

FALSE CONFESSIONS BY PERSONS WITH MENTAL RETARDATION AND SIMILAR DISABILITIES: 1975-2000

By Robert Perske

In Press: *InSight Magazine*, June)

The following is an annotated list of people with cognitive disabilities who confessed to serious felony crimes -- and were exonerated later. Each annotation includes the name of the confessor, the state and year in which he or she made the false confession.

- 1. MURDER BY THERMOSTAT. Eunice Baker (New York) 1999.** Baker, A 23-year-old woman "with IQ tests in the 70s," was hired to baby sit for a 3-year-old child on a hot summer night. The child died in her bedroom from hyperthermia. A state trooper coerced Baker into confessing that she willfully killed the child by turning up the thermostat. At trial, she failed to show how to adjust a thermostat. Also, a technician described an electrical short in the home's heating system. Even so, Baker was convicted of 2nd degree murder for failing to react properly to the overheated situation. After almost five years behind bars, the murder conviction was thrown out.
- 2. MURDER OF A BABY THAT NEVER WAS. Victoria Banks (Alabama) 1999.** While in jail awaiting trial for a minor crime, Banks claimed to be pregnant and was released. Later a sheriff asked her about the baby and she told him it had died. Banks, her husband, Medell, and her sister, Dianne Tucker, underwent intense questioning over five days. Then the three, all "with mental retardation", confessed to murdering the baby and they were charged with capital murder. Later, it was discovered that Victoria had undergone a tubal ligation four years earlier and was unable to have children.
- 3. MURDER OF A BABY THAT NEVER WAS. Medell Banks (Alabama) 1999** See annotation #2.
- 4. A MURDER THAT NEVER OCCURRED. Leonard Barco (New Jersey) 1985.** This man's girlfriend was found dead in her car. Bruising on victim's neck and chest led investigators to believe she had been strangled. After interrogation, Barco, "with IQ 57", confessed to beating her to death with a stick. He spent eight months in jail awaiting his trial. Finally, his public defender called for a reexamination of the body and found she had actually died from a lethal level of alcohol. The bruising was consistent with injuries typical of alcoholics. The murder charges were dropped.
- 5. SAVED BY DNA. Corethian Bell (Illinois) 2000.** After his mother was murdered, Bell, "a man with mild retardation," was submitted to over 50 hours of questioning before he confessed. DNA evidence exonerated the man after 17 months in jail.
- 6. SAVED BY DNA. Melvin Bennett (North Carolina) 1990.** A seven-year-old girl was raped and murdered, and Bennett, a man "diagnosed as mentally retarded," confessed to both crimes. Finally, DNA evidence excluded him as the perpetrator. Bennett spent two years in custody before a jury acquitted him.
- 7. SAVED BY DNA. Keith Brown (North Carolina) 1991.** A woman was raped. Brown, a man "who is mentally retarded," confessed and accepted a plea bargain of 35 years. After spending six years in custody, DNA exonerated him. The same DNA evidence implicated the true perpetrator.

BEATEN INTO CONFESSING. Timothy Brown (Florida) 1991. A sheriff's deputy was murdered in his patrol car. Brown, age 15 "with an IQ of 57," was arrested, shackled to the floor, beaten and threatened with the electric chair until he confessed. No physical evidence tied him or a 17-year-old confessing friend to the crime. A confidential informant provided evidence that another sheriff's deputy admitted to the murder.

SAVED BY DNA. Jacob Allen Chestnut (Maryland) 1998. A man was stabbed to death. The police observed a fresh cut on the hand and blood on the clothes of Chestnut. After 15 grueling hours of questioning, the teenager confessed to the murder. After six months in jail, DNA testing excluded him as the real perpetrator.

10. CLEARED WHEN REAL KILLER CONFESSES. Antwon Coleman (Missouri) 1990. A homeless man was beaten to death and Coleman, 17, confessed to the murder. According to his lawyer, Coleman, a teenager "with learning disabilities," would have "confessed to anything." Five teenagers were charged and held in custody for six weeks. They were released after one of the true perpetrators pled guilty.

