

# As Cook County Judge Coghlan seeks retention, concerns over lawsuit, rulings

By Mari Cohen and Rick Tulskey

Two men exonerated after 23 years in custody claim Cook County Circuit Judge Matthew Coghlan took part in framing them for murder, standing by as disgraced former Chicago police Detective Reynaldo Guevara convinced an informant to falsely accuse them, according to a pending federal lawsuit.

The informant eventually recanted, saying prosecutors and police had worked together to prepare a story they knew to be false.

And one of the key players involved was Coghlan, who in a previous job as a gang prosecutor had worked with Guevara, whose misconduct has led to 18 exonerations of falsely convicted people.

This fall, voters will vote on whether to retain 62 Cook County judges for new six-year terms on the Circuit Court. To help readers with their decision, Injustice [Watch](#) is studying the records of those candidates. This is the first of our reports. It is co-published by the [Sun-Times](#).

The accusation is one of several questions surrounding the record of Coghlan, who was elected as a Cook County judge in 2000 and is one of 62 county judges who will be seeking retention in the November election.

An Injustice Watch investigation has found:

- As a judge, Coghlan mishandled the post-conviction petition of a man convicted of murder, refusing to grant the man a hearing and then, after the judge's decision was reversed by a higher court, refusing to do so a second time. "While the circuit court is entitled to its opinion," an appellate court panel wrote last year as it reversed Coghlan, "it is not entitled to effectively ignore our decision and make a directly contrary finding regarding petitioner's torture claims."
- Coghlan has drawn criticism for sentences he imposed on Chicago police officers. In one case, he was criticized for being overly lenient in imposing a three-year prison sentence to an officer who struck and killed a 13-year old cyclist after a jury convicted the officer of driving under the influence, reckless homicide and leaving the scene. In another case, he accepted a plea deal that put on probation a Skokie police officer who slammed a woman's face into a concrete bench.
- By contrast, Coghlan has issued harsh sentences to non-cops, including one-year jail terms for a series of black suspects convicted of marijuana possession

Injustice Watch reviewed Coghlan's record as part of an examination of the records of judges who will be seeking voter approval for new six-year terms on the bench.

Judges have traditionally had little trouble winning the 60-percent favorable vote needed for retention. But this year the record of Coghlan has caught the attention of a group of lawyers who are raising money in hopes of affecting the results.

On behalf of the progressive Judicial Accountability Political Action Committee, attorney Brendan Shiller cited several factors that have led the organization to conclude Coghlan should not be retained: “Multiple lawsuits have been filed involving detectives he worked with who built wrongful convictions on false statements or false convictions. He has a history of being lenient in cases involving police officers, and a history of being harsh in cases involving young black men.”

Coghlan had served as a Cook County Assistant State’s Attorney for 13 years before he won a tight primary contest against three other opponents in 2000. A cousin, Mary Ellen Coghlan, has been a Cook County judge since 1995 and is now the presiding judge of the probate division. An uncle, Martin D. Coghlan, was first appointed to a vacancy on the circuit court in 2007, but lost his election the following year.

Neither Matthew Coghlan nor an attorney who represents him responded to telephone messages.

### **“No Authority”**

Antonio Nicholas has claimed since 1991 that police detectives working under disgraced Cmdr. Jon Burge tortured him into wrongly confessing to the murder and attempted murder for which he remains in prison. The issue in his case was whether he deserved a belated hearing on

Nicholas’s post-conviction petition case was assigned to Coghlan, who ruled in 2010 that there was not enough credible evidence to merit a hearing — and that Nicholas had failed to raise the matter in a timely way.

A three-judge panel of the Illinois Appellate Court reversed Coghlan in March 2013, finding Nicholas had shown sufficient evidence to merit a hearing into whether his confession was coerced and he was wrongly convicted. Appellate Court Judge Daniel J. Pierce wrote for a panel that included Judge P. Scott Neville Jr. and Judge Michael B. Hyman that Nicholas “has not been afforded a review of his claim that others in similar circumstances have received.”

