9-1-2006

Life After Death Row

Beth English

Follow this and additional works at: https://scholarexchange.furman.edu/furman-magazine

Recommended Citation

Available at: https://scholarexchange.furman.edu/furman-magazine/vol49/iss3/4

This Article is made available online by Journals, part of the Furman University Scholar Exchange (FUSE). It has been accepted for inclusion in Furman Magazine by an authorized FUSE administrator. For terms of use, please refer to the FUSE Institutional Repository Guidelines. For more information, please contact scholarexchange@furman.edu.
What happens to individuals who have been wrongly convicted of a capital crime after they are exonerated and released? Sociologist Saundra Davis Westervelt examines how they cope.
Three years ago, Saundra Davis Westervelt boarded a plane to visit former death row inmate Charles Fain in Idaho.

Westervelt, a 1990 Furman graduate and associate professor of sociology at the University of North Carolina-Greensboro, wanted to talk with him about how he was readjusting to society. About how he handled small things like doorknobs and metal utensils and spicy food. How he adapted to ATMs and pay-at-the-pump gas stations. How he handled finding a job, getting health insurance, and maybe sleeping with another person. How he dealt with people who still thought he was guilty.

Fain had served 18 years on death row for the rape and murder of a 9-year-old girl. At his trial, microscopic hair analysis and two jailhouse snitches provided the evidence needed to sentence him to death. DNA analysis was not yet in use.

Eighteen years later, the snitches recanted and DNA examination of the hairs found on the girl revealed that they were not Fain’s. He spent 18 years of his life in a single cell for something he didn’t do.

Westervelt’s research project, funded in part by UNCG and titled “Life After Death: Life Histories of Innocents After Their Release from Death Row,” examines the impact of a wrongful capital conviction and incarceration on exonerees. As of October, 123 people nationally had been released from death row due to substantial evidence of their innocence. Westervelt and her co-investigator, Kimberly Cook from the University of North Carolina-Wilmington, have interviewed 18 of them.

As a sociologist, Westervelt is particularly interested in the coping strategies exonerees use. Do they confront issues head on? Do they seclude themselves? What types of factors affect their abilities to cope and move forward?

“These are people suffering trauma in the most acute way,” Westervelt says. “They are struggling with things the vast majority can’t imagine. And they manage it with integrity and dignity. Faith and integrity and dignity.”

She discovered that Fain coped by turning to the church. He had found comfort in religion while on death row. After his release he joined a large, contemporary church in his community and attended services faithfully.

Their interview took place on a Saturday, and he invited Westervelt to go with him to service that evening. She accepted. They sat amid a large group singing worship songs. Then the minister got up to deliver the sermon.

“And the sermon was about Paul and Paul’s years while he was incarcerated for preaching,” she says. “It was about the letters that he wrote. It was about hope, about how to find hope when you’re imprisoned for something you didn’t do.”

She sat listening in stunned disbelief.

“And I finally looked over at Charles and said, ‘I can’t believe I’m sitting here listening to this, sitting next to you.’ And he just looked at me and said, ‘God works in mysterious ways.’ It was one of those,” she shivers, “chill moments . . . We have many moments like that. Chilling moments. Wrenching moments.”
Practical Concerns

“Hope is like a little kid learning to walk. He falls, he falls. He don’t stay on the ground. He cries. He finds ways to get up and walk again. I’ve been in there almost 18 years. But you just find ways to get up and walk again. Just like a little kid. The whole thing is to think positive.” — Juan Melendez, convicted of the murder of a beauty salon owner based on the testimony of the actual murderer.

Factors that impact exonerees’ re-entry into society range from mundane things, such as learning to walk near a fence without fear, to life-altering emotional issues, such as dealing with a loss of self.

“I was just lost, a lost soul,” Greg Wilhoit said in the July 24, 2001, issue of Investigative Reports. “I still am not completely found. And I’m not a whole person anymore. I’m just a part of a person. I don’t have any high expectations anymore like I used to because I know they’re not going to really reach fruition, so I just kinda coast, not much different than death row.”

Westervelt and Cook categorize the issues exonerees confront into four basic areas: practical problems (financial problems, employment, relearning the basics), grieving and loss, stigma and loss of reputation, and reintegration.

First on the list for many when they are released is finding employment. For some, it’s an easy matter. Fain, who was cleared with DNA evidence, didn’t have too much difficulty because people felt more definitive about his innocence. And Juan Melendez was a hero for the people of Puerto Rico. Crowds met him at the airport when he arrived. He had an old friend who owned a plantain plantation who offered him a job on the spot.

