

COX, Robert Craig (W/M)
DC# 113377
DOB: 10/06/59

Ninth Judicial Circuit, Orange County, Case # CR88-364
Sentencing Judge: The Honorable Richard F. Conrad
Trial Attorneys: Patricia Cashman & Kelly Sims, Assistant Public Defenders
Attorney, Direct Appeal: Larry B. Henderson, Assistant Public Defender

Date of Offense: 12/30/78
Date of Sentence 10/06/88

Circumstances of the Offense:

On 12/30/78, 19-year-old Sharon Zellers disappeared after leaving work at Walt Disney World. On 1/3/79, her abandoned car was discovered in an orange grove in Orange County. The following day, her body was discovered fully submerged in a sewage lift station located in close proximity to the orange grove. Ms. Zellers' body was heavily decomposed, and she was identified by her dental records. A medical examiner testified that she died from blunt force trauma to the head and reported that she had received 14 separate head wounds. Despite Ms. Zellers' injuries, the examiner reported that she probably lived 20-30 minutes subsequent to the attack.

The law enforcement investigation led detectives to question Robert C. Cox. Cox and his parents, who lived in California, were vacationing in Orlando. They were staying at a Days Inn, which was located 340 feet from the sewage lift station where Ms. Zellers' body was discovered. Cox's mother had called the hotel security on 12/30/78, because her son had returned to the motel and was bloody around the face and mouth. A portion of his tongue had been severed off, and he was unable to talk and had to communicate by writing. Cox then passed out and was transported to the emergency room by an ambulance. Emergency surgery was performed on Cox to repair his damaged tongue.

Cox made a statement to officers on 1/19/78, two weeks after the incident, and claimed that he was injured during a fight at the local skating rink, Skate World. He stated that there was a fight involving of eight people, four blacks and four whites, outside of the skating rink. Cox claimed that after he was hit in the face, he bit his own tongue. He claimed that he then got into his own car and left the scene. He claimed that he could not find the hotel, so he went back to Skate World, where a Good Samaritan picked him up and dropped him off at the hotel.

Detectives found three loose hairs in the victim's car that were consistent with Cox's chest hair, and type-O blood, which is the same type as Cox's but not the victim's.

A military-type boot print was discovered inside Ms. Zellers' car. Cox was in the U.S. Army at the time of his arrest and was wearing that type of boot when treated at the hospital. A match, however, was never made linking the two prints together.

The State claimed that, although the evidence was circumstantial, it pointed to Cox as the perpetrator. The State argued that Cox's claim that he was in a fight at Skate World was not credible and could not be corroborated by any of the security personnel who were working that evening. There were no eyewitnesses who could support Cox's alibi. On appeal, the State argued that Cox's statement that, after being injured, he left the rink in his own car in search of his hotel was not true. Medical evidence was presented that an artery in Cox's tongue had been severed, and he was bleeding profusely from the mouth. There was a trail of blood at the Days Inn leading from the second floor to the third floor. There was, however, no blood discovered in Cox's vehicle. Type-O blood, Cox's blood type, was discovered in Ms. Zellers' car. The State acknowledged that 45 percent of the population has type-O blood; therefore, the discovery of this type of blood in the victim's car did not automatically prove that Cox was the murderer. It did, however, prove that Ms. Zellers' murderer was injured and lost blood in her car prior to her death.

A surgical assistant testified at trial that the injury to Cox's tongue was more consistent with someone other than himself biting off his tongue because of the shape of the wound and the ragged tear. The defense brought up the fact that the missing portion of Cox's tongue was not discovered in the victim's mouth or near the victim. The State countered that the victim's body was severely decomposed as a result of being submerged in human waste; therefore, the tongue may not have been able to be discovered.

