

Child molestation conviction overturned over recanted testimony that prosecutor didn't disclose

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By [Mark Hansen](#)

An Atlanta man serving a 25-year prison sentence for molesting a child will get a new trial because prosecutors didn't inform the jury that the victim had recanted part of his testimony against the defendant prior to trial.

Defense lawyers told the judge they overheard the prosecutor tell a juror after the trial that he didn't question the defendant about the victim's assertion that he had been sodomized because the victim had subsequently changed his story, the [Daily Report](#) reports.

"[The prosecutor] said he didn't push the anal sodomy [count] because the kid said it didn't happen," defense lawyer Barry Hazen said he and co-counsel Michael Jacobs overheard Fulton County Assistant District Attorney Demone Lee tell the juror.

Lee told the juror he had left the charge in "because he wanted to see what the jury would do with it," Hazen added.

Defendant Jon Thieme, 23, was convicted last March on one count of aggravated child molestation but was acquitted of a second count. Fulton County Superior Court Judge Alford Dempsey sentenced him to 25 years in prison.

The Daily Report could not reach Lee for comment. But Senior Assistant District Attorney Lenny Krick signed a consent order granting Thieme a new trial. And District Attorney Paul Howard offered no excuses for the prosecutor's failure to inform the defense of the victim's recantation.

"Providing Brady material is both a legal and moral obligation resting upon every prosecutor," Howard said in a prepared statement. "When the line of demarcation is close or somewhat unclear, we believe the better practice is to make the disclosure. Such was not done in this case."

Thieme's appellate lawyer, Lawrence Zimmerman, said it was a good thing Thieme's trial lawyers overheard the conversation between the prosecutor and the juror. Otherwise, he said, his client "would be rotting in prison every day for the next 25 years."

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