



The Frank Sterling Story: Another Outrageous Injustice



By Jeff Deskovic

On Nov 29, 1988 Viola Manville was killed as she walked along a path in Rochester, New York. The cuts on her hands indicated that she fought with her attacker; and the attacker beat her viciously on the head and shot her with a BB gun. Four years later Frank Sterling was arrested and convicted of her murder, and sentenced to 25-Years-to-Life in prison

Sterling is currently represented by Attorney Donald Thompson, and by Innocence Project Attorney Vanessa Potkin. The Prosecution's theory was that the murder was committed out of revenge. Sterling's brother had tried to rape Manville several years earlier and was in prison for it. Frank Sterling became a suspect because his brother, while incarcerated, was supposedly telling prisoners that Frank committed the crime, and one of those inmates informed authorities.

There was no evidence that Frank Sterling ever told his brother any such thing, nor did his brother testify against him. Nevertheless, the story had the effect of focusing the investigation on Frank. He was convicted based upon a videotaped confession obtained after 12 hours of continuous interrogation. A bizarre aspect of that interrogation was that it involved hypnosis.

It is undisputed that there was an active effort to hypnotize him for purposes of the interrogation. At trial, Sterling's attorneys maintained that he was in a semi-hypnotic state,

while being questioned, and that the confession was the product of confabulation and of being fed details of the crime.

Confabulation may be thought of as a falsification of memory occurring in clear consciousness in association with an organically-derived amnesia. "Momentary confabulations" are frequently defined as "fleeting, and invariably provoked by questions probing the subject's memory, sometimes consisting of 'real' memories, displaced in their temporal context."

An example of being fed details in the course of his interrogation, was that the Manville murder was originally investigated under the theory that she was murdered between 9 and 9:30 in the morning. This was based upon the fact that it was known that Manville had a habit of walking in that area in the morning. Sterling's confession stated that he killed her between 1:30 and 2:30 in the afternoon. The Prosecution denied that he was in the semi-hypnotic state or that he was fed details.

There exists a multitude of evidence that Sterling is innocent. To begin with, it is clear that Sterling was hypnotized during interrogation. That alone, based upon common sense, would seem to suggest that the confession was unreliable; hence there is no basis to believe that he is guilty. When the additional information is presented regarding momentary confabulation, provoked by questions probing the subject's memory, the confession becomes even more suspect.

Moreover, the fact that, at times, the video shows Sterling crying and being consoled by police, would certainly seem to support the notion that their questioning of him while he was under the hypnotic state caused a fleeting false memory. The fleeting aspect comes in because, at another point in the interrogation, he states "this is bullshit".

Sterling had an air-tight alibi in the morning; and police knew this from prior investigation of him at some point during the intervening four years between Manville's murder and Sterling's arrest. This fact would certainly seem to support the idea that he was fed that detail by police, wanting to find a way around his alibi.

Additionally, when asked to identify on a map where the body was found, he identified a totally wrong location.

Aside from all of the above, there happens to be a mountain of evidence that one Mark Christie, who pled guilty in 1997 to the 1996 murder of four-year-old Kali Ann Poulton, actually committed Manville's murder.

It was discovered after Sterling had been convicted, that Christie had confessed to four different acquaintances that he had committed the murder. What is most significant is that at the time the confession was made he mentioned that he shot the woman with a BB gun, a fact which was never disclosed to the media or general public. Christie admitted owning a BB gun, but claimed that it had been broken and been disposed of. When questioned by the Monroe

County Sheriff's Dept., he merely claimed that he had read about the case in the newspapers and made up the stories.

In fact, Christie lived in the area between the abandoned railroad tracks and Hilton High School where the murder occurred. He was often known to be in the area. In an interview with police, he stated that during the morning in question he was in school. However, it later turned out that he had, in fact, had an unexcused absence from school during the morning hours.

Had the Monroe County Sheriff's Department been diligent and had they followed up, they might have discovered the lie and focused on Christie rather than Sterling. Christie had a propensity for violence. According to court papers filed on behalf of Sterling, Christie sexually assaulted school mates, made pipe bombs, killed dogs and cats, and frequently carried a knife.

On December 16, 1992, Christie was given a polygraph test by Lynn Prescott, employed by the Monroe County District Attorney's office. During that test, Christie reportedly was fidgeting, attempting to control his breathing, and generally trying to undermine the test. Consequently, the test results were deemed inconclusive. On December 17th, in a polygraph administered by the State Police, he reportedly passed. As is generally recognized today, polygraph tests are unreliable because they have no scientific validity, and are sometimes failed by frightened, innocent persons. However, the fact that Christy was trying to control



his breathing and undermine the test certainly appears suspicious.

