

Lake Waco murders: Efforts underway to exonerate man convicted of famed slayings

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Nearly 30 years after a grisly crime known as the Lake Waco murders rocked the city and drew national attention, efforts are under way to exonerate the only living defendant through DNA testing of shoelaces used to tie up one of the victims.

If the testing were to show the wrong people were convicted in the 1982 slaying of three teenagers, the ramifications could be much greater than simply freeing a man from prison.

Because one of the four defendants in the case, David Wayne Spence, was executed, exoneration also could constitute the first proof of wrongful execution in modern U.S. history.

News of the ongoing testing has surprised many involved in the case, including the former district attorney who led the prosecution, the main investigator and the victims' families. They remain convinced the right men were put behind bars, saying there was abundant evidence of guilt that included confessions from two of the defendants.

"That case will stand on its own," said Truman Simons, who investigated the case as a Waco police officer and later as a McLennan County sheriff's deputy.

Former District Attorney Vic Feazell, who now has law offices in Waco and Austin, was more blunt. He called questions about the defendant's guilt "B.S."

"Anyone who's read the trial transcripts . . . would know better and wouldn't give this story the time of day," Feazell said.

The DNA testing effort has been in process for at least a couple of years. During that time period, the two men behind the exoneration push — Waco defense attorney Walter M. Reaves Jr. and author Fredric Dannen — have had to navigate a number of obstacles. One early hurdle involved finding funding for the testing.

That issue was resolved after a 2008 meeting with two top staffers in Gov. Rick Perry's office, arranged by Feazell's ex-wife. While the governor's office didn't provide money, it referred Reaves and Dannen to an innocence project at the University of Texas.

That group agreed to spend \$4,500 in state money to hire a California lab in April 2009.

Submitted for testing were shoelaces used to bind the hands of victim Kenneth Franks. Presumably, the laces were touched by the killer or an accomplice.

What has happened with the testing since then, though, is largely a mystery — even to Reaves and Dannen.

The scientist at the lab in charge of the DNA testing is essentially holding the evidence hostage, said Jeff Blackburn, chief counsel for the Innocence Project of Texas. Reaves and Dannen have repeatedly asked the lab for information about the testing. But they have not been able to get the scientist, Ed Blake, to tell them much of anything, Blackburn said.

Blake has done DNA testing in at least several dozen post-conviction exoneration cases. Some innocence experts have called him the best in the country at such work.

“We’re going to have to do something to force these folks to do the right thing,” Blackburn said.

That could involve legal action against the lab, Blackburn said. His nonprofit organization, headquartered in Lubbock, has pledged its assistance to help Reaves do that.

Reaves, who specializes in criminal appeals, is vice president of the Lubbock group’s board. It is one of several innocence-related projects he is involved in, including one he heads up at Baylor Law School.

The Lubbock group also plans to assemble a team of law students and attorneys from across the state to start reviewing the case, Blackburn said.

Three of the four men convicted in the case are dead. But one, Anthony Melendez, remains in prison on two life sentences.

While Reaves and Dannen have done a lot of good work on the case during the past decade, Blackburn said, it has stalled out.

“I think we just need to put some new energy into this,” he said. “We need to commit more resources. . . . No matter what shakes out in this case, everyone should agree that the truth is a good thing and I think all should agree that DNA

helps shed light on the truth.”

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Questions about whether the right people were prosecuted for the crime have long swirled around the case. The issue got the most attention before Spence’s 1997 execution. But the questions have been present in one form or another during nearly the entire saga.

The story began to unfold on a hot Wednesday evening in July 1982. Two men were headed to a new fishing spot at Speegleville Park on Lake Waco when they drove up on the fully clothed body of a young man wearing sunglasses.

He was lying near a dirt road in a secluded part of the park, just northeast of the Twin Bridges on State Highway 6.

At first, the fishermen thought someone was playing a practical joke and had left a dummy on the road. But the men soon realized they had discovered a murder victim and went for help.

When officers arrived, they saw that 18-year-old Kenneth Franks of Waco had been bound, gagged and stabbed 19 times in the chest and once in the neck.

