

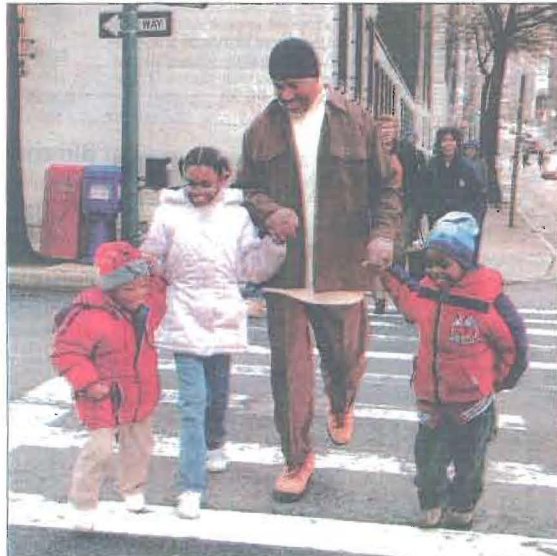
# THE SUN

## MAN IS SET FREE AFTER 39 YEARS BEHIND BARS



Walter Lomax (center) gets hugs from his daughter, Wanda Holmes-Smith, and his friend Robert Asbey after leaving the courthouse in Baltimore. Lomax was arrested 39 years ago for a robbery and murder he says he didn't commit.  
PHOTOS BY LLOYD FOX [SUN PHOTOGRAPHER]

## Judge overturns life sentence in '67 killing



Walter Lomax walks with great-grandson Chyre'e Lomax, 2 (left), granddaughter Lexus Lomax, 9, and great-grandson Niko Lomax, 4.

BY JULIE BYKOWICZ  
[SUN REPORTER]

At 4:15 p.m. yesterday, 39 years to the day after he was arrested for a robbery and murder he says he did not commit, Walter Lomax walked out of Baltimore Circuit Court a free man.

Beaming and surrounded by jubilant relatives and friends, he said, "Even though it's my freedom, it's their moment because they've supported me all these years."

Hours earlier, a judge had granted the 59-year-old's motion to reopen his long-closed case, in which he was convicted of a convenience store robbery and killing that his lawyers say he could not have committed because his right arm was in a thick cast at the time.

Circuit Judge Gale E. Rastin said yesterday that it was "in the interest of justice" to reopen Lomax's case, and then she overturned his life prison term and resented him to time served. At times emotional during her lengthy remarks, Rastin repeatedly said Lomax was a good man and wished him luck in his new life.

Lomax's assertion of innocence and claims of ineffective trial and appellate lawyers were accompanied by a long, unblemished prison record that included work release and overnight family visits in the late 1980s and early 1990s.

He was recommended for parole four times but kept behind bars by Gov. Parris N. Glendening's decision in 1995 not to parole any "lifers" except those who were dying.

[Please see LOMAX, 4A]



## FROM THE COVER

# Man is freed after 39 years in prison

**LOMAX** [From Page 1A]

While in prison, the high school dropout educated himself, became a writer and editor of a prison newsletter, and amassed dozens of certificates of achievement and letters of support, some from politicians.

"As I have told the Governor and others, none of us in the community believe you committed the crime for which you're incarcerated," Del. Clarence Davis of Baltimore wrote in May 2002. "As such we remain steadfast in our unequivocal support for your freedom."

Noting the age of the case, the Baltimore state's attorney's office did not oppose the motion to reopen or the decision to release Lomax. But Assistant State's Attorney Robyne Szokoly said at yesterday's hearing that the victim's family was distraught over the release and is still convinced of Lomax's guilt.

Rasin acknowledged that she could never change the minds of the victim's relatives. However, she said, she could not ignore the role race played in the case.

Lomax was convicted of killing Robert Brewer, a 56-year-old convenience store manager, during a Dec. 2, 1967, robbery in South Baltimore — amid a wave of robberies in the area and as racial tension swept the city. Police officers rounded up young black men and asked about 75 witnesses from the various South Baltimore robberies to identify suspects.

Lomax went to trial only in the in Dec. 2 robbery-murder. At his trial, five white witnesses identified him as the killer, though none said anything about a cast. No other evidence was presented, and not a single police officer testified.

Yesterday, Rasin said such cross-racial identification is unreliable. "There is a significant likelihood, definitely a possibility, that Mr. Lomax would be acquitted" if he were on trial today, Rasin said.

A tall man in the back row of the courtroom nodded emphatically as Rasin spoke. He was one of the first to hug Lomax after his release. He was Michael Austin,



Jim McCloskey (second from left) of Centurion Ministries and Michael Austin hold hands with Walter Lomax as Lomax says a prayer.