11. RUSSIAN ROULETTE GOES WRONG. Ricky Cullipher (Virginia) 1996. Cullipher was "hanging out" with friends when one of them was crippled from a wound to the head. Everyone in the room told investigators the victim shot himself, but the victim claimed Cullipher did it. After hours of intense questioning, the "16-year-old, learning disabled" Cullipher confessed and was convicted. Later, the victim was caught on videotape saying he actually shot himself during a game of Russian Roulette. A judge overruled the conviction and the state refused to retry the case.

12. BYSTANDER SPEAKS UP. Gerald Delay (Kansas) 1992. The victim was shot with an antique ball-and-cap pistol. The killers pulled the victim's teeth, cut away his tattoos, lashed him to a steel beam and threw him into the river. After his body was recovered, Delay, "a man with mental retardation" confessed to the crime. Finally, a bystander to the shooting overcame his fear and spoke to the police about what really happened. Charges against Delay were dismissed.

13. MAN DESCRIBES OWN ARREST AND INTERROGATION. Michael Fitzpatrick (New York) 1991. This man "with autism" was questioned for a bank robbery. Although no record was made of his interrogation, he signed a confession. Five months later, the true perpetrator confessed. Interestingly, Fitzpatrick, a man with remarkable weaknesses and strengths, used his uncanny knack for recall. He wrote a six-page report of all that went on between him and the interrogating police chief. He stated in his report that the chief "told me that he would talk to me like a father to a son. So I said, 'Okay, Dad.'"

14. SAVED BY DNA. Michael Gayles (Michigan) 1992. Gayles, 18, with "an IQ of 71" underwent 36 hours of interrogation before confessing to the rape and murder of a 12-year-old girl. He signed a typed confession that he could not read. Two weeks after his arrest, DNA evidence exonerated Gayles and he was released.

15. FREED AFTER REAL PERPETRATOR CONFESSES. Anthony Gray Jr. (Maryland) 1991. Police interrogators convinced this man "with learning disabilities and borderline mental retardation" that two other suspects implicated him in the rape and murder of a woman. So in his compliant way, he confessed to being their "look out." Gayle spent six years in prison before the real perpetrator confessed to the crime.