Officers then discovered the bodies of two teenage girls about 35 yards away. They were nude and also had been bound, gagged and stabbed multiple times. Autopsies would later reveal they had been sexually assaulted.

The girls were 17-year-olds Jill Montgomery and Raylene Rice, both from Waxahachie.

All three teens were still in high school.

“I’ve never worked a case this gross,” Ramon Salinas, a Waco police detective who initially helped lead the investigation, said a few days later. “. . . I’ve seen a lot of gory things, guys getting their faces shot off. But that didn’t bother me like this. This bothers me a lot.”

As the investigation continued, police learned Montgomery had just moved back in with her mother after a stay at Waco’s Methodist Children’s Home. That’s where she met Franks, who also lived there.

Both teens suffered from dyslexia, their parents would later testify, and had been getting in trouble at home and at school. Some of their misbehavior involved drug

use. The hope was that the academic assistance and structured environment at the Methodist home would help get them back on the right path.

The reason the girls made the trip to Waco was because Montgomery needed to retrieve some records from the Methodist home and get her final paycheck from her job as a tour guide at Fort Fisher. Rice, a friend, offered to drive Montgomery in her orange Ford Pinto.

On the Tuesday evening of the murders, the girls picked up Franks at his father's home. They planned to hang out at the lake's Koehne Park, located near his house off Lake Shore Drive.

When Kenneth Franks didn't return home that night, his father was convinced something bad had happened. Franks had summer school the next day and was in danger of not getting credit if he missed another class.

Franks' father spent the early morning hours Wednesday searching for the teens at lakeside parks and then filed a missing person's report with police.

After the bodies were found and news of the murders broke, panic gripped Waco. Some thought Satan worshippers were to blame. Others were convinced a serial killer was on the loose. People ventured out less after dark, and parents warned their children not to go near the lake.

Fear and anxiety lingered as Waco police sifted through hundreds of tips. But by early fall, leads appeared to have gone cold.

Then, in mid-September, police arrested 23-year-old Muneer Deeb as a suspect. The Jordanian native was co-owner of a convenience store across from the Methodist home.

The arrest came just days after Waco police officer Truman Simons got permission to work on the case. He was one of the first officers on the scene when the bodies were found and has said he felt it was his duty to bring the killers to justice.

Five days after his arrest, though, Deeb was released. A police report said he passed a three-hour polygraph exam, exhibiting no deception.

Shortly after that, Simons quit the police department and went to work for the McLennan County Sheriff's Office as a jailer. He continued working on the case, using his job to talk to an inmate he suspected had been involved — David Wayne Spence.

Spence was in jail for an aggravated sex assault charge involving an 18-year-old man that would later earn him a 90-year prison sentence.

Eventually, Simons concluded the murders were the result of a botched murder-for-hire scheme.

His theory went like this:

Deeb wanted a girl named Gayle Kelley dead. A resident at the Methodist Home, she would visit Deeb's store and he developed a romantic interest in her.

But Deeb's motive for wanting Kelley killed was that he had taken out an insurance policy on her. He said he got the policy because Kelley was going to work at his store and an accidental death policy was cheaper than buying a worker's compensation plan.

Deeb was listed as the beneficiary on the policy. It was worth \$20,000.

Rather than carry out the murders himself, Simons concluded, Deeb hired Spence. They knew each other because Spence's girlfriend worked at Deeb's store.

But when Spence went to execute the plot, he mistook Montgomery for Kelley. Both were brunettes and acquaintances said they sometimes had difficulty telling them apart. Rice and Franks were killed because they were in the wrong place at the wrong time, Simons believed.

Prosecutors secured indictments based on that theory of the case in November 1983. Indicted were Deeb; Spence, 25; and two brothers — 24-year-old Anthony Melendez and 28-year-old Gilbert Melendez.

Deeb was allegedly the mastermind, while Spence and the Melendez brothers were supposed to have actually committed the rapes and murders.

The Melendezes and Spence had known each other for a while, with Gilbert Melendez being Spence's co-defendant in the other sex assault case.

Officials thought the teens were killed in Koehne Park and then dumped at Speegleville Park, located directly across the lake.

