

The 123 people released from death row since 1973 stand as undeniable proof that the US criminal justice system is alarmingly flawed. It is impossible to know how many more unjust homicide verdicts have slipped by unnoticed and unreported. One such miscarriage of justice, which has stayed under the media radar for two decades, is the murder conviction of John Edward Merritt.

John Merritt's case eerily echoes that of Ronald Keith Williamson, whose harrowing ordeal was recently the subject of John Grisham's first nonfiction book, *The Innocent Man*. Like Williamson, Merritt was convicted and sentenced to death for a 1982 murder in a small southern town; Williamson's conviction was, in the words of the book's description, "based on zero physical evidence and the word of disreputable snitches"—and so was Merritt's conviction.

On March 1, 1982, Darrell Davis was murdered in his home in Lake City, Florida. The 48-year-old ambulance driver was found in the kitchen, face down, hands tied behind his back with a leather belt, shot to death execution-style. The details of the crime scene indicated Davis had walked in on a burglary in progress.

The 1,000-plus-page trial transcript from 1986, as well as depositions taken in 1989, reveal that there is no physical evidence tying Merritt to the Davis murder. There was not even circumstantial evidence. The case was based solely on the conflicting testimony of two convicted felons, Gregory Hopkins and Gerald Skinner, and to a lesser extent Hopkins' wife Belinda (who was Skinner's sister). Brothers-in-law Hopkins and Skinner both cut deals in 1985 to drastically reduce their prison sentences in exchange for implicating Merritt. Merritt was initially sentenced to death, but a 1989 appeal reduced the penalty to life in prison.

Merritt claims he was at work at the time of the murder, but apparently because the trial did not begin until four years later, his ex-boss no longer had the 1982 time cards and did not want to testify to something that might not be true, so Merritt's lawyer did not subpoena him.

Hopkins, Skinner, and Merritt were facing long prison sentences in 1985 for an armed robbery. Merritt admitted his guilt and was sentenced to 25 years in prison. His two partners-in-crime conveniently found a way to cut their own prison time down to a tiny fraction of what they were facing.

Skinner was the first to offer information he claimed to know about the Davis murder. A

Murder Conviction Based On Jailhouse Snitches Unsupported By Evidence – The John Merritt Story

By Edward Olshaker

very candid 2005 e-mail from one of the prosecutors to independent researcher Mollie Wilde—who, along with private investigator Bob Cracknell, brought this case to my attention—leads one to wonder why the State's Attorney's office would base a murder case on the changing stories of a man they regarded as dangerously deranged. In the e-mail, the prosecutor recalls with amusement that Skinner, whom he met with at Chattahoochee, Florida's institution for the criminally insane to discuss Skinner's allegations, had a history of "shooting people whom he disliked" and shares an anecdote about this that he seems to think is funny.

Skinner needed to "recover" from mental illness in order to be used as a witness. Miraculously, after brief treatment he was deemed to have regained his sanity, and was transferred from the mental institution to a regular prison. He pointed to both Hopkins and Merritt as the murderers, and later received a reduced sentence of 2-1/2 years in prison and 15 years probation for multiple felonies. One of his crimes, blowing away part of a man's leg with a shotgun ("because he was running around with my wife"), was reduced to "shooting into an occupied car," even though he testified that the victim was not in a car.

As a reward for testifying against John Merritt, Gerald Skinner was sentenced to 2-1/2 years imprisonment for multiple violent felonies, and Gregory Hopkins served 10 months instead of 25 years.

Columbia County Sheriff's Office Chief Investigator Neal Nydam then went to Virginia to question the incarcerated Hopkins and Merritt based on Skinner's accusation. Hopkins naturally said he was innocent; he also used the opportunity to claim he had information about the murder and his "memory might improve" if nearly all of the extensive pending felony charges against him were dropped. After he was satisfied that Nydam would help him out, he claimed Merritt had confessed to the murder. (Hopkins would go on to serve a prison sentence of 10 months instead of 25 years, and Nydam even obtained employment for him, working for Nydam himself.)

