

“My heart has been burdened by the fact that an innocent man is imprisoned because of my false testimony.” — Amber Crecy Pittman, in her Nov. 9, 2001 Affidavit swearing Jay Van Story “never inappropriately touched me.”

“I did something wrong. I put an innocent man away. I can hardly live with myself for what I’ve done. My life hasn’t been easy for what I’ve done.” — Amber, in her July 17, 2009 testimony in the 140th District Court in Lubbock, Texas.

I am Jay B. Van Story. More than two decades ago I was convicted of sexually assaulting my 7-year-old cousin Amber. But I have abused her in any way, and for more than twenty years she has maintained that she was coached as a child into falsely accusing me. Yet, I remain imprisoned.

In 1987 Amber identified her brother Robert Bates as the one who had sexually abused her, but lead CPS investigator Roger Bowers “would not have it that way” and would only accept me as the alleged perpetrator. Amber insists she “was scared of Roger Bowers more than anybody. ... Other than Travis Ware!” (Ware is a former Lubbock County District Attorney)

As early as my January 1988 trial, Amber revealed that she had been coached. She testified that she wouldn’t have said the same thing if someone hadn’t talked to her, and that prosecutor Rebecca Hisey (formerly Baker/Atchley) had told her what to say in court. Unfortunately, my unprepared, incompetent, court-appointed attorney failed to follow-up on these startling admissions, and I was convicted. However, the conviction was overturned by the Court of Appeals because I had been denied my basic right to defend myself.

During my retrial in August 1989, Hisey again led Amber through the fabricated, rehearsed story that I had supposedly lain nude and motionless on top of her. The prosecution’s case was based on the argument that the alleged lying on top of Amber constituted sexual assault.

During cross-examination the truth came out. Amber tearfully testified that what prosecutor Hisey told her to say in court was not true and did not happen. She also testified she thought she had to keep falsely stating I had abused her or she would get in trouble.

Amber continued to maintain her recantation even under Hisey’s redirect examination.

Amber insists that after she left the stand that day, she was coached, intimidated and threat-

“I Put An Innocent Man Away” The Story of Jay Van Story’s Frame-up

By Jay B. Van Story

ened by her brother, Bowers, and DA Ware into going back the next day to again falsely testify that I had lain on top of her.

The jury convicted me of aggravated sexual assault based on Amber’s restatement of the very testimony she had recanted during cross-examination. I was sentenced to 15 years to life in prison.

My case wasn’t unique for DA Ware and Hisey, who have a well-documented history of coaching witnesses to lie in court.

A 1987 conviction against Zane Hamm was thrown out when an appeals court found that Hisey had intentionally used false testimony. On March 13, 2002, the Texas Court of Criminal Appeals unanimously reversed a 1988 capital murder conviction against Damon Jerome Richardson, citing Ware’s flagrant prosecutorial misconduct, namely the illegal withholding of exculpatory evidence. There is also extensive evidence of Ware’s solicitation of false testimony from three prosecution witnesses in the case.

Ware secured Richardson’s conviction only ten months before helping to secure mine. Amber’s recantation on Aug. 22, 1989 threatened to expose Ware’s ongoing prosecutorial crime spree.

But Ware’s rampant prosecutorial misconduct began to catch up with him. In October 1992, one of Ware’s investigators, Carrie McClain, resigned, citing “a lack of integrity and honesty” in Ware’s office. Also in late 1992, Lubbock County Forensic Pathologist Dr. Ralph Erdmann resigned after it was revealed that he had provided false testimony and fake evidence in numerous cases, often at Ware or Hisey’s behest. The county’s replacement pathologist, Dr. Jodi Nielsen, left in short order due to her discontent with Ware’s unethical ways.

