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The Innocent Man, Part Two

DURING THE 25 YEARS THAT MICHAEL MORTON SPENT WRONGFULLY IMPRISONED FOR MURDERING HIS WIFE, HE KEPT THREE THINGS IN MIND: SOMEDAY HE WOULD PROVE HIS INNOCENCE TO THEIR SON. SOMEDAY HE WOULD FIND OUT WHO HAD KILLED HER. AND SOMEDAY HE WOULD UNDERSTAND HOW THIS HAD HAPPENED TO HIM.

by PAMELA COLLOFF

DECEMBER 2012



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1.

“Even though I asked to be transferred for the master’s program, coming here was a shock.”

Michael Morton wrote on January 22, 2002, from his cell in the Ramsey I prison unit, south of Houston. He was replying to a letter he had recently received from Mario Garcia, a former co-worker at the Safeway in Austin where he had worked before being sent to prison fifteen years earlier. Besides his parents and his younger sister—who made the five-hundred-mile round-trip from East Texas to visit when they could—Garcia was the only person from Michael’s previous life who had stayed in contact with him. Virtually everyone else believed that he was guilty. Throughout the fall and winter of 1986, his case had been splashed across the front pages of Central Texas newspapers, earning him a grisly notoriety. “Victim’s Husband Held in Murder Investigation,” the *Hill Country News* announced in the fall of 1986. “Killing Linked to Sexual Rage,” trumpeted an *Austin American-Statesman* headline just before he was sentenced to life in prison, in February 1987. The *Williamson County Sun* announced, “He’s Guilty.” Michael had become a pariah—a “murderous pervert,” as he would ironically refer to himself.

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“When I got here, they used to put all new arrivals in the field force,” Michael wrote, referring to inmates who were assigned to work on the prison farm. That had been three years earlier. Now 47, he was too old to be doing hard physical labor all day long, he told Garcia. His face had settled into the softer contours of middle age, and his sandy blond hair was going gray. “Try to imagine twenty to forty men,” he

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continued, “shoulder to shoulder, hip to hip, swinging their [hoes] in unison and chopping weeds that are, I swear to God, six to ten feet high. Or, on the bad days, working in a huge irrigation ditch, skinning the banks down to bare earth and then dragging the chopped-up vegetation back up the banks. It’s long, hard, backbreaking work. Sometimes guys pass out and have to be carried to the hospital. (Fakers are found out by being dragged onto a fire ant mound. Either way, the consequences suck.) During all this, armed, hard-ass guards are riding around on horseback, shouting Christian-hearted encouragement. Added to the natural camaraderie and high spirits of working outdoors are more snakes, rats, poison ivy, and biting, stinging, and pinching insects than I like to remember. The first few weeks damn near killed me.”

During his fifteen years in prison, Michael had already survived sweltering summers with no air-conditioning, when temperatures inside the old red-brick penitentiary reached into the triple digits for weeks on end. He had fought off the unwanted attention of a hulking inmate, an enforcer for a prison gang who later died of AIDS, by inviting him into his cell and slamming a makeshift tabletop against his throat. He had been kept awake by inmates who cried at night and by his own longing for his son, Eric, and his wife, Christine, whose absences he felt only more acutely as the years wore on. But in his letters to Garcia, Michael tried to strike an upbeat note. “I have fallen in with a tolerable collection of half-witted misfits,” he wrote in one letter. “Despite it all, I am okay,” he assured Garcia in another. “Honest.”

When he did allude to the indignities of his daily life, he added a heavy dose of gallows humor, as when he dubbed a stomach flu that swept through the prison

population one winter “the Brown Storm.” (“I live on a dorm with 56 guys and four toilets,” he wrote. “Do the math. It wasn’t pretty.”) He proudly described working toward his master’s degree in literature—he had already earned his bachelor’s degree in psychology during the early years of his incarceration—and he expressed how much he enjoyed reading Homer and Dante. He casually mentioned that he was at work on a novel.

