

FUNDAMENTAL FAIRNESS DENIED (Part One of Three)

The American Criminal Appellate Process is not designed to determine guilt or innocence. Instead its purpose is to determine whether a fair and impartial trial was administered...

Over thirty years ago when I was placed under false arrest, tried, convicted, and sentenced to death for premeditated murder in a kangaroo court. Not many perceived the Internet would become the social media source it is today. A media source which now allows me to prosecute the evidence of racketeering by a faction within the legal community guilty of obstructing justice throughout both the trial and appellate process. Evidence which shows how this criminal faction operating within the legal community did and continues to work collusively to suppress and oppress the evidence of my innocence of any kind of murder.

Over these next few blog entries I will relate the facts of my ordeal in the failure to obtain justice from a legal system stacked against me. As they abused the law to impose a facade of legal representation on me to insure the story they wanted told was told. Criminal actions on their part that began over thirty years ago when they could more easier get away with such conduct without fear of ever being prosecuted. This blog allows me to create a court of public opinion to help prosecute these criminals as you become aware of the evidence of how I have been held falsely imprisoned for over thirty years under a sentence of death. Forced to live a life of daily torture confined to a solitary cell fighting for my life, vindication and freedom...

On the night of October 18, 1982, when Butch the adult son of my girlfriend Barbara was killed. Butch and I had been drinking beer together and on our way home, until we were separated when the male of the couple Butch was sharing the upper floor of his

mothers duplex with called to him from down the street. We both turned, but only Butch headed up the street as I went back into the Bar we had just exited from to get some matches. I was not in the bar very long, maybe a couple of minutes, but when I exited the bar I didn't see Butch, or his roommate. Even so, I started walking in that direction since I could see Butch's roommates truck parked in a vacant field. As I stepped off the curb of the alley behind the bar I was struck on the back of the head and came to lying in the alley with my back against the back wall of the bar. My nose had been broken and was bleeding profusely from both nostrils. When I got to my feet I noticed the pickup truck was no longer parked in the vacant lot and for some reason I felt whoever had attacked me had headed in the direction of the bar. Butch and I had been at earlier that night where I broke up three consecutive fights between Butch and another male. I felt the reason I had been ~~ambushed~~^{ambushed} was due to that incident. When I reached the back of the ~~bar~~ building where the bar was located my nose was still bleeding profusely from both nostrils and I was covered with blood. As I stood there trying to stop the bleeding a young woman I knew as Laurie, exited the back door of the bar and noticed me. We spoke and she told me of a washroom directly up the stairs from where we were standing. As I was in that washroom, I heard footsteps coming up the stairs and head down the hall to stop and knock on a door. I then heard what sounded like laughing at a comment of Butch being a dead man. When it got quiet I rolled up pieces of brown paper towel and stuffed them up my nostrils to stop the bleeding and decided to run back to the other bar to see if Butch was there. When I got there I looked in the windows, but didn't see him, and when I looked down the street for his roommates truck a fire truck with flashing lights appeared. So I decided to walk home. I had not walked very far when Butch's roommates pulled up

and asked me if I wanted a ride. I asked where Butch was and they said they didn't know as the subject got changed to what happened to me. As I was telling them they told me it wasn't their truck parked in that vacant lot, and they hadn't seen Butch since we left the bar he had been fighting at. I knew they were lying, since I seen them dumping the refuse from the duplex we had loaded onto their truck the day before. Only when I looked the refuse was still piled high on the back of the truck. So I didn't argue the point. When we got to the duplex the first thing I did was ask Butch's mother Barbara if Butch was there. She told me no, and asked what had happened to me as I began to clean up. I told her, and shortly afterwards passed out on our bed to be awoken by a man pointing a pistol at my head asking me my name. I told him and he said I was under arrest or murder. Strangely I was not alarmed as I assumed Butch had followed through on his threat to kill the guy he had been fighting with earlier, and the police wanted to know if I was involved. It wasn't until after I conveyed the events of the night to the detective who had rousted out of my bed that I learned Butch was dead. As he called me a liar and told me I was being charged for Butch's murder. Telling me four eyewitnesses positively identified me as the person they seen kill Butch. That I had his blood all over me and the couple who picked me up said I confessed to them and asked them to provide me with an alibi. I immediately told the detective none of that was true, and to do what he had to do, but to get it right, because I did not kill Butch!

For awhile after my false arrest I was experiencing shock from the events taking place, and also believed I was suffering from a major concussion from the attack that night. Nothing made sense to me as I was being told the evidence was

Overwhelming as to guilt, and all I could say was that none of the evidence was true, because I did not kill Butch. Even so at one point I began to question my sanity as I was being told I was drunk and may have been in a blackout since my repeating none of the evidence was true did not explain it away. It wasn't until Barbara, Butch's mother came to see me at the jail that I began to snap out of the fog I was in. When I told Barbara, I did not kill Butch, she told me she knew in her heart I did not kill her son. She also told me she would reduce the asking price on the duplex which was already on the market before Butch was killed, and use the money to hire a private attorney, which was good news since none of the court appointed attorneys were helping me to disprove the evidence.