Frank Sterling's efforts at appealing his case through the appellate process have been thus far unsuccessful. In addition, at a hearing resulting from a 440.10 Motion seeking to overturn his conviction, Sterling introduced the confession along with Christie's propensity for violence. The judge, however, ruled that although Christie had indeed made the statements, he was an attention-seeker and therefore Sterling's request for a new trial, at which to present this new evidence, was declined.

In a separate effort to overturn his conviction, Sterling has tried to get DNA Testing of a hair found in murder victim Manville's hand. After much effort, authorities finally relented and, on Jan. 25, 2005, Judge Geraci granted the defendant's request to conduct a DNA test of the strand. Even so, the Judge denied Sterling's request to test other items found at the scene. The rejected items included any slides, swabs, tissue blocks or cultures, hair, fingernail clippings, clothing or shavings from clothing, BB gun parts, or other evidence that might have been susceptible to DNA testing.

Operating under the assumption that the evidence might no longer be in the possession of the agencies in question, Defendant Sterling asked the Court to compel those agencies to produce records and documents related to their whereabouts and disposition.

The hair was tested, and it belonged neither to Sterling nor Christy. Sterling appealed the decision that disallowed testing of all of the items to the Appellate Division. The Appellate Division, Fourth Department, concluded that the County Court properly denied that part of the motion which sought testing with respect to those items because "the defendant failed to establish

that, had those items been tested and had the results been admitted at trial, the verdict would have been more favorable to the Defendant."

However, despite having won the appeal blocking the testing, the Prosecution has finally consented to allow further testing to go forward and Sterling is presently awaiting the results.

Vanessa Potkin told this reporter, "Frank has an extremely strong case of innocence and it is outrageous that it took us this long to get to this point that DNA testing will be conducted. The confession was the result of the hypnosis and was the product of questionable techniques by the officers who questioned him, and the details that Frank gave in the 'confession' were at odds with the true facts of the crime and were just plain wrong. At the same time there was a lot of evidence showing the guilt of Mark Christie. After a long fight, we finally have the chance to get the testing, which is underway now."

The Guardian placed several calls to Wendy Lehman, who is the assistant district attorney working on the Sterling cases, but she did not return messages.

I have known Frank Sterling personally for about 13 years. We served time together; and because our cases were so similar, we frequently discussed case law. We both read considerable volumes of wrong conviction literature, sharing it with each other.

Reading about others' successes appealing such convictions would make both of us hopeful as we celebrated for them. In such euphoric moments we would often fantasize out loud about different things we would do, and places we would go if and when we emerged from prison.

During our many "down moments", we would speak to each other in terms that only the wrongfully convicted could understand. We spoke of pain, stress, and the depression we sometimes felt and

had to fight off. We also shared fears of being trapped in prison unable to prove that we were innocent.

In our individual lives, we were each preoccupied with looking at every conceivable way to prove our innocence, and we were on the lookout for different people who might possibly be of any help to either of us, directly or indirectly. We kept this up for the entire 13 years that we knew each other. Ours was an unusual friendship.

Frank Sterling is an innocent man. I know this from my own interactions with him. I was neither a judge, a prosecutor, a policeman, or anybody who had the capability of granting Frank his freedom. Therefore, there was no reason for him to engage in conversations with me for 13 years in which he consistently professed his innocence.

Beyond that, there is substantial evidence against Christie; certainly more than enough to create reasonable doubt. Sterling certainly deserves a new trial at which he may present that evidence. The Judge's decision that Christie was merely a braggart, and, in declining to order a new trial, ignored the fact that despite Christie's history of bragging about crimes that he committed, he also told his wife about the Poulton Murder and led her to the body.

Without Sterling's

false confession, there was no basis to believe that he was guilty. Therefore, he should be presumed innocent. His confession is unreliable, based firstly on the fact that it was obtained while he was under hypnosis, and, secondly, that it contained numerous inaccurate details.

It is absolutely outrageous that the Prosecution was permitted to bring to trial a case based upon a confession obtained under hypnosis; much less obtaining a conviction. Equally egregious has been the Prosecution's fight against all appeals, and their effort, until recently, to block any DNA testing.

It should be noted that this same Monroe County District Attorney's Office successfully blocked DNA Testing in the Doug Warney case, and that while that appeal was being filed, secretly went back and ran the DNA through the DNA databank, matching it to Eldred Johnson, imprisoned for another crime, hiding the result for several months, only revealing it when it was time to answer Warney's brief.

Frank Sterling deserves to have his conviction overturned, and to be granted his freedom. ■

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