By the end of 1985, all four men had been convicted. Spence was tried for two of the murders and received a death sentence each time. Deeb also went to trial

and was sentenced to death.

The Melendezes pleaded guilty and each received two life prison terms.

In 1991, though, Deeb won a new trial after the Texas Court of Criminal Appeals ruled hearsay was improperly admitted at his trial. At a 1993 retrial, he was acquitted and released from death row.

Deeb lived in the Dallas area for six more years before dying from cancer.

Two of the other defendants in the case also are dead.

Spence was executed in April 1997. The next year, Gilbert Melendez died in prison from complications from HIV.

That leaves Anthony Melendez as the only living defendant.

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The current effort to exonerate Melendez began in November 2000, Fredric Dannen, the author, said. He has written extensively about organized crime, including a best-selling book about its influence on the music industry.

Dannen began researching the murders around the time of Spence's execution for a book he had undertaken on capital punishment. As part of his research, he delved into the 1986 rape and murder of Spence's mother, Juanita White.

White's slaying was not connected to the lake murders, but the two cases — investigated by Simons and prosecuted by Feazell — bore some similarities.

In both cases, the biological evidence used to tie the defendants to the victims' bodies consisted of marks identified as human bites. The supposed matches in each case were made by the same prosecution expert.

But bitemark evidence increasingly has been challenged by forensic experts as unscientific. Some now say it should not be used to positively identify a suspect.

Plus, the reputation of the prosecution's expert later suffered a blow. In an unrelated Florida case a month after Spence's first trial, he testified that certain human remains belonged to a Florida runaway after comparing an enlarged photo of her against the corpse's teeth. Two years later, the girl turned up alive.

Also, in both the Lake Waco and White murder cases, defense attorneys claimed

that information about other suspects was withheld from them by prosecutors. And in both cases, defense attorneys complained about the state's use of jail inmates' testimony, which they contended was inherently unreliable.

Feazell and Simons, however, maintain their investigations were solid and the convictions were valid.

The more Dannen learned about the White case, he has said, the more convinced he became the wrong men had been convicted. He paid for DNA testing of evidence from the Juanita White case in hopes it would free defendant Calvin Washington from prison.

Co-defendant Joe Sidney Williams already had been released from prison in 1993 after an appeals court determined some testimony at his trial had been improperly admitted. He was not retried because the district attorney at the time determined there wasn't sufficient credible evidence against him.

The DNA testing not only excluded Washington and Williams but also proved who the real perpetrator was. That man, Bennie Carroll, had been Waco police's main suspect. But he was never pursued for the crime because Feazell decided to go with the case as developed by Simons, who was still at the sheriff's office.

By the time the DNA testing was done, Carroll was dead. He died from a self-inflicted gunshot wound in 1990.

Shortly after those DNA test results came back, Reaves agreed to represent Anthony Melendez for free to try to exonerate him in the lake case. Dannen then signed a paralegal agreement to act as an unpaid investigator in the case.

Details about what has been done since then are sketchy. Reaves and Dannen, who is living in Mexico, declined to answer most questions about their work. That included details about forensic testing done in the case.

Dannen refused to discuss the testing at all, while Reaves would only say the shoelaces are the only piece of evidence he knows of that has been sent for DNA testing.

"We don't want to jeopardize evidence, testing or the process while it's being done," Reaves said.

But both men emphasized their efforts should not be misconstrued as anti-death penalty advocacy. While Dannen began looking into the lake case because of Spence's execution, his focus long ago shifted to Melendez, he said.

In fact, his desire to see Melendez freed from prison is why his book on the case has not yet been published, Dannen said. It is virtually complete, he said, and has been for some time. But from the moment he signed on as an investigator, the book has taken second place to getting Melendez out of prison, he said.

“It is not my intention or my goal to help fuel the debate about innocence and the death penalty,” Dannen said.

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Despite Reaves’ and Dannen’s reticence, the Tribune-Herald has been able to piece together some of their work through interviews with 20 others who have knowledge about the case or testing process.

Dannen appears to have gotten evidence from the lake case from an attorney named David Chapman. He was one of the Fort Worth lawyers appointed as a special prosecutor in Deeb’s retrial. That proceeding, held in Fort Worth, was the final trial in the case.