“They’re the lucky ones,” Westervelt says.

Some become self-employed. Kirk Bloodsworth was a crabber, Gary Gauger a farmer.

For the rest, it’s far trickier. Every employment application asks: Have you ever been convicted of a felony? What do you do when the answer is yes, but you were later cleared? Applications do not offer an area to explain.

Exonerees have tried a variety of solutions. Some attach an explanation. Shabaka Brown simply wrote n/a (not applicable). A few months later, he got a call from the company saying he had lied on his application. But he felt it was the most honest answer he could give.

Having records expunged would be the most helpful thing for exonerees, but that typically involves asking for a pardon from the governor. For Alan Gell, that’s more than he can do. “He says, ‘I didn’t do anything wrong. I don’t want to ask for a pardon. I absolutely won’t do that,’” Westervelt says.

An alternative is to sue the state to expunge the records, but that requires money, which again requires a job.

Saundra Westervelt says that exonerees such as Juan Melendez often fight to abolish the death penalty so that they can tell their stories “over and over” — and earn a sense of validation.
The difficulty in finding a job complicates getting medical insurance. And quite a few of the exonerees have medical problems that range from vision issues to arthritis and joint problems. Several also complain of stomach problems, which Westervelt attributes to their diet while in prison: “No spicy foods. No salt, no condiments. Lots of starch, potatoes, turkey, chicken.”

Some also have trouble with stamina. Melendez talked about relearning to walk because he was only outside for an hour a day during his prison years.

Above: Perry Cobb was convicted based on the testimony of one eyewitness. Years later, it was revealed that the witness drove the getaway car for her boyfriend, the actual offender.

**GRIEVING AND LOSS**

“About a month and a half, two months after my arrest, I had a dream. And I was speaking with my mother. And then I realized, I said, ‘Oh, wait a minute, but you were killed.’ And then she faded away. I asked for a hug [begins to cry], I asked for a hug and then she faded away, and I started crying. And I woke up crying, and I... that, I suppose would have been the... that was as close as I had come to mourning their murders, their deaths. I feel like I’m a plastic barrier holding back the ocean. You know, not much substance and a lot of weight.” — Gary Gauger, who was convicted of killing his parents in their home and later released when the actual killers confessed.

Beyond the practical concerns of everyday life are the emotional costs of prison. With their time in prison ranging from two to 26 years, many exonerees with whom Westervelt has spoken experienced the loss of loved ones.

Kirk Bloodsworth lost his mother, his primary source of support, five months before he was released.

“I can hear him talking about this and just sobbing,” Westervelt says. “You know that guttural kind of sobbing — the kind you hear from children who are so completely overwhelmed, and how awful that experience was for him. That she never got to see it (the exoneration) all come to fruition. And he never got to say goodbye.”

He told Westervelt about going to his family’s house and encountering all his mother’s things. He would go in her closet just to smell her clothes. One morning he was having a hard time getting up and he thought he heard her. He went to the kitchen and could have sworn he smelled her cigarette, as if she had just left the room.

Shabaka Brown lost two brothers while he was in prison. One died because he couldn’t get a kidney transplant. Shabaka had been tested and matched as a potential donor, but he wasn’t allowed to leave prison long enough to have the operation to save his brother.

Re-establishing ties with existing family members is also difficult, Westervelt says. Perry Cobb’s daughter was kidnapped and raped while he was in prison. Westervelt says, “He has guilt
for not being there. Lost time, lost memories. No amount of compensation can give that back to you.”

And then there is the loss of friends. Juan Melendez said that one of the hardest parts of being on death row was when someone was led off to be executed: “You got a man next door to you for nine years, 10 years. You become attached without even knowing it. And now they come, they snatch him, they kill him. Then you think, ‘I’ll probably be next.’ So that was the part that I say was the hardest part to me in there, when they kill people.”

STIGMA

“...I’m this person...this heinous murderer that stomped my baby. My oldest child...in the book [a chapter on her case appeared in a book about women on death row] it says I took him and threw him out of a movin’ pick-up truck... They have just destroyed my life... And I’m angry. I am very angry because I can’t get back what they took from me! I can’t get that back! And that’s the part that makes me mad [getting emotional]. It makes me mad because I got children, and my kids hear this. ‘OK. Well, you know your mama ain’t no good...your mama killed your brother.’ That’s why I went and got my tubes tied [laughing] because...I was scared to have another baby here in Columbus, Mississippi.” — Sabrina Butler-Porter, convicted of felonious child abuse in the death of her 9-month-old son, later released when new witnesses corroborated Butler’s side of the story and the medical examiner re-evaluated the evidence of abuse.