- 16. SAVED BY DNA. Paula Gray (Illinois) 1978.** Police brought in this 17-year-old "with mental retardation" for questioning based on a tip. After two nights of intense questioning, Gray confessed that she was with four men who abducted a man and woman, raped the woman, and killed them both. Under pressure, she fingered four men as perpetrators. All were convicted. Seventeen years later, DNA revealed that Gray and the four men were innocent. The same evidence implicated the real perpetrators who eventually confessed.
- 17. SAVED BY DNA. Alejandro "Alex" Hernandez (Illinois) 1984.** This 20-year-old man was questioned for a break-in, abduction, rape and murder of a ten-year-old girl. Hernandez, "whose IQ had been measured at various times in the mid-and-low 70s," under tremendous pressure, he finally exclaimed, "All I did was hold her down." After 12 years on death row, DNA identified the real killer.
- 18. FREED AFTER REAL PERPETRATOR CONFESSES. Charles King (Illinois) 1992.** After a nine-year-old girl was strangled, King, a man with an "IQ of 57" was questioned for three days and then signed a confession he could not read. Once in jail, he kept asking for his crayons and coloring books. After a year and a month of incarceration, the real killer confessed and King was released.
- 19. SAVED BY DNA. William M. Kelly Jr. (Pennsylvania) 1990.** The police claimed that "mildly retarded" Kelly told them things about the rape and killing of a woman that only the killer could know, and Kelly led them to the murder site. Later, DNA excluded Kelly as the killer and identified the real one. Kelly was released after three years in prison.
- 20. SAVED BY DNA. Barry Laughman (Pennsylvania) 1987.** In 1987, this man "with an IQ of 70" was convicted of raping and murdering an elderly woman. After a state trooper convinced Laughman that his fingerprints were found at the murder site, he confessed. After 16 years in prison, DNA evidence excluded Laughman as the killer.
- 21. SAVED BY DNA. Calvin Ollins (Illinois) 1986.** This 14-year-old "with an IQ between 65 and 70" was one of four teenagers who confessed to raping and murdering a medical student. The investigators said that if he signed the confession paper he could go home. He signed. After 15 years in prison, DNA excluded him as the perpetrator.
- 22. SHORTEST CONFESSION EVER. Brian Oltmanns (South Dakota) 1992.** Oltmanns, 28, was unconscious when he was rescued from an apartment building fire that also killed two elderly apartment dwellers. Oltmanns, "with cerebral palsy and mild retardation" was hospitalized for three weeks for carbon monoxide poisoning, smoke inhalation and burns. Later, Oltmanns was questioned under pressure until he scrawled a sentence on a paper that said, "I accidentally started the fire with lighter fluid and match." No evidence tied him to the crime. Even so, he was charged with two counts of first degree murder, two counts of second degree murder and arson. Two years later, the court threw out the confession.
- 23. A MILE FROM THE CRIME. Don Olmetti (Illinois) 1997.** A teacher was murdered. Police picked up 16-year-old Olmetti after receiving a tip. The teenager "who is borderline mentally retarded" was questioned by the police for 18 hours before confessing to the crime. Teachers at another school one mile away certified that Olmetti was present with them at the time of the crime. After two years in jail, the charges were dropped.
- 24. SAVED BY DNA. Ronald Paccagnella (Wisconsin) 1995.** A 78-year-old woman was raped and murdered. Canvassing police found bloodstained clothing in the boarding house

room of Paccagnella, "a man with an IQ 61," and was taken in for questioning. As pressure mounted the man asked if he could go home if he apologized to the victim. He spent ten months in jail before DNA testing showed that the blood on the clothing was his own. A month after Paccagnella's release, the real killer was identified and convicted.

25. FEVER FOR A CONFESSION. Melvin Reynolds (Missouri) 1979. On May 26, 1978, a 4-year-old child was carried away and murdered. Then came a tip that Reynolds, 25, a man with "mild mental retardation" could be the killer. The police did everything possible to get "the right words" out of Reynolds -- included two polygraph tests, hypnosis and sodium amytal injections. Seven months later, Reynolds was brought in for a marathon interrogation that lasted 14 hours. "Reynolds finally looked up like a dog with his ears pressed against his head and said, 'I'll say so if you want me to.'" The next day, the chief called a press conference and announced that the case was solved. Reynolds was convicted. Four years later, a serial killer -- discovered by a FBI agent -- confessed to the child's murder before a judge. Reynolds was released, but the chief refused to accept the exoneration. Being a political power, he pressured the FBI to transfer the agent who had upset his strong beliefs. The agent was transferred from Missouri to Hawaii.

26. A SPRING BREAK MISFIRE. Donald Shoup (Florida) 1996. On a Friday in March, a Canadian student on spring break was fatally shot in the back of the head. On Saturday, the police picked up odd, loquacious, happy-go-lucky, beach-loving 18-year-old Shoup. By 3:00 a.m. on Sunday morning the police received a full confession. When the police gave the confession to the media it was learned that Shoup had "an I.Q. of 62." Three weeks later, the real shooter and two accomplices were charged with murder. Even so, Shoup was not released until August.

27. SAVED BY DNA AFTER 22 YEARS. Jerry Frank Townsend (Florida) 1979. His defenders called him "a human parrot." When he was questioned about the murders of six women, 38-year-old Townsend, a man "with an IQ of 56," confessed to all of them. A judge ordered his release after DNA evidence excluded him from all murders. Now 50, his defense lawyers claim he confessed to detectives "because he wanted to please them."

