

In December 1991, Ray Krone was a postal worker in his mid-30s with no criminal record living in Phoenix, Arizona. He had recently bought a house and regularly played darts at the CBS Lounge in Phoenix where 35-year-old Kim Ancona worked. They casually knew each other, and Krone said that he gave her a ride to a Christmas party in his prized 1970 Corvette. A week later, while cleaning up the lounge after closing, she was brutally murdered.

When questioned about his whereabouts the night of Ancona's murder, Krone told a detective that he went to bed at 10 p.m. Krone, however, came under suspicion because Ancona had some unusual bite marks on her left breast and the detective questioning him noticed his front teeth were deformed. Investigators focused on Krone even though his roommate corroborated his alibi. Neither was the investigators' interest in Krone cooled by the 14 shoeprints imprinted around Ancona's body that didn't match Krone's shoe size. The shoeprints were identified as being made by a size 9-1/2 to 10-1/2 Converse brand sneaker, while Krone wore a size 11 and didn't own any Converse shoes.

Two days after he was questioned the police surrounded Krone's house and he was arrested on suspicion of first-degree murder, kidnapping and sexual assault. Years later he described his thoughts at the time of his arrest. "Why were they doing this? They knew it wasn't true. It's embarrassing to be 35 years old and find out you're stupid, you're naive."¹

Krone tried, and convicted twice

Krone was subsequently indicted for the capital murder of Ancona. The prosecution had no physical evidence or eyewitnesses linking Krone to her murder, and the centerpiece of their circumstantial evidence was he knew her well enough to have given her a ride one time a week before her death. Absent other incriminating evidence, the prosecution's case hinged on a dental expert's testimony that his deformed teeth matched the bite marks on Ancona's left breast and throat. The prosecution spent more than \$50,000 just supporting its bite mark theory – more than thirty times the \$1,500 Krone's public defender was allotted for investigating all aspects of his case.

Print and television media went into a frenzy with the prosecution's claim that Krone gnawed on Ancona with his deformed teeth; they tagged him as the "Snaggletooth Killer." Krone's August 1992 trial lasted six days, and

Ray Krone Settles For \$4.4 Million After Two Wrongful Murder Convictions

By Hans Sherrer

while no defense expert testified to rebut the prosecution's bite mark expert, Krone took the stand and proclaimed his innocence. The jury didn't believe him. He was convicted and three months later sentenced to death.

Because the prosecution concealed a videotape concerning the bite mark evidence until one day before Krone's trial began, the Arizona Supreme Court reversed his conviction in 1995.

Retried in 1996, Krone had the benefit of a retained attorney and expert testimony. It didn't, however, prevent him from again being convicted based on testimony by the same prosecution "expert" who testified at Krone's first trial linking his teeth to the bite marks on Ancona.

After his second conviction in 1996, Krone told *The Arizona Republic* he was innocent. "I was not there that night. This pretty much rules out any faith I have in truth and justice." Although the prosecution again sought the death penalty, Krone's judge expressed doubts about the strength of the prosecution's case and sentenced him to life in prison.

Years of effort payoff when crime scene evidence is tested

Krone's mother, stepfather, and a cousin who was a small businessman in Lake Tahoe, continued to believe in his innocence. They hired Phoenix attorney Alan Simpson in 2000 to pursue DNA testing of physical evidence collected during the original investigation – including saliva and blood found on Ancona's clothes and body. The Maricopa County Attorney's Office opposed Krone's motion for DNA testing, claiming that the crime lab tests at the time of Krone's prosecution established that none of the evidence had any exculpatory value. The judge, however, granted the motion in 2001.

On April 4, 2002, the DNA test results were released. They excluded Krone as the perpetrator. The tests, however, did implicate Kenneth Phillips, then imprisoned in Arizona for sexually assaulting and choking a 7-year-old girl. At the time of Ancona's murder Phillips



Ray Krone moments after his release from a Yuma, Arizona prison. (Charles Whitehouse/AP)

lived 600 yards from the CBS Lounge, and he was on probation for breaking into a neighboring woman's apartment and choking her while threatening to kill her. Phillips was charged with assaulting the 7-year-old only twenty days after Ancona's murder.

After the DNA tests excluded Krone, his attorney told *The Arizona Republic*, "This proves with certainty that Ray Krone is an innocent man. Every day from this point forward that Ray spends in jail is a day the county acts at their own peril." Four days later Krone was freed after 3,769 days of wrongful imprisonment that included two years and eight months on Arizona's death row.

Ignoring the DNA's exclusion of Krone, Maricopa County Attorney Rick Romley defended Krone's convictions by claiming there was "strong circumstantial evidence" of his guilt. He didn't bother to address the fact that the original crime lab failed to do the DNA testing that would have excluded Krone. Faced with irrefutable proof that Krone had twice been convicted of first-degree murder when he was actually innocent, Romley said, "we will try to do better."

By the time Krone was released, his mother and stepfather, who lived in his hometown of Dover, Pennsylvania, had mortgaged their home and spent an estimated \$150,000 in their effort to win his exoneration. Krone's cousin in Lake Tahoe spent an additional \$100,000. After his release Krone was welcomed back to live in Dover, where hundreds of people in the area convinced of his innocence had donated time and money to help his parents (and sister) free him.