“They want so desperately for people to believe them,” Westervelt says. “People call them out in the grocery store. They think they got out on a technicality.”

When Westervelt and Cook ask the exonerees what they do when people think they are still guilty, most say they try to ignore it. “But it makes them angry, of course.”

Kirk Bloodsworth was convicted of brutally killing and sexually assaulting a 9-year-old, one of the most heinous crimes of all. Eyewitness testimony linking the two together was the primary evidence at trial. Nine years later, he was exonerated by DNA evidence. Ten years after that, the DNA identified the actual killer.

But for those 10 years, Kirk lived with the specter of his supposed crime. He lived with people who wrote “child killer” in the dust on his truck, which was his home for the first several months after his release. Or, as happened one day as he went door to door looking for work, someone recognized him and yelled, “Child killer in the neighborhood! Child killer in the neighborhood!”

“And then the prosecutor put the DNA in the database and got a hit, and lo and behold if the actual offender didn’t live right down the hall from him while they were both in prison,” says Westervelt. “They could have spared him that.”

DNA evidence is something most people feel definitively clears a person of the crime. But out of 123 exonerees, only 14 were released as a result of DNA testing. Many more are released because of prosecutorial misconduct.

The misconduct takes many forms — not turning over evidence that would clear the defendant, not revealing inducements given to jailhouse snitches, mistaken eyewitness testimony, police problems, false confessions.

“Sometimes I’m still surprised by how wrong it can go,” Westervelt says. “I’ve seen some of the most egregious stories. Oh my God, you wouldn’t believe it.”

In one case, a paid attorney showed up drunk every day in court. He even threw up in the judge’s chambers. And yet the decision for death stood.

In response to some of these issues, North Carolina has created an Innocence Commission, the only one of its kind in the United States. The commission takes on policy issues, such as mistaken eyewitness testimony, and creates new procedures to be followed and distributes them to police departments.

Perry Cobb was sentenced to death based on the testimony of one eyewitness. The physical evidence didn’t match.

Years later, it was discovered that the eyewitness was the woman who had driven the getaway car in the murder. She was deflecting attention from her boyfriend, the actual offender.
Gary Gauger, who was cleared of killing his parents, finds it easier to cope with freedom by isolating himself from society.

ON THE OUTSIDE

“I’ve been very blessed, very fortunate. I don’t wanna let my friends down. I can’t pay ‘em back money-wise. The only thing I can hopefully do is make ‘em proud and let ‘em know . . . . that I am who I am because they helped save my life . . . . I’m gonna make them proud for the rest of my life . . . . They struggled and stressed for those 10 years while I was in prison . . . worryin’ about me, wonderin’ what they could do, while they’re still livin’ their own lives, takin’ care of their own families, wonderin’ what they can do to help Ray. It’s like, you know, that’s something (pauses because he is getting emotional). That’s gonna be my mission, my goal.” — Ray Krone, convicted of the murder and kidnapping of a female barkeep and released when DNA from hairs found on the victim were not his but matched a convicted sex offender who lived 600 yards from the bar.

Ray Krone is one of the lucky ones. Having a support system is critical to making a readjustment to society. As Westervelt says, “It matters what they have to go back to.”

People used to cross the street so they wouldn’t have to walk near Kirk Bloodsworth. Sabrina Butler-Porter can’t get a job as a Walmart greeter because she’s so recognizable.

“When the community accepts you, it makes all the difference,” Westervelt says. “The prosecutor can make things better or worse. The media can make things better or worse. To some extent, it matters what kind of crime you were convicted of. And I would venture a guess it matters who you are.”

Those who have family support, a public apology by officials, the identity of the actual offender and community acceptance have an easier time than those who do not.

Ultimately, Westervelt and Cook have found that exonerees usually choose one of two approaches to coping — strategies based on a promotion focus or those based on a prevention focus.

Those who choose a prevention-focused strategy try to avoid negative consequences by using self-destructive behavior (alcohol, drugs, etc.), avoidance and isolation from others as a strategy to get through the day. They also find they have an inability to make meaning from what happened to them.

Gary Gauger, the man who was accused of killing his parents, tends to choose isolation. “I hate to even have the phone ring. I don’t like to talk to people on the phone. So, what’s the point? I can’t write letters. I can’t talk on the phone. I don’t like to visit. I don’t like to go anywhere. I don’t like to leave the house. What’s the point? I tried to initiate contact (with my grown children) and I couldn’t follow through. So I just . . . you know . . . and you think I’ll do better in the future, and the days go by, and pretty soon it’s one year, it’s three years, it’s five years, it’s you know? . . . Don’t wanna bust out of my comfort zone. Don’t wanna grow.”

