



F27 Greg Wilhoit - An Innocent Man

Richard R. Souviron, DDS*, Miami-Dade County, Medical Examiner's Office, 336 Alhambra Circle, Coral Gables, FL 33134

This presentation will point out the danger of presenting unproven and non scientific evidence (the presence of bacteroids and candida albicans in saliva) in making the link to the suspect. The presentation will show the bite mark evidence and the dangers of making a positive link to a suspect, "like a fingerprint" with total disregard for the unanimous opposite opinion of twelve board certified forensic odontologists. This presentation will also point out the danger of presenting unproven and non scientific evidence (the presence of bacteroids and *candida albicans* in saliva) in making the link to the suspect. Most egregious of all is the fact that defense attorney Briggs would not use a defense expert and decided to "wing it" even when presented with the overwhelming opinions of twelve independent experts.

This presentation will impact the forensic science community by showing the importance of second opinions in bite mark cases. The use of bacteria and yeast in saliva should not be used to link a suspect to a bite mark injury.

In the novel by John Grisham "The Innocent Man", he describes the Wilhoit case in some detail. Bite mark testimony by the prosecution "experts", Dr. Tom Glass and Dr. Keith Montgomery were a major factor in the conviction of an innocent man-Greg Wilhoit. Gross incompetence of counsel was the reason Mr. Wilhoit was granted an evidentiary hearing and subsequently a new trial. The defense was granted a directed verdict of acquittal at the second trial, some 6 years after his incarceration.

A bite mark was found on the right breast of the victim Kathryn Wilhoit at the time of her murder in 1985. Her estranged husband Greg Wilhoit was charged with first degree murder at an arraignment hearing in July of 1986 where Dr. Keith Montgomery testified as to a bite mark match. Mr. Wilhoit's trial for capital murder took place in Oklahoma in May of 1987.

Mr. Wilhoit's defense counsel George Briggs elected not to use defense bite mark expert Dr. Tom Krauss despite the fact that Dr. Krauss had sent the bite mark evidence to eleven board certified forensic dentists from across the United States and had affidavits from all eleven stating that Mr. Wilhoit could be eliminated as the biter. Defense attorney Mr. Briggs was under the influence of alcohol prior and during most of the trial. Mr. Briggs was subsequently disbarred by the Oklahoma State Bar.

The prosecution presented bite mark testimony by Dr. Glass and Dr. Montgomery along with their findings of bacteroids and *candida albicans* in the saliva found in the bite mark and from Mr. Wilhoit's mouth. Their testimony was that this was a rare finding. Further, their testimony was that bite marks were like fingerprints in specificity. The jury found Mr. Wilhoit guilty and he was sentenced to death. He spent 4 years on death row at McAlester, the Oklahoma State maximum security prison.

Because of the ineffectiveness of counsel by George Briggs and the efforts of Dr. Tom Krauss, the court of appeals granted an evidentiary hearing in July of 1990. Judge Pearman conducted the hearing and issued a "finding of fact" and "conclusion of law". In March of 1991 his findings and opinions were presented to the criminal court of appeals. On April 15, 1991 the appeals court issued an order and reversed the sentence and remanded the case for a new trial.

At his new trial Greg Wilhoit's new defense attorney Mark Barrett was granted a directed verdict by Judge Pearman and Greg Wilhoit became a free man.

Bite Mark, Candida Albicans, Conclusion of Law