Krone sues City of Phoenix and Maricopa County

Within months of his release, Krone and his mother filed a \$100 million lawsuit in U.S. District Court in Phoenix naming as primary defendants Maricopa County and the City of Phoenix.

Among other allegations they claimed Maricopa County "obtained the conviction and death sentence... by prosecutorial misconduct, the use of altered and manufactured evidence, expert shopping, a refusal to adequately investigate... through the concealment and destruction of evidence, through perjured documents and statements, and through the unfairly prejudicial inflammation of public opinion."²

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The suit also alleged that Krone's convictions were attributable to the negligent conduct of the Phoenix police crime lab in the testing, or in some cases, the failure to test available crime scene evidence. Among other deficient acts, the crime lab failed to test and/or analyze "hair, blood and fingerprints" that when examined years after Krone's second conviction, excluded him and implicated Phillips in Ancona's murder.

During the lawsuit's discovery process Krone learned that before his second trial Maricopa County's prosecuting attorney was personally told by two of the country's most respected dental forensic experts that there was "no way" the teeth marks on Ancona's body were made by Krone. They experts asserted the prosecution's dental expert was absolutely wrong to identify Krone as the source of the bite marks. Not only did the prosecutor not inform the defense of that exculpatory information, but he proceeded with seeking the death penalty.

Information discovered by Krone as a result of the lawsuit painted the picture that his capital murder prosecution was pursued by law enforcement authorities who arguably either knew he was innocent, or simply didn't pay attention to the information available to them supporting his innocence.

After learning in April 2002 that the DNA tests excluded Krone, Kim Ancona's mother told *The Arizona Republic*, "My God, I hope he becomes a millionaire, because I can't give him those 10-1/2 years back." ³ Her wish for Krone came true three years later.

Facing significant liability if they allowed the case to go to trial before a jury, Maricopa County settled Krone's claims for \$1.4 million in April 2005, and the City of Phoenix settled for \$3 million in September 2005. Out of that Krone had to pay around \$800,000 in legal fees and other debts, plus taxes.

"Snaggletooth" no more – Krone undergoes "Extreme Makeover"

In 2004 Krone and his infamous crooked front teeth came to the attention of the television program *Extreme Makeover*.

They offered to pay for an extreme makeover of Krone that would include replacing five front teeth, corrective eye surgery, hair transplants, laser treatment of acne scars, and sessions with a physical trainer and nutritionist so he could establish healthy habits. All he had to do in exchange was agree to allow filming of

his transformation, which would be edited into a two-hour program broadcast on ABC-TV.

At the time Krone was just getting by financially since his lawsuits had not been settled, so he jumped at their offer. All of the various surgeries and procedures had a value of about \$200,000, and took several months to complete.

The program documenting his physical transformation was broadcast on February 10, 2005. He was pleased with the results. "I know it's still me and nothing has changed. But I look in the mirror and say, 'Wow, I look 15 years younger.'" ⁴

When asked why the program had selected Krone, one of the producers, Lou Gorfain, responded, "Who's more deserving of a makeover?" ⁵



Ray Krone before his Extreme Makeover



Ray Krone after his Extreme Makeover

Arizona legislators apologize to Ray Krone

On February 20, 2006, the head of Arizona's Senate Judiciary Committee, John Huppenthal (R), and more than half-a-dozen other House and Senate members apologized to Krone. In his apology on the floor of the Senate, Huppenthal said Krone's was "a truly tragic case. In a way, it's a lesson for us all that this can happen in a modern society. When we think we have foolproof systems where this would never, never happen, it has

happened. And we need to be aware that it truly could happen again and is likely happening again. This is happening more frequently than we would like to admit." ⁶

Postscript

Ray Krone lives in Dover, Pennsylvania. He has traveled around the country as a spokesman against the death penalty. As he says, "Those 10 years must have been for a purpose. No system is 100 percent accurate." ⁷

While he has had a physical makeover and is financially secure, an interview with *The Arizona Republic* shows that his wrongful prosecution, conviction and imprisonment had a profound impact on his psyche, "I don't recognize myself anymore. I'm cynical now, totally paranoid now. I used to have a normal life. Now, I don't know what normal is." ⁸

Additional Sources:

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Endnotes:

- 1 Cleared by DNA, Krone trying to escape bitterness, by David J. Cieslak, *The Arizona Republic*, June 3, 2004
- 2 Arizona sent an innocent man to death row, by Jana Bommersbach, *Phoenix Magazine*, July 2004.
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- 4 From Death Row To TV 'Makeover', by Richard Willing, *USA Today*, February 7, 2006.
- 5 *Id.*
- 6 Wrongfully convicted man gets apology after two years on death row, by Howard Fischer, *Arizona Daily Star*, February 20, 2006
- 7 Arizona lawmakers apologize to exonerated man, by Paul Davenport, *Times-Leader* (Wilkes-Barre, PA), February 20, 2006.
- 8 Cleared by DNA, Krone trying to escape bitterness, *supra*.

In October 1994, with no physical evidence, no witnesses to the crime and no murder weapon, a Madison, Wisconsin jury convicted Penny Brummer of first-degree murder in the death of Sarah Gonstead.

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