Hopkins' brother-in-law Skinner then changed his story, saying he had made a mistake in implicating Hopkins in the murder. His

new story was that it was Merritt alone. The prosecution adopted his second account and pretended his first account didn't exist; it didn't fit the storyline and strategy they were assembling. When Nydam went to the Virginia prison to question Hopkins, based on what Skinner had

said, Hopkins voluntarily submitted to physical tests, giving Nydam samples of his hair and fingerprints. In the trial, prosecutor John Terhune emphasized that examination of this physical evidence showed that Hopkins had not been at the murder scene. Yet defendant Merritt's hair and fingerprint samples were also taken, and none of these samples, nor any other physical or circumstantial evidence, connected him with the murder scene.

In claiming Merritt had confessed to the murder, Skinner and Hopkins gave differing accounts of the circumstances of his alleged confession. Prosecutor John Terhune, anticipating the defense would note their conflicting stories, acknowledged this weakness while attempting to portray it as a small matter: "Their stories were a little bit different, as that they were walking or in a car, whether or not Mr. Skinner had gone up to a house, or not." To the extent that their stories partially matched, they could have been coordinated even when the two men were in separate prisons, through communications with Skinner's sister/Hopkins' wife Belinda, who had 40 to 50 phone conversations with Hopkins during this key period.

Skinner testified in the trial that "I told [Nydam] about Merritt, that I thought he may have killed a man." Thought he may have? This is a far cry from "beyond a reasonable doubt" proof sufficient to convict a man and sentence him to execution—even if it had come from a reputable witness who was not offering a story as his sole way of getting out of jail.

Terhune said repeatedly in his closing argument, regarding Hopkins' story of Merritt's alleged confession, "There is no way that anybody could have known that much detail [about the Davis murder], unless they were there." Yet all three were in Columbia County at the time of the horrific murder, and could have easily learned the details from newspapers, television, radio, or talking with others. Defense attorney Martin Black noted that the details were well-known. Also, Skinner later revealed in his deposition, in Merritt's 1989 appeal of the death sentence, that he had read newspaper accounts of the murder and that Nydam had showed him crime-scene photographs when he met with him in jail. In addition, Skinner's ex-wife Luca said in a sworn

Merritt cont. on p. 9

In October 1986 23-year-old medical student Lori Roscetti was raped and murdered in Chicago. Three months later Chicago PD detectives sweated a confession from 17-year-old

Chicago Pays \$8 Million To End Roscetti Four Lawsuit

By JD Staff

Marcellius Bradford to the crime. Bradford said that he and his friend Omar Saunders (18) watched as Calvin Ollins (14) and his cousin Larry Ollins (16) raped and then killed Roscetti. Bradford exchanged his testimony against the three for a guilty plea to kidnapping and a 12-year sentence.

After an intense interrogation the Chicago PD was able to also get a confession from Larry Ollins, although he recanted it as coerced before his trial. Saunders and the Ollins cousins were all convicted in 1988 and sentenced to life in prison. The press dubbed the four young men the Roscetti Four.

Bradford was released in 1994 after serving 6-1/2 years of his sentence.

In 2001 DNA testing excluded the four men as Roscetti's attacker. The exculpatory DNA tests were supported by disclosures that the prosecution's forensic expert, Chicago PD Crime Lab technician Pamela Fish, gave false

trial testimony to bolster the case against the three teenagers who went to trial. DNA expert Edward T. Blake characterized Fish's testimony as "scientific fraud." (See accompany article.)

The Ollins cousins and Saunders were released in December 2001 after almost 15 years of wrongful imprisonment. The irony of the DNA test results is that prior to Saunders' trial his lawyer filed a motion in 1987 for DNA testing that was denied by the trial judge. If the testing had been granted the four men would have been spared spending a total of more than 50 years wrongly imprisoned, and the confessions of Bradford and Larry Ollins would have been promptly exposed as false.

In October 2002 Illinois Governor George Ryan pardoned the four men on the basis of their actual innocence. In 2003 they were awarded \$120,000 each in compensation by the State of Illinois.