LOYD FOX [SUN PHOTOGRAPHER]

another Baltimore man who won his freedom after decades in prison by convincing a judge of the possibility of his innocence.

Austin, 58, said he knew Lomax's family as a boy and befriend Lomax when they were behind bars. Centurion Ministries, a New Jersey nonprofit organization that helps people it believes have been wrongly convicted, helped win Austin's release in December 2001, after he had served 27 years of a life sentence on a murder conviction based largely on one witness' account.

Lomax is the 40th person Centurion has helped free and shares the record with a Pennsylvania man for having spent the most time behind bars of any of Centurion's clients.

Jim McCloskey, head of Centurion, said he was "blown away" by Lomax. "Not only is he innocent, but he is such a gentleman, so dignified," McCloskey said. "How could he be this way after so

many years of being in a harsh environment?"

Booth Ripke, who along with Larry Nathans also represented Austin, said he took Lomax's case because it "leapt off the pages. It wasn't a close call at all."

The lawyers and McCloskey vowed to help smooth Lomax's transition Austin, who released a jazz CD this year and speaks frequently about his ordeal, also said he would help his friend adjust to freedom.

Lomax will live with his older sister Carolyn Lomax at her rowhouse just east of Charles Village.

Dozens of "Welcome Home" balloons and banners decorated the front porch there yesterday evening, and Carolyn Lomax bustled herself in the kitchen. She and others prepared a feast of steamed shrimp, seafood pasta, string beans and other family specialties.

Relatives and friends streamed into the house, and Walter Lomax continually embraced them and

remarked on how much they had grown. He said his first few days of freedom will be spent with family, and then he will get down to the business of everyday life, such as finding a job and securing an identification card.

Later will come a decision about whether to pursue his claim of innocence.

Austin was freed after a judge decided he had been denied a fair trial and prosecutors declined to pursue a retrial. He was never legally found "not guilty," but Gov. Robert L. Ehrlich Jr. pardoned him and said he'd been wrongly convicted. Austin was awarded \$1.4 million by the state Board of Public Works in November 2004.

Lomax has been freed, but his murder conviction remains. To be awarded any state money, he would need to seek a pardon from the governor. He said last night that, whatever happens next, he has no anger.

Right now, he said, he is thinking only of his family.

Though his son and daughter, now 43 and 42, respectively, grew up with an imprisoned father, they did not grow up without him. Nor did he become estranged from his four sisters and three brothers. A fourth brother was killed in 1982, and his parents died in the mid-1990s. Lomax stayed current on family affairs through phone calls, visits and letters.

He even, in a way, walked his daughter down the aisle last year. At Wanda Holmes-Smith's wedding, a relative held up a cell phone switched to speaker mode. Lomax listened on the other end, from a phone in a Jessup prison. When the minister asked who was there to give Wanda away, it was Lomax who answered, "I do."

But now he can come to know his children, nine grandchildren and six great-grandchildren in person. The holidays will be especially joyous this year.

"I have the best Christmas present anyone could ever ask for

— better than a million dollars," said Margaret Lomax, 49. "My uncle is home."

Many members of the large family squirmed in the courtroom benches yesterday, eager for Lomax's release. It was a tough hearing that, as Lomax's younger sister Vivian Lomax said, "really brings back memories from so long ago."

It was difficult, too, for the family of Brewer. One of his daughters, two granddaughters, two great-grandchildren and other relatives sat in benches in the front of the courtroom, many dabbing at tears.

Szokoly, the prosecutor, repeatedly comforted them, telling them at one point that even though Lomax was being released, "you know in your hearts what happened."

Brewer's wife had been at the convenience store and, relatives said, saw Lomax fatally shoot her husband.

"Walter Lomax changed our lives forever," Carmen Lott, a granddaughter, said at the hearing. She said her grandfather, who was killed when she was 17, would have given Lomax or anyone else he met "the shirt off his back." And she said that Lomax would always be a murderer.

Later, Lomax said that he had empathy for the victim's family and that he knew when the granddaughter spoke that she was "doing what they felt they had to do."

"They were calling my name, but I knew they weren't talking about me because I was not the one who did that," Lomax said.

Rasin ended the hearing yesterday by quoting the last two lines of Mary Oliver's poem "The Summer Day":

"Tell me, what is it you plan to do with your one wild and precious life?"

"Actually, within the walls of prison, you have led a precious life," Rasin told Lomax. "Starting today, you get to create it with freedom. Just don't mess it up."

Lomax stood and spoke to the judge. "I think that you'll be very proud of this decision."

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