Eric was a recurrent subject in his letters to Garcia. The boy was being raised by Christine’s sister, Marylee, who, along with the rest of her family, had come to believe he was guilty. “It seems hard to believe, but he’s eighteen years old,” Michael wrote that January. “This spring, he’ll graduate from a private Catholic high school in Houston. The Jesuits are supposed to be good at cramming info into the heads of teenagers, so I hope he’s ready for college. I say ‘I hope he’s ready’ because I don’t know. We’ve drifted apart. A few years ago, he reached the age where coming to visit his old man wasn’t at the top of his to-do list.” In fact, Eric—when he was fifteen—had cut off all contact with his father.

Michael never failed to express his gratitude to Garcia for taking the time to correspond with him. “No matter how my train wreck of a life ends up, I will always think of you as one of the best,” Michael signed off one letter. “Adiós for now, my friend.”

Amid the jumble of holiday mail that arrived at Bill Allison’s house every December, there was always one envelope that stood out, distinguished by the return address from prison and Michael’s familiar handwriting. The Christmas card inside—in which Michael thanked Allison for defending him so forcefully during his trial—left him flooded with emotion. He had always felt certain that Michael was innocent, and he was filled with regret that he

had not been able to convince the jury of this. “I’ve practiced law for forty-one years,” he told me. “In terms of the psychological toll that cases have taken on me, Michael’s was the worst.” In the aftermath of the guilty verdict, he said, “I couldn’t get over it. I went into a three-year tailspin.”

In Allison’s opinion, something had gone very wrong during the six-day trial at the Williamson County courthouse in Georgetown. On the afternoon that Michael was convicted, Allison and one of the prosecutors in the case, Mike Davis, had lingered after the trial to talk with jurors. As they discussed the case, Allison overheard what he believed to be a shocking admission. According to Allison, Davis told several jurors that if Michael’s attorneys had been able to obtain the reports of the case’s lead investigator, Sergeant Don Wood, they could have raised more doubt than they did. (Davis has said under oath that he has no recollection of making such a statement.)

Allison had immediately hurried back to his office in Austin to write down Davis’s comments. While he puzzled over what the prosecutor might have meant, he thought back to an argument he’d had with Davis’s boss, Williamson County district attorney Ken Anderson, who had led the prosecution’s effort. During two pretrial hearings, the lawyers had clashed over what evidence the state should, or should not, have to turn over. As Allison remembered it, state district judge William Lott had ordered Anderson to provide him with all of Wood’s reports and notes before the trial so he could determine whether they contained any “Brady material.” (The term refers to the landmark 1963 U.S. Supreme Court ruling in *Brady v. Maryland*, which holds that prosecutors are required to turn over any evidence that is favorable to the accused. Failure to do so is considered to be a “Brady violation,” or a

breach of a defendant's constitutional right to due process.)

Judge Lott had examined everything Anderson had given him and ruled that no Brady material was present. Afterward, as is the protocol in such a situation, the judge had placed the papers in a sealed file that could be opened only by the appellate courts to review at a later date. Thinking back on that series of events, Allison had a terrible thought: What if Anderson had not, in fact, given Lott all of Wood's reports and notes?

It was this idea that prompted Allison's motion for new trial, which was denied, and his first appeal, which he filed in 1988, one year after Michael was found guilty. That December, the Third Court of Appeals upheld Michael's conviction and denied Allison's claim that Brady material had been withheld from the defense. The language of the decision also made it clear that the court believed that Lott's sealed file—which its justices had taken the time to open and examine themselves—contained the entirety of Wood's notes. Still, Allison remained convinced that something was amiss. He appealed the ruling to the Court of Criminal Appeals, but the following year, its justices declined to reconsider the lower court's decision. This was a major blow to Allison's efforts. "I can't say that I ever completely gave up," Allison told me, "but I was pretty close." Despairing, he called an old friend, noted criminal defense attorney Barry Scheck. "Bill told me that he was haunted by this case," Scheck recalled. "He felt that Michael was innocent and that Anderson was hiding something. He smelled a rat from the very, very beginning."