Additional Information:

Cox was indicted in Florida nine years after the commission of the offense. At the time of the indictment, Cox was serving a nine-year sentence in California for Kidnapping and two separate counts of Assault with a Deadly Weapon. Circumstances of the offenses are as follows;

In August of 1985, a young girl named Kathleen Boice arrived at her house in Crestview California. As she exited her vehicle, Cox, who was following her, jumped from his car, grabbed the victim, threw her to the ground, placed a seven-inch knife to her throat and told her, "Go with me, don't scream or I'll kill you." During this scuffle, the knife cut the victim's hand.

In December of 1985, a young woman, Gidget Wickam, was stationed with the U.S. Army at Fort Ord, California. Ms. Wickam went to the airport to retrieve luggage and, as she was leaving the airport, Cox, who asked her for a ride to the base, confronted her. She complied and, en route, Cox drew a firearm on Ms. Wickham and told her they were not driving to the base but driving to the mountains.

Trial Summary:

12/15/87 Florida detainer lodged against defendant while incarcerated in California.
01/22/88 Arrest warrant issued.
02/25/88 Defendant indicted:
Count I: Murder in the First Degree
09/30/88 Upon advisory recommendation, the jury recommended death by a 7-5 majority.
10/06/88 Defendant sentenced as follows
Count I: Murder in the First Degree

Appeal Summary:

Florida Supreme Court, Direct Appeal

FSC# 73,150
555 So. 2d 352

10/06/88 Appeal filed
03/10/89 Initial brief filed.
06/08/99 State's answer brief filed
07/11/89 Defendant's reply brief filed.
12/21/89 FSC reversed conviction, vacated the sentence and directed that defendant be acquitted.
02/12/90 Rehearing denied.
02/23/90 Mandate issued.

Case Information:

On 03/10/89, the defendant filed his Direct Appeal initial brief, which included the following claims of trial court error: the evidence was legally insufficient to support a conviction; improper excusal of two prospective jurors; the State failed to try Cox for the offense within 180 days and did not indict until nine years after the murder thereby violating the defendant's due process and preventing him from conducting a proper investigation; and, that Cox's due process was violated regarding other evidentiary matters.

The Florida Supreme Court unanimously agreed that there was insufficient evidence to support the verdict and commented that, although the State's evidence would have created a reasonable suspicion, the case was not proven beyond a reasonable doubt. The Court stated the evidence did not prove that Cox, and only Cox, murdered the victim. The Court then vacated Cox's death sentence, reversed his conviction and remanded to the trial court to enter an order of acquittal for the crime.

Law Enforcement/ Prosecution Statements:

Former Assistant State Attorney and current Circuit Court Judge Frederick J. Lauten wrote:

Jeff Ashton and I prosecuted Robert Cox together. The case was ten years old when I was sent to California by Robert Egan to speak to Cox to see if he would plead to first-degree murder if we waived the death penalty. He would not.

Blood stains found on a floor mat were sent to a new DNA lab to determine if DNA was present. A preliminary report indicated that DNA could be obtained so we took a sample of blood from Robert Cox. The lab reported that the sample from the floor mat lacked even molecular weight for the lab to report a match and maintain the standards established for accuracy and reliability. The lab confirmed that the blood type on the mats matched Cox's blood type, which was evidence we already had. Jeff and I reviewed the case thoroughly and felt that we had enough circumstantial evidence to establish that Cox committed the murder and indicted him.

Nineteen-year-old Sharon Zellers went to work at Walt Disney World on December 30, 1978. She had a habit of informing her parents by telephone of everywhere she went. She was unusually diligent about calling her parents. At the end of her work shift, she called her parents to tell them she was going to meet some friends for breakfast. She promised to call when she left the restaurant; however, she never called. Her father left home and began driving around town to look for her.

