and was joined by Foerster, who found an ammunition magazine for an automatic pistol on Acoli, according to news reports of the trial and Acoli's appeals. A gun battle erupted. Foerster was shot four times, twice in the head by his own service weapon, and Harper was wounded.

Both Acoli and Shakur, in separate trials, were convicted of Foerster's murder; it remains unclear who actually pulled the trigger. Shakur escaped to Cuba, and is still one of the FBI's most wanted fugitives.

Those who support Acoli say he's already paid his debt and poses no public threat. He has early-stage dementia, was hospitalized last year with covid-19 and plans to live with his daughter in New York when he gets out of prison.

"It's time now for Mr. Acoli to live the rest of his life in the loving care of his family and community," said civil rights attorney Soffiyah Elijah, one of Acoli's primary advocates.