The four men also filed a federal civil rights lawsuit against the Chicago PD, Fish and other public employees involved in the case. In 2003 Calvin Ollins settled his suit for \$1.5 million, and in December 2006 Bradford

Pamela Fish Aided Prosecutors To Procure Many Wrongful Convictions

Pamela Fish played a key role in at least three wrongful convictions in Chicago before her false testimony in the Roscetti Four case was exposed. She was instrumental in the wrongful convictions of John Willis (convicted in 1992 of sexual assault and exonerated in 1999); Donald Reynolds (convicted in 1988 of sexual assault and exonerated in 1997); and Billy Wardell (convicted in 1988 of sexual assault and exonerated in 1997).

settled his suit for \$900,000.

Based on the recommendation of a federal mediator, in April 2007 the City of Chicago agreed to pay Larry Ollins and Saunders \$4 million each to settle their lawsuit. The settlement ended the civil proceedings related to the false arrest of the four teenagers twenty years earlier for Roscetti's rape and murder.

Sources:

\$8 million for pair cleared in killing, By Fran Spielman, *Chicago Sun-Times*, April 12, 2007.

\$8 million deal is in pipeline 2 more freed inmates ready to settle in 1986 murder case, By Mickey Ciokajlo, *Chicago Tribune*, April 11, 2007.

Center on Wrongful Convictions at Northwestern School of Law, www.law.northwestern.edu/wrongfulconvictions



Merritt cont. from p. 8

statement that he told her "that some investigators showed him photos of the Davis murder scene before the trial at the time he was in the Live Oaks jail." She added, "Gerald never mentioned John Merritt killing anyone."

Incredibly, to denigrate Merritt's defense, Terhune told the jury, "The judge is going to tell you, straightforward, that one of the things that you can use to determine whether or not someone is telling the truth, is whether or not they had been convicted of a felony." Merritt had indeed been convicted of felonies, but so had Terhune's two witnesses. With this statement to the jury, instructing them that felons were not to be believed, the prosecution blew away the one weak leg their entire case rested on. (A few sentences later, Terhune says of his two felons, "I suggest to you, that there was not one reason presented to you, ladies and gentlemen, not to believe their testimony.")

Terhune also noted in his closing argument, "Now the testimony and the evidence was that law enforcement did everything possible to get every single bit of evidence that they possibly could, to be able to identify the person who did this." Yet we now know this simply was not true.

At one point in his closing argument, prosecutor Terhune told the jurors their role was to consider "the weight of the evidence," a synonym for the "preponderance of the evidence" normally used in civil cases. The weight of the evidence—51 percent is enough to tip the scales—is sufficient to win when bickering friends and neighbors go to court in the types of cases featured on the "Judge Judy" program. This message to the jury might have been nothing more than an unintentional slip on Terhune's part, yet is consistent with the casual, careless way the state conducted the entire case.

The trial transcript and depositions provide a disturbing look at a justice system willing to use nothing more than the conflicting testimony of richly rewarded felons to convict a man of first-degree murder, while literally ignoring solid physical evidence. The Merritt conviction thus has implications that go far beyond this single case. If a man can be found guilty and initially sentenced to death so cavalierly, one wonders how many others have been wrongfully convicted and how many innocent people have been executed. (The extent of the systemic failure even surprised as seasoned a criminal-law veteran as Grisham, who, after chronicling the Ronald Williamson case, told an interviewer, "My eyes were opened to the world of wrongful convictions ... unfortunate-

ly, they happen all the time in this country, and with increasing frequency.")

Merritt's case is now being considered by the Florida Innocence Initiative. [JD Note: *Justice: Denied* contacted the Florida Innocence Initiative, about John Merritt's case. As of early July 2007 they are in the process of reviewing his case transcripts and other information, to decide whether to accept his case.]

John Merritt can be written at,
John Merritt 058704
Hardee Correctional Institution
6901 State Road 62
Bowling Green, FL 33834-9505

His outside contact is Christina Barrauda. Her email address is, christina.barraud@gmx.ch

Reprinted with permission of the author and condensed from the original article. Edward Olshaker is a freelance journalist whose work has appeared in *The New York Times*, *History News Network* and other publications. His book, *Witnesses to the Unsolved*, is an exploration of the uses of parapsychology in criminal investigation, was named a 2006 Independent Publisher Book Awards finalist in the True Crime category.