When it was over, Chapman ended up with the evidence. In a recent interview, he said Tarrant County officials called some time after the case was over and said the evidence would be destroyed if it weren’t picked up.

Chapman, Simons and the other special prosecutor discussed what to do and decided Chapman would become the custodian, he said. For years, he stored the evidence boxes in his home office. Now they are in a storage unit he rents.

Chapman said he visited with Dannen about a decade ago. He said he may have allowed Dannen to have some of the evidence for forensic testing. But he said he no longer remembers, calling his memory about the subject “filmy.”

Several people have told the Tribune-Herald that Dannen said he got evidence from Chapman. They include David Deaconson, a local attorney who worked at the district attorney’s office when the lake murders were prosecuted.

Back in 2002, Deaconson was representing Feazell, Simons and two others in a libel suit they brought against a Waco businessman who tried to clear Spence’s name shortly before his execution.

Dannen tried to convince Deaconson of Spence’s innocence, Deaconson said. As part of that, Dannen told him DNA testing was being done on evidence he got from the special prosecutor. It included some bindings used to tie up the victims

or a towel somehow involved in the case, he recalled.

Bernadette Feazell, Vic Feazell's ex-wife, offered similar details about Dannen's stated activities during that time frame. She said she talked to Dannen for his book and eventually became convinced by his research that the wrong men had been convicted.

Dannen told her he had forensic testing performed, or at least attempted, on bindings and gags he got from Chapman, Bernadette Feazell said. He also sent hair samples for testing, she said she was told, adding that the Tarrant County Medical Examiner's Office played some role.

That squares with the limited information the Tribune-Herald has been able to get from the medical examiner's office. The Tribune-Herald submitted a public information request for any records the office has relating to the Lake Waco murders.

The office is withholding the records until it gets a ruling from the Texas Attorney General's office about whether the records are open to the public. But the letter the office wrote to ask for that ruling makes it clear the medical examiner's office has been involved with the exoneration effort.

"The information sought concerns a private forensic expert consult between Ron Singer, Director of the ME's Office, Crime Lab Director, Connie Patton and criminal defense attorney, Walter M. Reaves Jr. andor his agent, Fredric Dannen," the letter says. "Pursuant to their agreement, forensic and DNA testing was to be performed on evidence that was ultimately secured (and presented to these experts) by criminal defense attorney Walter Reaves Jr. andor his agent.

"These expert services were not rendered in connection with any official business of the ME's office but rendered at the request of criminal defense attorney Walter Reaves Jr. in defense of his client Anthony Melendez."

Whatever happened with any such previous testing, Dannen indicated to Bernadette Feazell that he had personally footed the bill for most of it, she said. But by 2008, Dannen told her he was out of cash and needed help to pay for a different type of DNA test.

Known as Y-STR testing, it zeroes in on male DNA by examining the Y chromosome. Specifically, Dannen wanted to test shoelaces used to tie up Kenneth Franks, Bernadette Feazell said.

According to the report of his autopsy, two white shoelaces were tied together

and then looped around both of Franks' wrists, holding them in place behind his back.

Terry-cloth strips also were used as binding, with the cloth and shoelaces tied together in the same overhand loop.

Dannen hoped the test would not only clear those convicted in the lake murders but also reveal the true perpetrator, Bernadette Feazell said.

Around that same time, Dannen also was kicking around the idea of trying to get the governor's office involved in the case somehow, Bernadette Feazell said. She has a longstanding friendship with Gov. Rick Perry, so she volunteered to act as a liaison.

Perry was having a book signing in Austin, where she lives. Bernadette Feazell said she took the opportunity to see him and ask that he have members of his staff meet with her, Dannen and Reaves.

"He said, 'Sure,' " she said. "I didn't have to argue. All I had to do was ask."

The result was a meeting with Kathy Walt, Perry's deputy chief of staff, and Mary Anne Wiley, the governor's deputy general counsel.

Dannen gave a presentation about the case, which Bernadette Feazell described as powerful. Although she already had changed her mind about the defendants' guilt, seeing the information Dannen had put together in one place was gut-wrenching, she said.

