

A State of Denial:

Texas Justice and
the Death Penalty

Texas Defender Service

Richard Wayne Jones

Richard Jones, a borderline mentally retarded ex-convict with an I.Q. of 75, apparently confessed to a murder he did not commit to conceal his sister's involvement in the same offense. On the night of the murder, Jones's sister Brenda told him that she and Walt Sellers had committed the crime and begged Jones to help her conceal it. Jones set the field on fire where the body lay. Arrested in possession of some of the victim's property, Jones initially told the police Walt Sellers had given it to him. Once the police threatened to prosecute his girlfriend for capital murder if he did not confess, Jones changed his story and claimed sole responsibility for the crime.

I. Key Facts

- A. Jones originally told police he had obtained the victim's car, credit cards, and checks from Walt Sellers, an ex-convict with prior convictions for stealing the same kind of property. Three other witnesses made sworn statements prior to Jones's trial that Sellers had items belonging to the victim and was trying to get rid of them before Jones was arrested with that same property in his possession. These witnesses did not testify at Jones's trial. After the trial, two other witnesses gave sworn statements that they heard Sellers implicate himself in the murder.
- B. Jones had an I.Q. of 75 and was borderline retarded. He was uniquely devoted to his sister Brenda, because she had been his sole ally and confidante in the violently abusive household in which he was raised.
- C. Three eyewitnesses, a mother and her two daughters, saw the victim abducted. The mother's description of the assailant did not match Jones, and her teenage daughter did not identify Jones in a lineup. Police intentionally omitted this fact from their report concerning the lineup.
- D. Jones's pregnant teenage girlfriend, Yelena Comalander, was arrested the night after the murder trying to cash the victim's checks. She was interrogated for hours and threatened with prosecution for capital murder before signing two statements implicating Jones. She later said police changed things she said when writing them down.
- E. Jones was arrested the same evening and interrogated for 12 hours. He was allowed no food or sleep. His interrogators threatened that he and his girlfriend would go to death row and their baby would be taken from them if he did not confess. After 21 hours of interrogation, including a trip to the crime scene, more threats, retrieval of his denim jeans and brown plaid shirt, Jones signed a confession. He had second thoughts about doing so but was told that his girlfriend would be released if he signed.

- F. Jones's "confession" claimed he took the victim straight from the abduction to the field, a distance easily driven in just a few minutes, and killed her immediately. A witness who lived next to the field, however, heard screams coming from the field more than two hours after the abduction. That fact was not known to the police at the time they extracted Jones's "confession."
- G. Two tiny spots of blood were found below the knee on Jones's jeans. The crime lab found no blood whatsoever on his shirt. The victim had bled to death after being stabbed nineteen times in the upper body, one of the wounds severing her carotid artery.
- H. DNA testing of previously untested evidence from the crime scene and the victim's vehicle was requested prior to execution and denied by the courts and by Governor George W. Bush.

II. The Crime

The badly burned body of Tammy Livingston, abducted earlier in the day in her own vehicle from a department-store parking lot, was found on the night of February 19, 1986. She had been stabbed 19 times before the field where her body lay was set on fire. The next day, nineteen-year-old Yelena Comalander was arrested while trying to cash checks belonging to the victim. After police interrogated and threatened her, Ms. Comalander eventually said she had obtained them from Richard Jones. Jones was arrested that evening and was subjected to a long and threatening interrogation until he signed a confession.

III. The Trial

The adult eyewitness originally gave a description of the parking-lot assailant that differed from her testimony at Jones's trial. Although her teenage daughter did not pick Jones out of the same lineup, that information originally was concealed by the police and the daughter was never brought before the trial jury. The circumstances of Jones's confession were suspect; one of the interrogating officers even admitted in pre-trial testimony that Jones had been threatened, but retracted that testimony after an overnight recess during which he consulted with the prosecutor. The police never investigated Walt Sellers as a suspect, despite the fact that Jones originally gave them his name and that Sellers had convictions from 1985-87 for stealing the same kind of property. Police arrested Sellers one month after the murder with a dagger in his possession, but destroyed the dagger without subjecting it to forensic testing.

The physical evidence tended to corroborate Jones's initial assertion of innocence, since there were only tiny traces of the victim's blood on the clothes Jones had been wearing that night. Three witnesses, unavailable at the time of trial, stated under oath that Sellers had the victim's property before Jones did. Though a substantial amount of physical evidence was collected from both the interior of the victim's car and the field where she was murdered, much of it was not

subjected to any forensic testing at all, even the less sophisticated testing available in 1986. In fact, crime lab documents reflect that a number of planned tests were foregone on the direct orders of the investigating detective who had obtained Jones's confession. Largely on the basis of his confession, Richard Jones was convicted and sentenced to death.

IV. Appeals

Jones's trial attorney originally represented him in his post-conviction appeals. When subsequent counsel sought to challenge trial counsel's performance at trial, the original lawyer sided with the State, filing an affidavit so unbelievable that even the Fifth Circuit later remarked that it was impossible to reconcile his claims with undisputed facts on the trial record. The trial court refused to grant a hearing on whether trial counsel had performed properly, instead adopting wholesale a set of "findings" penned by the prosecutor. No federal court agreed to hear evidence, despite the fact that while the case was pending in federal court, two witnesses came forward to state under oath that they had heard Walt Sellers implicate himself in the murder. Both the courts and Governor Bush refused to authorize DNA testing that could have confirmed Sellers's involvement in the crime.

V. Conclusion

Richard Jones was executed on the basis of a coerced confession that was inconsistent with the physical evidence and the time line of events following the victim's abduction. The jury that condemned him never heard that three other witnesses had given sworn testimony corroborating Jones's claim that he received the victim's property from Sellers in the first place, or that one of the eyewitnesses to the abduction did not believe Jones was the assailant or identify him as such. After trial, despite the existence of additional sworn testimony implicating Walt Sellers as the killer, the courts and the Governor refused to permit DNA testing – which did not exist in 1986, at the time of the original investigation – of available evidence which could have corroborated Sellers's involvement in the murder.

The State of Texas executed Richard Jones on August 22, 2000.

For more information on Mr. Jones's case, see Dan Malone, A Question of Guilt, Dallas Morning News, Aug. 3, 2000; and the court files in: Jones v. State (CCA No. 69,894); Ex parte Jones (CCA No. 25,990); Jones v. State No. 05-91-00997 (Tex. App.-Dallas, 1992).