Scheck was an early proponent of DNA testing, a new forensic technology that was just emerging in the late eighties. Though the science was first used

to match perpetrators to their crimes, Scheck and his law partner, Peter Neufeld, had become convinced that DNA testing could be used for another purpose: to exonerate the falsely accused. In 1992 the two attorneys founded a nonprofit legal organization in New York called the Innocence Project and began to take on cases in which biological material from the crime scenes could still be tested. In time this practice would transform the landscape for the wrongfully convicted, but litigating these cases was difficult at first. The technology was still in its infancy and required large quantities of DNA material, which were often unavailable. Despite these hurdles, Scheck and Neufeld managed to win numerous exonerations, and as news of their success spread, they were inundated with requests for help from across the country. "I badgered Barry and the people who worked for him for years to take on Michael's case, but they were swamped," Allison told me. "Barry would say, 'We'll get to it,' but it took a long time."

In prison, Michael had become well versed in the science of DNA analysis from the many magazine articles he had read on the subject. While he waited for Scheck to get to his case, he secured a court order, with the help of Allison and another lawyer, to permit DNA testing of a semen stain found on the sheet of the bed where Christine had been murdered. Michael still knew next to nothing about what had happened to his wife. He had returned home from work on the day she was killed to find their house overrun with law enforcement. The walls and ceiling of their bedroom were spattered with blood. Because she had been in bed at the time of the killing, in her nightgown, with the blinds closed, Michael believed that she had been attacked shortly after he left for work early that morning. But who had broken into his house and savagely beaten her was still a mystery, one he was determined to solve.

The technology proved to be too primitive to yield a result on such a small sample, however, and two rounds of testing—first in 1991 and then in 1994—were inconclusive. Over the next few years, the process grew more sophisticated as it became possible to “amplify” DNA, or duplicate even minute amounts of genetic material so there would be a large enough sample to analyze. Michael obtained another court order to have the sheet retested. The results, which he received in 2000, did not identify Christine’s killer, but they did directly contradict a sinister theory of the prosecution’s—that, after murdering Christine, Michael had masturbated over her dead body. It was a sadistic image that district attorney Anderson had repeatedly asserted during the trial, and it had helped turn jurors’ opinions against Michael. But the stain, it turned out, was not composed of semen alone; it was a combination of Michael’s semen and Christine’s vaginal fluid, indicating that something much more mundane had taken place: in the days or weeks leading up to the murder, the Mortons had had sex.

In 2002 the Innocence Project was ready to take on Michael’s case. Staff attorney Nina Morrison—who, to date, has secured no fewer than twenty DNA exonerations—headed up the effort in New York; she tapped a Houston attorney named John Raley to serve pro bono as her co-counsel. At first glance, Raley was an unusual choice: he was a civil attorney—his specialty had long been medical malpractice defense—and he had never practiced criminal law before. But he came highly recommended by a former colleague at Fulbright & Jaworski, in part for his facility with scientific testimony. He and Morrison would push for DNA testing on a wide range of evidence that had been gathered during the investigation: fingernail clippings; vaginal, anal, and oral swabs taken at Christine’s autopsy; her nightgown; stray hairs

found on her hand; and a bloody bandana that had been discovered approximately one hundred yards behind the Morton home. Raley, a six-foot-three former University of Oklahoma offensive guard, had an optimistic, almost wide-eyed view of how Williamson County would respond to the request for DNA testing. “Had the murder happened in the present day, there’s no doubt that law enforcement would have tested the evidence to try and find Christine’s killer, so initially I didn’t think they would oppose us,” Raley told me.

By then Anderson had left the district attorney’s office—in 2001 Governor Rick Perry named him district judge—but he kept in close communication with his successor, district attorney John Bradley. For eleven years, Bradley had been Anderson’s loyal first assistant, and when Anderson was appointed to the bench, Bradley became his replacement. The Houston native was well suited to carry on Anderson’s tough-on-crime legacy. A brash and sometimes polarizing figure who had cut his teeth as a young prosecutor in the Harris County DA’s office, Bradley had honed his hard-boiled approach under the legendary Johnny Holmes, who had won more death sentences than any district attorney in Texas history. After becoming Williamson County DA, Bradley issued press releases he drafted himself that publicized the numerous convictions and often draconian sentences that his prosecutors won. He was notorious for bullying defense attorneys into taking pre-indictment plea bargains for their clients, which often required people who had been accused of crimes to enter guilty pleas before knowing how strong or weak the state’s evidence was against them. His unusually combative stance toward defendants was an easy fit in an office molded by Anderson. “John was Ken’s protégé,” Allison told me. “Every policy, every strategy, got handed down from Ken to John. The only difference between them is

that John's louder. He likes to be onstage more. That was never really Ken's forte."