After Barbara and I spoke at the jail. The judge made a big deal out of why I needed to waive my speedy trial rights to give the attorney she had appointed to represent me time to prepare my defense. I waived my speedy trial rights, and a few short months later when Barbara was about to close on the sale of the duplex. The judge forced me to stand trial with the totally unprepared attorney she had appointed to represent me. The attorney told me the only way the judge would grant me a ~~continuance~~ ^{if} continuance is if I changed my plea from innocent to temporary insanity. I refused to do that and it no longer mattered the attorney was unprepared, he was being forced to represent me as my trial began that day. Without full discovery he had to take depositions of the eye-witnesses that day as well.

When I learned the eyewitnesses had made their identification of me as the person they seen kill Butch, from a five man photo spread. I asked the attorney to show me the photo spread. To my surprise he did, and immediately asked him to file a motion to suppress the eyewitness identification due to what

was clearly a highly suggestive photo spread. I was sure the judge would have to grant a continuance. As I was the only photo of a male with a dark complexion, black beard, messed up black hair, blood shot eyes, and an unnatural facial expression. While the other four photo's were of white men who looked normal with neatly combed ~~brown~~ brown hair and beards. To my astonishment the judge ordered the hearing to take place that day.

Only two of the four eyewitnesses were called to testify during the hearing to ~~try~~ suppress their photo spread identification. One eyewitness admitted she could not positively say I was the person she seen that night. The other eyewitness remained adamant I was the person she seen. The detective who constructed the photo spread testified too, stating he done the best he could to make the photo spread fair. The judge ruled even though the photo spread was somewhat suggestive she would only dismiss the one eyewitness and accept the testimony of the other three even though two of them were not examined at the hearing to suppress.

Okay, it is important at this time to note the misconduct that took place which prevented me from showing how these eyewitnesses were deceived into identifying me out of the photo spread as the person they seen kill Butch.

Number One: The first police officer on the scene of the murder took collective statements from the four eyewitnesses, yet this police officer was not listed on demand for discovery and his police reports were not turned over either. So my attorney was unable to confront the eyewitnesses with the evidence that showed they all initially ^{stated} with certainty the person they seen commit the murder was white with brown hair, and no mention of a full beard. Which means three of the four eyewitnesses changed their description of the person they seen 180

degree's after viewing the highly suggestive photo spread. Something my attorney was unable to point out at the hearing to suppress the eyewitness identification, or at trial. Which is important since my attorney was unable to point out the significance of the prejudicial influence the withholding of the eyewitness initial statements had in adversely affecting the outcome of the trial. Meaning I was made to appear overwhelmingly guilty!

Number Two: The eyewitness who testified during the hearing to suppress the highly suggestive photo spread and at the trial initially stated to the first police officer on the scene of the murder that she was certain the person she seen commit the murder was a white male with brown hair. This information was not turned over on demand for discovery. So the judge and jury never heard how the withholding of these facts prevented my attorney from discrediting the eyewitness testimony. Later this eyewitness drew a composite drawing of the person she seen commit the murder for a detective who was not listed on the demand for discovery. The composite drawing by this eyewitness was also never turned over on demand for discovery and even turned up missing. This eyewitness was the mainstay of the prosecutions case. Which means maintaining her credibility was needed in order to obtain a conviction!

Number Three: The detective who constructed the photo spread, also took tape recorded statements from three of the eyewitnesses. In which they describe the person they seen commit the murder as being white with brown hair, and no mention of a full beard. These tape recorded statements were not turned over on demand for discovery allowing the detective and eyewitnesses to pretend the statements never existed. Meaning the detective and eyewitnesses would not be subjected to true adversarial testing. Since the evidence they changed their description of the

person they seen after viewing the highly suggestive photo spread was concealed from the defense (me).

Number Four: The prejudice of not having access to the initial eyewitness statements is compounded by the fact their initial description fit the male of the couple who were roommates with Butch, and initially denied having any knowledge of the murder to the police. Later changing their statements to say I admitted killing Butch to them and asked them to provide me with an alibi. Which means I was prevented from developing this couple as the ones who killed Butch. All because of the misconduct in concealing the initial eyewitness statements describing the person they seen kill Butch.

Number Five: The prosecuting attorney's have the duty to turn over all the evidence to the defense on demand for discovery and even if the police withhold evidence from them they are still held accountable for the misconduct. The prosecutor told the judge and jury over ten times in his closing arguments that not once did they hear the eyewitnesses waiver or vary in their description and identification of the person they seen commit the murder. The prosecuting attorney was able to get away with this, because the evidence that does prove the eyewitnesses did waiver and vary was concealed in order to obtain a conviction. A false conviction which reveals prosecutorial, as well as judicial misconduct that extends to a criminal enterprise of racketeers working collusively to obstruct justice.

(MORE DAMNING EVIDENCE OF THESE)
RACKETEERS IN PART TWO