The case went back to Coghlan, who ruled that Nicholas’s version that he had been beaten and kicked by police detectives was not consistent. He refused to grant a hearing, writing “not all allegations should be painted with the same broad brush, simply because Burge is mentioned.”

Once again the case went to the appeals court, this time before a panel that included Pierce, Judge Sheldon A. Harris and Judge Mary L. Mikva. At oral arguments, Pierce aggressively questioned the special prosecutor, Robert Williams: “Where does Judge Coghlan get the right to go back and say that we were wrong in what we considered, that he viewed the facts differently than the appellate court did? What right does he have to do that?”

Pierce answered his own question, stating Coghlan “has no authority to overrule” the court’s finding regarding Nicholas’s claim.

The court sent the case back to the Circuit Court, and directed that a new judge be appointed. Nicholas’s case is now in front of Judge Stanley Sacks; a hearing has not yet been scheduled.

### **Sentencing data shows harsher than most; lawyers say fair**

When he last ran for retention in 2012, the Chicago Council of Lawyers found Coghlan qualified, noting that lawyers who were surveyed called him “intelligent,” “compassionate,” calm and fair.

But an analysis of sentencing data, made public by State’s Attorney Kim Foxx, shows Coghlan generally imposes sentences harsher than the median sentence 39 percent of the time, a rate slightly higher than Cook County criminal judges as a whole. The data also shows that Coghlan’s sentences exceeded the median 41 percent of the time for black defendants and 29 percent of the time for white defendants.

His handling of cases involving police officers seems to run counter to that, though. Trenton Booker’s father told reporters that he was “stunned” when Coghlan sentenced Chicago police officer Richard Bolling to three years in prison, followed by two years of probation, in connection with a fatal car accident that killed his 13-year-son.

*Sun-Times* columnist Mary Mitchell called the sentence “outrageous” and excoriated Coghlan for criticizing Booker, who had been biking the wrong way in dark clothes, but failing to discuss the police department’s “code of silence” that led to a delay in giving Bolling a breathalyzer test.

Cassandra Feuerstein complained that Skokie police officer Michael Hart received a “slap on the wrist” when Coghlan accepted a plea deal in 2014 and sentenced Hart to one year of probation after Hart was convicted of official misconduct. A video captured by a jailhouse camera shows that Hart got angry that Feuerstein would not look at the camera for a booking photo and shoved her head into a concrete bench, resulting in a fractured facial bone and loosened teeth.

Armando Serrano and Jose Montanez spent 23 years in prison before they were both exonerated of charges that they had murdered a man in 1993. Their wrongful convictions, and sentences of 55 years in prison, were based largely on the testimony of a heroin addict named Francisco Vicente that he heard Montanez, Serrano, and a third man discuss the matter.

Vicente later recanted his testimony and, in 2016, both men were released from prison and given certificates of innocence. That is because evidence developed that detective Guevara had encouraged Vicente to falsely implicate the two men.

In his recantation, Vicente said that the police officers and the gang unit prosecutors “knew” who they wanted for the murder, and told him to implicate Serrano and Montanez even though they knew that his statement was false.

In return, Vicente said, Coghlan and a second gang-crimes unit prosecutor promised to protect him and ensure he received special privileges in return for his false statement. Then, Vicente contended, the prosecutors brought Vicente to the State’s Attorney’s office repeatedly to help coach him on his statement.

Both men have brought lawsuits against the officers and the prosecutors, and the cases have been consolidated before U.S. District Judge Manish S. Shah.

Serrano’s attorney, Jennifer Bonjean, said in an interview that Coghlan’s alleged conduct should disqualify him from the bench. “If he was engaging in that type of conduct as a prosecutor, is there any reason to believe he all of the sudden became a fair and impartial arbiter of justice and truth when he hit the bench?” she asked. “I say no. I think it calls into question his fitness to sit on the bench.”