

In the evening of April 28, 1984 store clerk Donna Denice Haraway, went missing from McNally's gas station in Ada, Oklahoma. A lit cigarette, an open beer can, her purse, were found by patrons who entered the store. The Ada Police, the Oklahoma State Bureau of Investigations and the FBI were called to investigate the case. As part of the investigation, two composite sketches were created using descriptions from customers at McNally's and a store clerk at a nearby gas station. They told police they saw a man and a woman exit McNally's and enter a gray and red pickup truck. One composite sketch led to numerous tips identifying between 15-20 look-alikes, over twenty callers said the sketch resembled Tommy and another man.

Based on the tips, the police questioned Tommy once in May. Months later on October 12, Tommy was questioned again. This time while he was being questioned the police asked him to use his imagination as if he committed the crime. He was again released only to be picked up and questioned by police days later on October 18. There during his nine-hour unrecorded interrogation, Tommy told police that he had nothing to do with Ms. Haraway's disappearance but that he had a dream about it. Tommy said there were two men in his dream, Karl Fontenot and Odell Titsworth, and the dream involved the abduction, rape and murder of Ms. Haraway. After describing his dream, police asked Tommy to describe the dream again while they videotaped it.

The next day, Karl Fontenot was arrested in Hominy Oklahoma. After initially denying involvement, Karl Fontenot too made a videotaped statement about a dream he had which implicated both Tommy and Odell Titsworth.

According to Tommy and Karl's dreams, Titsworth was the ringleader whose car was used in Ms. Haraway's abduction. Titsworth was located by police and denied his involvement.

Titsworth was not charged according to authorities because two days before Ms. Haraway's disappearance he sustained a broken arm that would have made it physically impossible to have committed the crime, and because Karl Fontenot could not pick him out of a lineup.

Titsworth was by no means the only part of their "dream" confessions to be uncorroborated by the facts. Extensive searches of the area described in the dreams did not lead to finding Ms. Haraway's remains or any other evidence of the crime. In fact, the burned out abandoned farm structure they "burnt" in their dreams to dispose of the body was actually burned years earlier.

Without a body or physical evidence linking them to the crime, in 1985, Tommy and a co-defendant, Karl Fontenot, were tried and sentenced to death for the robbery, abduction, and murder of Donna Denice Haraway. The State's principal evidence was the pair of interlocking "dream confessions" by Tommy and Fontenot. Other than facts about the crimes police already knew before they interrogated Tommy, no material fact from this "confession" could be verified – with a *single* exception that the State argued was an "anchor" tying Tommy to the crimes. That exception, according to the State, was that the dream confessions accurately described an unrecovered blouse Ms. Haraway supposedly wore the day she disappeared.

Because their joint trial violated the U.S. Constitution, the Oklahoma Court of Criminal Appeals overturned the convictions of Tommy and Fontenot, and ordered them to be tried separately. *See Ward v. State*, 1988 OK CR 104, 755 P.2d 123 (Okla. Crim. App. 1988); *Fontenot v. State*, 1987 OK CR 170, 742 P.2d 31 (Okla. Crim. App. 1987).

Before Tommy's retrial, Ms. Haraway's body was found. The discovery revealed that every detail of Tommy's "confession" not previously known by police was either erroneous or uncorroborated. First, the location of Ms. Haraway's body was more than 20 miles from where

Tommy's statement placed it. Second, Tommy claimed Ms. Haraway died from multiple stab wounds; in fact, she died from a single gunshot wound. Third, Tommy purportedly described Ms. Haraway's blouse, but a different shirt roughly matching reports of Ms. Haraway's clothing on the day she disappeared, along with color coordinated earrings, was found near her body.

At his retrial, the State insisted that Tommy's "confession" was corroborated because a blouse like the one described by Tommy was missing from Ms. Haraway's belongings. At closing, the State argued the description of the blouse was "tied to this Defendant like an anchor to a boat," even though the blouse was never found. (A0617-18). Tommy was again convicted but this time sentenced to life in prison.

Years later, the Oklahoma State Bureau of Investigation was ordered by the Oklahoma Court of Criminal Appeals to produce their file to both Tommy and his co-defendant. The file contained over 860 pages that included vital information never provided to the defendants: evidence of other suspects, impeachment evidence, and evidence the investigators likely contaminated the "dream" confessions with facts they knew about the victim before Tommy and Karl were interviewed.

The evidence of other suspects includes one suspect who resembled one of two composites in the Haraway case; had a history of violence toward women; had two women's driver's licenses from Ada; was arrested for rape in Texas days after Ms. Haraway disappeared; was driving a blood-stained car with the "[his name] loves Donna" written on the rear window; had a red and white plaid flannel shirt in his car consistent with descriptions police received of the shirt Ms. Haraway may have been wearing; and became extremely emotional when presented with Ms. Haraway's photo and details of her disappearance.

The file also reveals that the description of the blouse, the anchor tied around Tommy's neck, was likely known by police prior to their interrogation of Tommy and Karl.

Armed with this new information, the CWC and our co-counsel continue to fight for Tommy's freedom.