At the same time, Robert Cox appeared at a hotel where his parents were staying, the Day's Inn on Sandlake Road. He was bleeding profusely from the mouth and a deputy sheriff was called to take a report. Eventually, Cox was taken to surgery for the injury to his tongue. That night, through his father, he gave a statement to the police, and he also gave another statement directly to the police. He told them that he had been at an ice-skating rink on Highway 50 near Kirkman, and as he was leaving, had been sucker punched by a group of white and black young men and had bitten his tongue off. Rather than return to the ice skating rink to seek help from the police officer he had walked past seconds ago, he reported that he got in his car and drove around looking for a hospital, and unable to find one, returned to the parking lot of the Albertson's grocery store, right next to the skating rink. At that time, some good Samaritan picked him up, bleeding like mad, and drove him the Sand Lake Day's Inn and simply dropped him in the parking lot and left him there to find his parents room! The same night, his father accompanied a deputy back to the car at Albertson's so his dad could drive it back to the hotel. The deputy who took the report went with Cox's father and looked inside the car for evidence and discovered that not one single drop of blood was present, even though Cox himself was bleeding like crazy when he found him at the hotel.

Five days after her disappearance, Sharon Zellers' body was found in a sewage lift station. That station was no more than 300 yards from the Day's Inn. Her body was unrecognizable because it had been in water and feces, which was pumped down a pipe to a raw sewage station, located further east on Sand Lake Road. Her car was found 20 yards away with blood in it, a boot print, and hair samples, all of which matched Robert Cox. The back seat of the car was missing and to this day has never been found.

As the case proceeded to trial, during discovery, a surgical nurse was identified who assisted in the surgery to the injury to Cox's tongue. She had never been interviewed before, but when finally interviewed by Jeff and me she testified that on the night of the surgery she and the surgeon were told how Cox had injured his tongue (sucker punched at the ice-skating rink) but that the shape of the injury to the tongue was inconsistent with that type of injury and consistent with his having his tongue bitten off by someone else. For example, while it was in their mouth!

At trial, we presented the testimony of the detective who found the car in Albertson's without any blood in it despite the statement from Cox that he had driven around injured in the car; the testimony from the surgeon, that profuse amounts of blood would have been lost by Cox until he received surgery; the testimony of the nurse I just referred to; testimony of blood experts that the blood in Sharon Zellers' car matched Cox's blood type; testimony from a hair expert that the hair found in the car was consistent with the characteristics of his hair; testimony from a witness that the boot print found in the car was consistent with the kind of sole worn by Army Ranger's at that time (Cox was an army ranger).

The jury deliberated at length and found Cox guilty of murder in the first degree. At the sentencing hearing, we flew in two women from California who Cox had kidnapped at either knifepoint or gunpoint. They testified to the terror of their kidnapping by Cox. The jury recommended death 7 to 5 and Judge Conrad imposed the death penalty.

The Florida Supreme Court held that the evidence in Cox's case was circumstantial and did not preclude every reasonable hypothesis of innocence and entered a judgment of acquittal. Cox was returned to California to serve out the remainder of his sentence for the kidnappings. Eventually he was paroled and a few years later committed a series of armed robberies in Texas where he was sentenced to life in prison.

Jeff Ashton, Assistant State Attorney wrote that he agreed with Judge Lauten's recitation of the case and added that Cox is presently serving a 35-year State and a consecutive 15-year Federal sentence out of Texas.

Detective Dan Nazarchuk (retired) of the Orlando County Sheriff's Office was one of the investigators on the Cox case. He stated that he believes very strongly that Robert

Cox committed this murder. He claimed there were never any other suspects and stated that he feels the jury reached the correct verdict.

Defense Attorney Statements:

A request for comment and a copy of this report was sent to defense attorney, Patricia Cashman. Ms. Cashman provided the following statement regarding Cox's case:
"This case is one of two unanimous reversals in death penalty cases by the Florida Supreme Court. A wrongful conviction occurred and the appellate court released Mr. Cox after he spent 18 months on death row."

Current Status:

In 1995, Cox was arrested for holding a gun on a 12-year-old girl in Decatur, Texas. He is presently serving a life sentence for that robbery and a consecutive 15-year federal sentence.

Report Date: 03/19/02 WHS