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Posted: 6:31 p.m. Wednesday, Dec. 4, 2013

## Judge: Prosecutor withheld evidence in trial of convicted child molester

By Aaron Diamant

**ATLANTA** — Channel 2 Action News has learned a judge has ordered a new trial for a convicted child molester because of what the prosecutor withheld.

Channel 2 investigative reporter Aaron Diamant dug through documents that reveal prosecutors did not give the defense a key piece of evidence before trial.

Jon Thieme will soon be transferred from state prison to the Fulton County Jail ahead of a bail hearing and then a new trial.

The trial will include critical evidence that a judge found prosecutors should have turned over to the defense.

"It gets you angry. There are rules by which we all have to play," defense attorney Barry Hazan said.

Hazan told Diamant he is still fired up even after a Fulton County judge ordered his client, Thieme, a new trial.

"We're not talking about a game. We're not talking about a contest," Hazan said.

On Tuesday the judge signed this consent order tossing out Thieme's March child sexual assault conviction, agreeing veteran prosecutor Demone Lee with new critical evidence.

Court papers confirm that shortly after a jury sentenced Thieme to 25 years in prison, his lawyers overheard Lee inside the jury room, who "told five of the jurors...the victim recanted his allegation..." and "...he explained to the juror that he had left that count in to see what the jury would do with it."

In an email to Hazan in May, Lee admitted he found out the alleged victim changed his story "about a week before trial."

"You are required to turn that over. That's law school 101," Hazan said.

According to the judge's order, if the prosecutor had, "There exists a reasonable probability that the outcome of the proceeding would have been different."

Wednesday afternoon, District Attorney Paul Howard released a statement saying, "We believe the better practice is to make the disclosure. Such was not done in this case. Accordingly, we believe honesty requires that this matter is retried."

In a later email Howard stood by his ADA, calling Lee honest and hard-working and that he will not face any disciplinary action.

In the meantime, Thieme should be transferred back to the Fulton County Jail within the next couple days. His bond hearing is set for later this month.

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