In April 1994 Ware settled for \$300,000 a federal lawsuit that alleged he illegally retaliated against two honest Lubbock cops for them having spoken out about some of Erdmann and Ware’s misconduct. Both Lubbock’s *Avalanche-Journal* and the bilingual Hispanic newspaper *El Editor* called on Ware to leave office for the good of the community. Ware refused, but

he was defeated in the 1994 election.

There was a culture of corruption in the Lubbock County DA’s office throughout Ware’s 1987-1994 tenure.

However, the corruption continues because the Lubbock County D.A.’s Office claims to have “lost” their file for my case. This is not surprising considering it was their file in the Richardson case that provided the evidence of prosecutorial misconduct that resulted in his conviction being reversed.

Mattie B. Perez, a sister of Amber’s mother Dorothy Crecy, stated in her March 17, 2008 affidavit that Dorothy told her soon after the Aug. 1989 trial that, “Jay Van Story did not sexually assault Amber, but that she was ‘not going to lose her kids over it,’” and, “It was clear to me that she was referring to her fear that her children would be taken away from her if she did not testify against Jay Van Story at his trial.”

Dorothy’s sister Mary Mansker testified during an evidentiary hearing in Lubbock on July 17, 2009 that when Dorothy was on her deathbed in 1999 she told Mary, “Jay was not guilty.”

Amber’s other family members and relatives who were around during the time period in question have always insisted there was never any indication that I had abused Amber. There has also never been any physical or biological evidence that I sexually abused Amber. That is why the prosecution only alleged I had lain on top of her.

Amber told CPS investigator Bowers in 1987 that Robert was her sexual abuser, and that Jay Van Story had “never inappropriately touched me.”

An investigation by the Texas Innocence Network in my case discovered that Bowers was reprimanded for his work as a CPS investigator, and in 1991, he was either fired or asked to resign.

Prior to the hearing in 2009 two longtime highly-respected Lubbock psychologists thoroughly interviewed Amber, ran or reviewed extensive psychological evaluations of her, and examined the evidence in this case. Dr. Richard Lee Wall found that “the evidence available strongly reflects a quite high probability that Amber Crecy’s identification of the perpetrator of her sexual abuse at the age of 7 as being her brother, Robert, is an accurate report” and that it is “highly probable she fabricated the story that Jay

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Van Story was the perp.”

The main theory the prosecution used in their closing jury argument during the August 1989 trial to deceive the jury into falsely convicting me was that Amber had recanted in court only because she experienced “Stockholm Syndrome” as a result of being cross-examined by the alleged perpetrator in court. That theory has now been revealed to be a complete fraud, just like the rest of the State’s case.

Dr. Wall testified on July 17, 2009 that the prosecution’s theory of “Stockholm Syndrome” is “clearly not the case” and that it “can be ruled out now” because Amber “recanted at the age of nine, and she has more or less stayed with ... over 20 years.” Dr. Philip J. Davis also debunked the “Stockholm” theory.

During the July 2009 hearing the prosecutors attacked Amber for minor errors in detail, such as how old she was when she was allowed to go back home, and which one of Bowers’ co-workers was present at a particular interview twenty-two years before, when she was only seven. But as Dr. Wall testified on July 17, 2009, Amber has “done an amazing job... with the memory that she’s got, for the trauma that she went through” and “the general thrust of her story is consistent.”

The Lubbock D.A.’s Office has made much of the fact that it took almost twenty years for my lawyers to file a writ of *habeas corpus* in my case. I had no choice but to wait until Amber was old enough to come forward on her own and for the Texas Innocence Network to conduct a thorough investigation and prepare and file first a petition for a full pardon — which wasn’t granted — and then for lawyer’s working on my behalf to prepare a writ.

Bowers failed to tape his crucial first interviews with Amber on April 3-4, 1987. He failed to preserve his notes for even a short time. He failed to file his reports on time.