"I was sitting there and I could just feel myself blush," Bernadette Feazell said. "I'm afraid they can hear my heartbeat. . . . Believe me, if there was anything I'd ever been sure of, I had believed David (Spence) did it."

The governor's staffers seemed swayed, too, she said.

"They were appalled. They wanted to help," Bernadette Feazell said.

The governor's aides suggested Reaves and Dannen contact an innocence initiative at the University of Texas School of Law for possible funding, Bernadette Feazell said.

Perry's deputy press secretary, Lucy Nashed, confirmed the meeting took place and was initiated by Bernadette Feazell. She also said the governor's office routinely refers people pursuing exoneration claims to innocence projects in the

state.

“It was determined that the issues brought up in the meeting, including a request for funding for DNA testing, fell out of the purview of the Governor’s Office and were best suited for the court system,” Nashed said in an emailed statement.

Not long after the meeting, Reaves approached the Actual Innocence Clinic at UT’s law school, clinic staff attorney Tiffany Dowling said. The clinic allows students to receive class credit for screening and investigating innocence claims.

Similar groups exist at the state’s three other public law schools and each can get up to \$100,000 per year from the state for performing innocence work. DNA testing is one of the allowed uses.

The clinic agreed to provide money for DNA testing in the lake case, Dowling said. An annual report filed by the clinic indicates the type of testing was to be Y-STR, and Reaves confirmed the evidence being tested is the shoelaces.

UT sent the money to a Richmond, Calif., company called Forensic Science Associates in April 2009, Dowling said. The lab is headed by Ed Blake, who has done work in a number of exoneration cases.

What has happened since then is unclear. Blake has not provided adequate information to Reaves about the testing, despite repeated requests, said Blackburn, from the Lubbock innocence group.

Blackburn said the project is weighing legal action against Blake. Such a move would be tricky since the lab is out of state. But the project has begun communicating with innocence lawyers in California in hopes one of them could take on the task if necessary, he said.

The lab’s Blake refused to answer most of the Tribune-Herald’s questions, likening them to a reporter asking a doctor about a patient’s surgery. He would not directly address questions related to the UT money.

Blake said, though, that there is no current investigation at his lab involving a Waco case. A “number of years ago,” he said, his lab conducted one, but it “didn’t go anywhere.”

Asked about Dannen, Blake said he had done work for him. But Blake wouldn’t say when, in which case or what kind of items were examined.

The holdup at the lab is what prompted Bernadette Feazell to divulge what she

knows about the exoneration efforts. She said she is frustrated by how long Reaves and Dannen have allowed the situation to exist and hopes talking about it will help speed things up.

“This cannot remain a secret in the possession of a chosen few puppet masters, either in the legal community, academia or a writer,” said Bernadette Feazell, 63, who is now a pawn broker. “. . . Tony deserves public outcry.”

Melendez, now 52, said he wonders about the status of the DNA testing every day. The Tribune-Herald recently interviewed him at the Livingston prison unit where he is housed.

Melendez said Reaves and Dannen have told him there is a snafu related to the California lab. He said he tries not to dwell on it because it’s frustrating. But he said he still has confidence in Reaves and Dannen, saying the testing they initiated is likely the only way to clear his name.

Although Melendez gave written confessions about his role in the lake murders and testified against Spence, he has since recanted. Melendez now says he had nothing to do with their murders and was not even in Waco that night. He was working as a painter in Bryan back then, he said.

He confessed to something he didn’t do, Melendez said, because his lawyers told him he would almost certainly get the death penalty if he went to trial. If he pleaded guilty, he was told, he might get out on parole in as little as 10 years.

Melendez pleaded guilty the week before Spence’s first trial, making him the first to be convicted in the case. He said that pubic and head hairs found in the bindings of the victims could not be matched to any of the defendants.

“Now I would have gone ahead and went to trial,” said Melendez, who has been denied parole multiple times.

“If they had DNA (testing) when the case went to trial,” he added, “I don’t think I even would get indicted.”

According to the national Innocence Project, about 25 percent of DNA exoneration cases in the United States have involved defendants who made incriminating statements, delivered outright confessions or pleaded guilty.