28. MURDER OF A BABY THAT NEVER WAS. Dianne Tucker (Alabama) 1999. See annotation #2.

29. SAVED BY DNA. David Vasquez (Virginia) 1984. On January 4, detectives approached Vasquez, 37, "a man with mental retardation," while he was cleaning tables at a McDonald's restaurant. They asked him to come to headquarters with them. With a tape recorder running, the detectives described to Vasquez the murder of a woman who had been raped and strangled with a venetian blind cord. Finally they confronted him and told him they had evidence to show that he was the killer. Too naïve to believe that policemen would lie, he broke down and cried for his mother. Three intense interrogations took place. During the third one, he went into a dreamlike state. His meek, pleading voice became low-pitched and steady as he described how he killed the woman. Later, the police connected the crime to the real perpetrator with the first successful use of DNA testing. Vasquez received a pardon on January 4, 1989, five years to the day after the detectives approached him at McDonald's.

30. SAVED BY GOOD NEIGHBORS. Delbert Ward (New York), 1990. The four "Ward Boys"—William, 67, Delbert, 59, Lyman, 62, and Roscoe, 70—were "illiterate and mentally retarded." They operated their farm like their deceased father did many years earlier. That

is, until Lyman died in his bed and Delbert was taken to a state trooper barracks and forced to confess to killing him by somehow putting his hand over the mouth and nose of his brother. The neighbors rejected the services of a court-appointed lawyer, took up collections and gained the services of a skilled criminal trial lawyer. During the trial, the neighbors packed the courtroom. The jury voted for acquittal.

- 31. SAVED BY DNA. Earl Washington, Jr. (Virginia) 1983.** This 23-year-old man "with mental retardation" took the blame for every crime the police mentioned. They included three break-ins, two malicious woundings, an attempted rape, two actual rapes, two robberies, burglary and capital murder. He was tried for capital murder and was sentenced to death. In 1985, Washington was only days away from execution when a fellow death row inmate sounded the alarm that Washington was about to die without a lawyer. For the next 17 years, a group of lawyers and citizen advocates battled for his life. Finally a series of DNA tests (some hidden by the state) showed that Washington was innocent. The story of that battle now appears in a gripping nonfiction book, *An Expendable Man: The Near Execution of Earl Washington, Jr.* by Margaret Edds.
- 32. CLEARED WHEN REAL KILLER CONFESSES. Robert Wilkinson (Pennsylvania) 1975.** A home was firebombed. Five people died. Wilkinson, "a man who is mentally retarded" was "stomped," beaten with a blackjack and told he would never see his wife and child again. After 15 months in jail, a judge threw out Wilkinson's confession, finding that he signed a confession he could not read. Later, a neighbor confessed to the crime.
- 33. PARDONED BY GOVERNOR. Johnny Lee Wilson (Missouri) 1986.** A 79-year-old woman was burned alive in her home. Based on a tip, the police interrogated Wilson, a 20-year-old with "organic brain damage and mental retardation." A tape-recording of the interrogation shows how detectives blatantly spoon-fed the words they wanted him to say. Then a judge unwittingly scared Wilson into pleading guilty by telling him that if he went to trial he could be sentenced to death. Wilson pled guilty. Later, the real killer, doing time for a similar murder in Kansas, confessed to the murder of the woman in Missouri. Still later, the governor pardoned Wilson. In his pardon, he said, "It is evident that the only facts this mentally retarded man knew about this hideous crime were the facts given to him by investigators who felt pressure to solve the case quickly."

* * * * *

I am grateful for numerous information interchanges with professors Steven Drizin and Richard Leo, the authors of the recent groundbreaker, *The Problem of False Confessions in the Post-DNA World* (North Carolina Law Review, March 2004, Vol. 82, No. 3).

Scholars seeking the references that support these cases may request them by emailing Rperske@aol.com.