

**CURRENTLY 2,218 EXONERATIONS
MORE THAN 19,470 YEARS LOST**

BRENDAN LOFTUS

Other Exonerations with Child Victims and Mistaken Witness ID



In the spring of 1997, a 14-year-old girl told a drug counselor that she had been raped by a boyfriend on July 5, 1996 while she was staying with her family over the holiday weekend at the Konocti Harbor Inn in Clearlake, California.

Prompted by the counselor, who said she was required to report the claim to authorities, the girl told her parents that she was not raped by her boyfriend, but by two men, one of whom held her down, cut her legs with a knife and licked the blood. She said it happened in room 441 of the Inn.

She said she and two other girls went to the room after hearing someone shout from the room's balcony, "Are there any single girls here?"

She said after some small talk with a young man who said his name was "Mike," another man, who said his name was "Arvin" came in. She said one of the girls soon left because Arvin was touching her inappropriately. The girl then said that Arvin invited her into the bedroom. When she refused, he dragged her in by the hair.

She said Arvin tied her legs and arms to the bedposts and forced her to engage in oral sex. Mike then came in the bedroom and said the third girl had left. Arvin said, "Here, take a turn at this," and Mike raped her. While she was being raped, Arvin cut her once on the right leg, four times on her left leg and once on her right arm and then licked the blood.

Police tracked down Brendan Loftus, 23, and Arvind Balu, 21, who were registered to room 441 on that weekend. Balu, the son of a Rutgers University professor who had emigrated from India, had been arrested six weeks after the alleged rape when he came into a Medical College Admission Test in San Francisco, displayed an air pistol and tried to steal the test. In October of 1996, Balu was arrested outside a Berkeley, California bar with a loaded pistol.

Balu and Loftus, both students at the University of California at Berkeley, were charged with rape in May 1997. The case attracted considerable attention in the media, which dubbed it the "Vampire Rape Case."

The preliminary hearing was marked by Balu's unusual behavior—he yelled out profanities and once assumed a yoga position on top of the defense table—and the inconsistent and implausible testimony of the alleged victim.

There were no bedposts on the bed in the room in question, and the complaining witness weighed 200 pounds to Balu's 140, suggesting that he was not strong enough to restrain her.

At one point, the girl could not recall how many times she had been cut.

The defense also learned that after reporting the rape, the girl had ripped out the pages of her diary for the dates near the time of the alleged incident. She said she tore them out because she was angry at the counselor for reading them.

The counselor testified she had never seen the diary.

The judge concluded the hearing by finding there was sufficient evidence for the case to go to a jury, but said he had "a great deal of problems with the credibility" of the girl. "I don't believe that she was attempting to tell the truth in most instances. There were a lot of inconsistencies in her testimony."

The trial began on September 23, 1997 in Lake County Superior Court. Balu continued to act erratically—at one point he was sent to the lockup after being found in contempt of court.

The defense attempted to introduce a portion of the victim's diary written eight months after the rape in which she said she was "no longer innocent" because she had sex with a man identified as "Carlos" and she feared she was pregnant.

The judge barred the evidence, rejecting the defense argument that the entry suggested she had never been raped if she was writing about losing her virginity after the July 5, 1996 attack.

The victim testified to the attack, giving even more contradictory details. At one point, she said she never saw Loftus with his clothes off.

Loftus called numerous character witnesses. Two other witnesses, neither of whom had met Loftus before, said they saw him between 2 p.m. to 6 p.m.—when the attack allegedly occurred—at the pool at the Inn, acting calm and relaxed.

Loftus testified on his own behalf. He said Balu had offered him a free weekend at the resort after winning it in a contest. He said he was in the room when the girls came in, but denied involvement in any assault. He said that the victim did go into the bedroom with Balu and when he

State: California

County: Lake

Most Serious Crime: Child Sex Abuse

Additional Convictions: Other

Reported Crime Date: 1996

Convicted: 1997

Exonerated: 2000

Sentence: 5 years

Race: Caucasian

Sex: Male

Age at the date of crime: 23

Contributing Factors: Perjury or False Accusation

Did DNA evidence contribute to the exoneration?: No

knocked on the door and opened it, he saw the girl fully-clothed, sitting on the bed and Balu standing by the television. He then left.

Loftus said that the girl called later in the day to ask if Balu would leave her suntan lotion outside the door because her mother would be angry if she lost it.

In October 1997, after five days of deliberations, the jury convicted both men. Loftus was sentenced to five years in prison. Balu was found legally incompetent and put in a state mental facility.

In July 1999, the California Court of Appeals set aside the convictions and ordered a hearing on whether the diary entry should have been admitted in evidence.

In September 1999, Loftus was released on bond. At the hearing, on October 13, 1999, the victim said she still considered herself "innocent" when she wrote the diary entry because the rape was not consensual.

The defense provided an affidavit from "Carlos," the person the victim said took her virginity in the diary entry. He confirmed that he had intercourse and oral sex with her and that the intercourse had been painful for her, suggesting she had lost her virginity.

In November 1999, a judge refused to admit the diary entry in evidence and reinstated the convictions.

In July 2000, the appellate court again vacated Loftus's convictions and Balu's rape conviction. The court found the victim's testimony to be "vague, uncertain and self-contradictory."

The court said "The diary entry...could have raised a reasonable doubt about exactly what happened in the motel room.

On October 23, 2000, Lake County prosecutors dismissed the charges against Loftus.

Balu filed a state petition for a writ of habeas corpus challenging his remaining convictions for assault with a deadly weapon, false imprisonment during which he personally used a knife and forcible oral copulation. In 2006, those convictions were set aside after a judge found him mentally incompetent during his trial. The charges were dismissed in June 2006.

– *Maurice Possley*

Report an error or add more information about this case.

Posting Date: Before June 2012

ABOUT THE REGISTRY

The National Registry of Exonerations is a project of the Newkirk Center for Science & Society at University of California Irvine, the University of Michigan Law School and Michigan State University College of Law. It was founded in 2012 in conjunction with the Center on Wrongful Convictions at Northwestern University School of Law. The Registry provides detailed information about every known exoneration in the United States since 1989—cases in which a person was wrongly convicted of a crime and later cleared of all the charges based on new evidence of innocence. The Registry also maintains a more limited database of known exonerations prior to 1989.

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