Simons, the investigator, said Melendez is exactly where he needs to be. He has no doubts about Melendez’s guilt in the lake case, saying there was abundant evidence against those convicted.

No matter what evidence is tested, that won't change, he said.

In the White case, Simons maintains Washington and Williams were involved, even though Perry issued a full pardon to Washington based on the DNA evidence.

Simons' theory is they participated in the crime but didn't rape White.

Simons, who now works as an investigator for Vic Feazell's law firm, said he would have a similar outlook if testing in the lake case were to come up with a DNA profile from someone else besides those convicted.

Also, he said he would question the results of any testing because of how the evidence has been stored and disseminated.

Simons noted, too, that when Melendez was arrested for the Lake Waco murders, he also was facing an aggravated robbery charge from Corpus Christi. That case involved the robbery of a family at their home where the teenage daughter was raped.

Although Melendez was never prosecuted for the crime because of his conviction in the lake murders, police reports said two other men confessed and implicated Melendez.

Vic Feazell also has no reservations about how the lake murders were prosecuted. He said he is so disgusted by the idea of the public being misled by Dannen that he put up a website about the case. Located at www.lakewacomurders.com, it contains numerous official documents related to the case.

"Dannen tries to make Tony (Melendez) out to be a choir boy," said Feazell, who lives in Austin. "Tony is as mean, sadistic and vicious as David Spence ever was. I hope they keep him locked up forever."

As for the DNA testing, Feazell said it could not be reliable because the chain of custody has not been preserved. That refers to the paper trail that documents how evidence is collected, stored, transferred and tested.

If Dannen and Reaves thought they had a real shot at clearing Melendez through DNA testing, they should have gone through official channels to have it done, he said.

“I would have done it right,” Feazell said. “I would have gone through the courts.”

Blackburn, from the Lubbock-based innocence group, countered by saying exoneration cases ultimately do go through the court system. But in the beginning, doing testing at private labs can make sense, he said, because they tend to have better technology and are usually quicker.

As for chain of custody issues, they are common in DNA exoneration cases, Blackburn said. But that doesn’t mean the issue is problematic, he said.

“That’s something you prove up,” Blackburn said of chain of custody. “. . .The time and place to complain about that is in open court.”

Reaves agreed with Blackburn that private labs are often a better option for initial testing. Plus, he said evidence in the lake case has been outside the usual channels for years.

Dannen said he can demonstrate a clear and scrupulously maintained chain of custody for evidence sent for testing. He said any private testing would be double-checked by a Texas Department of Public Safety lab if exoneration efforts move forward.

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Whatever ultimately happens with the DNA testing, it creates another chapter in the case. For the victims’ families, that represents another event to endure.

Raymond Rice, Raylene Rice’s father, said his family has become accustomed to the seemingly never-ending nature of the case. They have lived through the deaths, the trials, an earlier book and made-for-television movie spawned by the case and Spence’s execution.

Still, the deaths and the “horrific” details of how they occurred haunt the family, Rice said. Each anniversary of the slaying is particularly difficult for him, he said, because the murders occurred on his 40th birthday.

“Raylene was really an innocent bystander,” said Rice, who now lives in Granbury.

Rice said he always has thought the right people were convicted. But he is not surprised DNA testing is being done because of the number of exonerations in recent years. If the testing were to prove Anthony Melendez is innocent, he should be released from prison, Rice said.

"I'm sorry if they made a mistake," he said. "But I can't go back. Nobody can."

Nancy Wisner, the mother of Jill Montgomery, also is not opposed to DNA testing in the case. But she is certain any testing will prove the guilt of Melendez and the other three defendants.

"Through everything that has ever been said about it being the wrong people, my heart and my mind always goes back to . . . they confessed and pled guilty," Wisner said. "I have a hard time getting past that. . . . It's hard to imagine someone confessing to that horrific of a crime if they didn't do it."

Wisner, who still lives in Waxahachie, said she thinks proof of innocence would have surfaced by now if it existed. Someone has claimed Spence and the others didn't do it nearly from the beginning, she said.

"It just kind of amazes me this type of thing has been going on for so long," Wisner said. "It's kind of like déjà vu all over again."

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