Whenever Gauger speaks of his death row experience, it shuts him down for three to four days, Westervelt says.

Some move to evade community opinion. One North Carolina exoneree, who Westervelt hasn’t had an opportunity to interview, moved to Hawaii. “Now that’s a management strategy,” she says. “Some choose to isolate and rebuild a new identity not founded on this.”

While Bloodsworth stayed in his community, he initially tried running from his past. But as time went by, he discovered such an approach wasn’t working for him. Then he attacked it head-on.

His shift isn’t unusual. “People’s coping practices change through life,” Westervelt says.

Those who shift to a promotion-focused strategy try to create positive outcomes by disclosing their past, making meaning out of what happened to them, becoming public advocates and connecting to fellow exonerees. Many choose to fight for legislation that would abolish the death penalty.

“It allows them to tell their stories over and over and over. And most of the time their stories get validation,” Westervelt says. “It validates their reinterpretation of self. That’s helpful for coping. It allows them to reconstruct a new identity based on the incident. If you look at trauma survivors in general, retelling their stories is important.”
But it has a down side. Such work is exhausting on a number of levels. Shabaka Brown used to fight against the death penalty but does not do it anymore. “I think it tires them out,” Westervelt says.

Compensation

“I have a 4-year-old now. It’s important that I choose to do something for research that is valuable enough in my mind, something worthy of being away. I want to do something to make this a better place.” — Saundra Westervelt

Hearing all of these stories does not come without personal reactions. Westervelt is a researcher, but she’s also a mother and a person who cares deeply about what happens to these wronged people.

Ultimately, she wants this research to help those who work with exonerees and inform those who have an opportunity to change things for them.

“Most consider the exoneration to be the victory. But it’s not a victory if we revictimize the person when they get out.”

In some states, compensation is offered to the exoneree, but not in every state. “We would argue stringently it’s a good thing but it’s not the end-all thing,” she says.

For one, most don’t know how to manage money. Kirk Bloodsworth received $300,000 and it quickly dwindled away. “They are not very adept at social interaction, and people come out of the woodwork and want money,” says Westervelt. “It can’t be thought of as the only solution.”

She believes the system has a continuing obligation to help these people as they readjust to life. But before the system fulfills these needs, it must be aware of what the needs are.

“It’s not enough to say, ‘You’re out now.’ We have an obligation to them. As a society, we owe them a debt.” –

This article is reprinted with permission from the Spring 2006 issue of UNCG Research, an annual publication of the University of North Carolina-Greensboro. The author is editor of UNCG Research and of the university’s quarterly alumni magazine.

Ariminologist’s background

SAUNDRA DAVIS WESTERVELT ’90 planned to be an English major at Furman — until, needing an elective one term her freshman year, she chose to enroll in an introductory criminology course.

Taught by Paul Kooistra ’74, the class fascinated Westervelt and introduced her to a new world of study. “After all, no one takes criminology in high school,” she says.

She began signing up for every criminology-related course Furman offered and went on to earn a double major in English and sociology. She also spent a summer conducting research with Kooistra. After graduating she headed to the University of Virginia, where Kooistra also studied, and completed her Ph.D. in sociology.

Since joining the faculty at the University of North Carolina-Greensboro in 1997, she has completed two well-received books, both published by Rutgers University Press. Shifting the Blame: How Victimization Became a Criminal Defense came out in 1998, and in 2001 she and UNCG colleague John A. Humphrey co-edited Wrongly Convicted: Perspectives on Failed Justice.

Her current research on former death row inmates is likely to produce another book. For this project, Westervelt and colleague Kimberly Cook started with a list of exonerees provided by the Death Penalty Information Center. All 110 people on the initial list had faced execution dates (the list now numbers 123).

Although many of the former prisoners could not be traced, Westervelt and Cook worked through intermediaries (attorneys, other researchers) to locate as many as they could. They then sent letters explaining their interest and requesting interviews. Some were willing to talk; others declined. To date, Westervelt and Cook have completed 17 face-to-face interviews and an 18th by mail.

Westervelt says, “We hope to draw some conclusions about the similarities and differences in these people’s experiences. How do they cope with this stigma they’re forced to live with? How do they manage their new identity? What are their survival mechanisms?”

The conversations can be draining, for both interviewers and exonerees. And, as Westervelt points out, even though they have been exonerated, most of her subjects still face a bumpy road.

“In these cases, there aren’t many happy endings,” she says.

— JIM STEWART

Photo by Chris English, UNC-Greensboro