

Hidden Truths (cont.)

The (False) Confession

The confession is a fabrication made under the influence of crack-cocaine withdrawal and duress. The following is a brief summary of a report by a Richard A. Leo, Ph.D., J.D., Professor of Law, who conducted an independent review of my case material at the request of my attorneys. These are his findings:

Overview

It is my professional opinion that Mr. Gwynn's confession does not contain indicia of reliability. It does not contain any unique, non-public crime facts that were not already known to the detectives who interrogated him, and it is not independently corroborated by any physical, medical or other credible evidence. Instead, it contains crime-specific details only on those issues that the detectives knew about prior to interrogating Mr. Gwynn, and it is vague on issues that the detectives interrogating Mr. Gwynn did not know about. Moreover, Mr. Gwynn's confession narrative contains errors of fact and/or impossibilities that suggest that he was ignorant of the true crime facts and thus cast doubt on the confession's veracity. Because Mr. Gwynn's interrogation was not electronically recorded, there is no objective record of what occurred and therefore no way of ruling out that Mr. Gwynn was not educated about those facts that he got correct, phenomenon known as "contamination" that is not uncommon in police interrogations, especially those leading to false confessions. In my professional opinion, Mr. Gwynn's confession is not trustworthy evidence because it contains factual errors, indications that it was not made of personal knowledge, and lacks corroboration. I do not believe that Mr. Gwynn's confession reliably establishes or corroborates his guilt in this matter.

Mr. Gwynn's Statement Contains Indicia of Unreliability

Mr. Gwynn was convicted of first degree murder, arson and aggravated assault in 1995. The primary evidence against him was an incriminating police-written statement that he signed. There was no physical evidence linking Mr. Gwynn to the burned building or the victim, and there were no eyewitnesses to the fire.

I have reviewed the extensive materials in this case, and it is my professional opinion that the police-written confession statement that Mr. Gwynn signed does not bear indicia of reliability but instead contains multiple indicators of untrustworthiness.

First, Mr. Gwynn's statement does not contain any unique, non-public details that were not already known to the police prior to his interrogation. Because Dets. Mangoni and Dougherty failed to electronically record their interrogation, there is no objective record of what occurred during the interrogation that led to Mr. Gwynn's police-written statement, who said what to whom or what information was or was not provided to Mr. Gwynn. We therefore cannot rule out the possibility that Det. Mangoni suggested all the crime-specific facts contained in the police-written statement.

Second, this possibility supported by the fact that on those issues Det. Mangoni knew details about (the location at which the gasoline was poured and ignited, for example), Mr. Gwynn's police-written statement is very specific. By contrast, on those issues that Det. Mangoni did not know details about (for example, Mr. Gwynn's actions before and after the fire), Mr. Gwynn's police-written statement is vague. The issues about which Det. Mangoni did not have knowledge, such as Mr. Gwynn's actions before and after the fire, were never corroborated. And there's not a single fact about the fire in Mr. Gwynn's police-written statement that Det. Mangoni did not already know.

Third, Mr. Gwynn's police-written statement contains factual errors that reveal a lack of knowledge about basic crime scene facts as well as a description of events that would've been physically impossible, a classic indicator of a false or unreliable confession. Mr. Gwynn gets basic details of the building wrong. For example, Mr. Gwynn asserts that he exited the abandoned building by running down the stairs and out the door. However, this would've been physically impossible, because the door was boarded up.

Fourth, Mr. Gwynn's police-written statement contains statements that contradict or are not supported by existing physical and testimonial evidence, another classic indicator of a false or unreliable confession. I've already mentioned that Mr. Gwynn's account that he ran out the front door of the building is clearly contradicted by trial testimony that the front door was impassable. Another example is that Mr. Gwynn told the police that on the morning of the fire he went to the building, knocked on the door, and tried to apologize to the residence for the alleged quarrel that had occurred the day before, but that they would not accept his apology (he stated that the door was slammed in his face). However, all of the surviving squatters denied seeing, hearing or speaking to Mr. Gwynn or the person they identified as the perpetrator (i.e., "Rick") prior to the fire.

Fifth, Mr. Gwynn's police-written statement is internally inconsistent, another classic indicator of a false or unreliable confession. For example, in his police-written statement, Mr. Gwynn gives three accounts of how he started the fire. The first and third accounts of how he lit the fire (that he started the fire on the third floor) are inconsistent with the second account (that he started the fire on the first floor) which is inconsistent with all the evidence (all of which indicates that the fire

started on the third floor). It is significant that in the written confession it is clear that the detectives moved Mr. Gwynn from an incorrect account (fire starting on 1st floor) back to an account they knew to be correct (fire starting on 3rd floor).

Finally, it is striking that there is no record of any police investigation of the crime after the taking of Mr. Gwynn's statement. Mr. Gwynn's statement is surprisingly vague on details as confessions go, especially in light of the seriousness of the crime. Nevertheless, the Detectives did not appear to confirm any of the details present in Mr. Gwynn's police-written statement. This kind of post-confession presumption of guilt, often accompanied by both tunnel vision and professional laziness, is also common in cases involving false and unreliable confessions.

Because the detectives failed to electronically record Mr. Gwynn's interrogation, there is, of course, no objective record of the questioning session that may have led to a false confession. Even in the absence of a record of what occurred during the interrogation, however, we can still identify several risk factors for false confession that were present in this case. Mr. Gwynn's interrogation and detention were lengthy. Mr. Gwynn was held for seventeen hours and had been interrogated for at least three hours of that time. Mr. Gwynn was interrogated 14 hours after his arrest, and he spent much of that time handcuffed to a chair in an interrogation room. He was a long term cocaine addict in the throes of severe withdrawal, and the associated symptoms. In addition, he suffered from profound mental illness, including hallucinations, depression, borderline personality disorder, and post-traumatic stress disorder. The combination of drug withdrawal and mental illness, under conditions of accusatory interrogation, likely led Mr. Gwynn to experience distress, anxiety, confusion, fatigue, tension, possible hallucinations, and impaired cognitive and social functioning. All of these factors suggest that Mr. Gwynn, at the time of his interrogation, was in a state that left him overly prone to compliance and confabulation, and that he was especially vulnerable to pressures and physical and psychological states that are known to elevate the risk for making or agreeing to a false or unreliable confession.

Conclusion

In my professional opinion, Mr. Gwynn's police-written statement does not bear indicia of reliability but, instead, contains multiple indicators of untrustworthiness. In sum, because of the lack of any indicia of personal knowledge of non-public or unique crime facts, our inability to rule out the possibility-- if not the probability-- of contamination, and the presence of factual errors and physical impossibilities in Mr. Gwynn's post-admission narrative, I do not believe that Mr. Gwynn's police-written inculpatory statement reasonably supports a judgment of guilt.

(Summary of Report by Richard A. Leo, Ph.D., J.D., Prof. of Law-- Re: Com. of Pa. v. Gwynn, July 1, 2011)