
The holdout Etan Patz juror deserves an ovation



One courageous man (BARRY WILLIAMS/FOR NEW YORK DAILY NEWS)

BY

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Many New Yorkers are angry with Adam Sirois, the lone juror who refused to convict Pedro Hernandez in the murder of 6-year-old Etan Patz 36 years ago, leading to a mistrial. I would like to applaud Sirois for voting his conscience.

I spent 16 years in prison — from age 17 to 32 — after being wrongfully convicted of murder and rape in 1990. Then I was exonerated by DNA evidence that identified the actual perpetrator.

I wish there had been an Adam Sirois on my jury. Instead, when my jury was at 11-1, the lone holdout juror who had been fighting for my innocence caved in and switched his vote.

Years later, when I was exonerated, that juror called my lawyer and said he was glad to see me freed, because he never thought that I was guilty.

His decision to find me “guilty” despite not being convinced beyond a reasonable doubt cost me 16 years of my life.

Because I did not sit through the Hernandez trial or read the transcript, I am not second-guessing any of the jurors’ conclusions on issues of fact. Instead, I simply offer my analysis of their reasoning in light of the reported facts in that case, and my own experience.

The powerful parallels between the Patz case and my own strengthen my admiration for Sirois.

The case against Hernandez was built almost entirely on the fact that he had given an extensive, detailed confession to police.

Eleven jurors took his statements as sufficient evidence to convict, in and of itself; Sirois did not.

Obviously, many confessions are true. But roughly a quarter of all wrongful convictions when DNA evidence later leads to an exoneration relied in part on false confessions.

My own wrongful conviction was based in large part on my coerced confession.

Why would someone tell police he committed a crime when in fact he did not? Experts tell us that although normal adults are sometimes prone to make false confessions, vulnerable populations — especially youth or people like Hernandez with mental health issues — are far likelier to do so. Any case built on a confession from either of these populations must be evaluated with extreme caution.

The image shows a video player interface. At the top left, the title "Mistrial Declared in Etan Patz Case After Jurors Can't Reach Verdict" is displayed in white text on a black background. Below the title, "NY Daily News" is written in a smaller font. To the right of the title, the "DAILY NEWS" logo is visible. Below the title and logo, there are two icons: an information icon (i) and a share icon. The main area of the player is a large black rectangle with a white play button icon in the center. At the bottom of the player, there is a control bar. On the left, there is a play button icon and a progress indicator showing "00:07 / 01:20". On the right, there are icons for Facebook, Twitter, and a share icon, followed by a volume icon and a close icon (X).

Autoplay: On | Off

Sirois was also right to understand that in order to distinguish a false confession from a truthful one, juries must analyze whether there is any corroborating evidence. He found none. (There was no corroborating evidence in my case, either.) Another distinguishing factor is whether the confession contradicts known external evidence. Sirois believed the confession was contradicted by the fact that, despite Hernandez stating that he put Etan's remains in a bag, no bag was ever found. This echoes my case, in which other evidence contradicted the confession. Among other things, DNA evidence showed that semen in the victim did not come from me.

Sirois says that he held out because he had not been convinced beyond a reasonable doubt, and the justice system we have requires a high standard of proof. He is 100% correct about that.

Trials are not simply about whether a jury believes a defendant is guilty or innocent. They are about whether or not the prosecution has proven it.

If they haven't, then the only way for a juror to properly carry out his or her duty is to vote not guilty. Here in America, we do not take away someone's freedom based upon speculation.

Given the intensity of the anger aimed at this lone juror and his act of conscience, it is important to say one more thing in Sirois' defense: The final verdict is not a referendum on the empathy a juror feels toward a victim and his or her family. A juror can ache for the victims of a crime and still refuse to vote to convict.

Holding one's ground as the sole person in the jury room is not easy to do, particularly in a high-profile case such as this one, where Sirois had to realize that there would be public fallout.

I salute Adam Sirois, and so should you.

Deskovic is executive director of the Jeffrey Deskovic Foundation for Justice.

ON A MOBILE DEVICE? [WATCH THE VIDEO HERE.](#)