

Court tosses Hasidic watchman's conviction in bias attack

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Taj Patterson (left) and Mayer Herskovic; Stephen Yang; R. Umar Abbasi

A Brooklyn man sentenced to four years in prison for his role in [the brutal group bias attack on a gay black man](#) has been cleared of all charges, after an appellate court Wednesday overruled the judge who found him guilty.

Mayer Herskovic was [found guilty at his non-jury trial in September 2016 of gang assault and other charges](#) after victim Taj Patterson testified that he [shoved a thumb in his eye, blinding him](#), during the vicious 2013 attack in Williamsburg.

Yet the Appellate Division, Second Department ruled that Patterson's testimony was at times contradictory, and did not lead it to conclude beyond a reasonable doubt that Herskovic was the one responsible.

Patterson testified that he was jumped by a gang of Hasidic neighborhood watch members, who brutally beat him after someone called to claim he'd been vandalizing cars. During the trial, prosecutors leaned heavily on testimony that Herskovic's "touch-DNA" had been found on Patterson's shoe.

While the DA's office originally brought charges against five men, Herskovic was the only one to take his case to trial. Charges against alleged attackers Aharon Hollender and Joseph Fried were dismissed, while Pinchas Braver and Abraham Winkler struck no-jail plea deals on charges of unlawful imprisonment.

The appeals panel cited Patterson's "inability to positively identify any of his attackers, the varying accounts regarding the incident, and the DNA evidence, which was less than convincing," as their reason for overturning the conviction and the indictment.

"Notably, the complainant and others who testified at trial gave conflicting accounts of the assault," the jurists wrote. "Among other things, the complainant testified that the person who pulled off his sneaker was the same person who shoved a thumb into his eye. He referred to this person as the 'ringleader' and one of the men who initially chased him. However, he also testified that the person he identified as the ringleader was not the defendant."

The judges also found that the DNA testing fell below traditional standards — citing that the lab had relied on less genetic material than normally allowed and that the numbers didn't definitively point to Herskovic as the attacker.

"We respect the court's decision," said a spokesman with the Brooklyn District Attorney's office.

In order to retry the case, the DA's office would have to secure a fresh indictment. The office did not immediately indicate whether or not it intended to convene another grand jury.

Patterson, reached by phone, said he needs “time to process” the news and declined to comment further.

Appeals lawyer Donna Aldea, who represented Herskovic, who has been out on bail pending appeal, lauded the decision.

“Today, Mayer is an innocent man,” Aldea said in a statement. “And he is deeply grateful to the court for undoing the injustice of his conviction, and to all those who have stood beside him and believed in him over the years as he struggled to clear his name.”