Dr. Philip J. Davis listed in his July 16, 2009 report the following generally accepted guidelines for obtaining reliable and valid information from children: “avoiding bias and exploring other possible explanations for the child’s report; video or audio taping all investigative interviews; asking open-ended questions to encourage narrative answers; avoiding pressure, coercion and suggestion; avoid using ‘play-fantasy’ techniques; and avoid reinforcing specific responses. Anatomical drawings and dolls

are generally not recommended as part of a forensically valid interview. They are controversial. ‘Good touch/bad touch’ questions are controversial and are not recommended.”

Extensive research over the last twenty-five years has proven that violating even one of these guidelines will often produce false allegations of child abuse. That Bowers violated every one of them when interviewing Amber on April 3-4, 1987 virtually ensured that the allegations that came out of those interviews would be false, just as Amber insisted they are in her sworn affidavit and her testimony.

Dr. Davis found in his July 16, 2009 report:

“The material I reviewed revealed the strong possibility of repeated, leading, suggestive or coercive interviewing and questioning of Amber. ... She has experienced guilt and shame for years regarding her false accusation of sexual abuse by Jay Van Story. She reported that she was encouraged to maintain her story regarding abuse by Mr. Van Story because she felt she was being threatened by authority figures that if she did not she would be permanently separated from her mother. I found her report to be credible. ... She has, in my opinion, nothing to gain from her present recantation, except to relieve her guilt for providing a false accusation and to begin to address her long-term depression.”

Amber also insists that after her medical exam proved the initial allegations were false, she was coached into going along with a drastically modified allegation that I had supposedly only lain nude and motionless on top of her.

Sometimes officials get it wrong. Look at the Tim Cole case out of Lubbock. Look at the 1999 Tulia drug cases, in which dozens were falsely convicted through false testimony. And in my case, it is even more obvious that officials got it wrong.

In 2000 Amber was recently married and had become a Christian when after I had been in prison for more than a decade she contacted me seeking my forgiveness for what she had done. In November 2001 she executed a sworn Affidavit describing how as a child she had been coerced to make the accusations and testify against me.

The Lubbock County D.A.’s Office is continuing to wrongly saddle Amber with a huge, undeserved burden. They are forcing her to continue to feel extremely guilty for having unwillingly helped DA Ware con-

vict a man she knows is innocent.

The injustice in my case is against both Amber and me. The mental anguish that Amber suffers each day is very real.

Amber’s courageous efforts to “unburden” her heart by trying to undo the false testimony she was pressured to give in court 22 years ago have not been successful. I remain imprisoned for a crime I didn’t commit as my legal case winds its way through the courts.

If you have any information about my case, particularly meetings between Amber and DA Ware in August 1989, or any person who coached her testimony, please contact my attorney David P. O’Neil, at (936) 435-1380, or e-mail him at, doneil@texasparole.com

Excerpts from Amber Crecy Pittman’s Affidavit of November 9, 2001

2. I provided testimony at the time that Jay Van Story was prosecuted for molesting me and I make this affidavit in the interest of justice.
3. When I was seven years old, my brother, Robert Bates, molested me by touching my chest and vagina.
4. Robert Bates told me to tell my mother that it was Jay Van Story who molested me. ...
5. I was scared of Robert Bates so I told my mother that Mr. Van Story touched me.
6. Mr. Van Story, on one occasion, was my babysitter, but he never inappropriately touched me.
7. My mother reported my false allegations to Child Protective Services (CPS). Roger Bowers and Connie Christian, investigators with CPS, came to my school, Stewart Elementary, in Lubbock, Texas. ... Mr. Bowers told me about the report and I told him immediately that my brother, Robert Bates, had molested me, and that Jay Van Story had never molested me. ...
10. My mother’s attorney, Johnny O’Shea, told my mother that she would never get me back if she did not cooperate with the CPS authorities and the prosecutors in convicting Mr. Van Story by corroborating the evidence against him.
12. I am coming forward with the truth at this time because my heart has been burdened by the fact that an innocent man is imprisoned because of my false testimony.