While Raley hoped for cooperation, Morrison cautioned that they would probably meet resistance on their motion for DNA testing. Lawyers from outside Williamson County had never been made to feel particularly welcome in Georgetown, and a request for DNA testing—which by its very nature implied that Bradley's mentor may have made a grievous error in prosecuting Michael—was certain to get a chilly reception. Though Anderson was no longer DA, his presence in the courthouse was still keenly felt. The motion would have to be filed with the original trial court where Michael had been sentenced, just down the hall from the courtroom where Anderson, now a judge, presided.

Before filing the motion, Raley called the DA to introduce himself. He let Bradley know that he came from a law enforcement family—his father, John Wesley Raley Jr., served as U.S. attorney for the eastern district of Oklahoma under two presidents, and his brother, Robert, is a federal prosecutor in Tulsa. "I said that I hoped he would agree to the motion or, at a minimum, not oppose it," Raley told me, explaining that his overtures were rebuffed. "He was polite at first, but after we filed the motion, he made it clear that he would fight us. I couldn't understand why he was opposing testing that we were paying for, that would cost the county nothing, especially if he was so certain that Michael was guilty."

In fact, Bradley was generally skeptical of post-conviction testing, in part because it could undermine the finality of the legal process. One telling indication of his view on the matter came years later, in 2007, in a now-redacted thread on an online forum for prosecutors that was discovered by

Scott Henson, of the criminal justice blog Grits for Breakfast. Posting on the forum, Bradley had advocated a troubling strategy: that when obtaining guilty pleas, prosecutors should also secure agreements that would ensure that all physical evidence could be subsequently destroyed, so as to preclude the possibility of endless appeals. “Then there is nothing to test or retest,” Bradley wrote. (Bradley declined to be interviewed for this article.)

Unsurprisingly, when Morrison and Raley filed their motion in 2005, Bradley opposed it. As the DA stonewalled, Raley’s conversations with him became increasingly antagonistic. “At one point I asked him, ‘Why won’t you just agree to this? What harm can it cause?’” Raley said. “And he told me, ‘It would muddy the waters.’” (This phrase had previously been used in a 2002 Court of Criminal Appeals ruling that denied DNA testing to a death row inmate, holding that such testing could not definitively prove the defendant’s innocence and would “merely muddy the waters.”) Bradley’s response left Raley stupefied. “I said, ‘Mr. Bradley, truth clarifies,’” Raley recalled.

Yet despite Bradley’s resistance, a decision handed down by district court judge Billy Ray Stubblefield in 2006 gave Morrison and Raley a partial victory. The judge agreed to allow DNA testing to go forward on the evidence collected from the Morton home, but he denied the request to test the bandana. Bradley had made the case that the bandana’s connection to the murder could not be proved because it had been found too far from the crime scene. “They fought us the hardest on the bandana,” Raley told me, adding that Bradley had been willing to have only the hair sample that was found on Christine’s hand tested and nothing else. “We argued that the fingerprints on the sliding-glass door and the footprint in the backyard established that the bandana had dropped

along the killer's escape route. I could picture it—him wiping the blood from his hands and face on the bandana, sticking it in his back pocket, and running." But Stubblefield did not see it the same way.

When DNA testing on the fingernail clippings, swabs, nightgown, and hair was completed, the results were discouraging. Only Christine's DNA was detected, and Michael could not be excluded as the donor of one of the hairs.

Bradley would later scoff to reporters that Michael and his attorneys were "grasping at straws" in their search for a "mystery killer." He used a similarly contemptuous tone when Michael came up for parole in 2007, having served the first third of his sixty-year sentence. "I am writing to protest parole and request that you put off reconsideration of parole for as long as the law permits," Bradley wrote to the Texas Board of Pardons and Paroles. "Michael Morton has never accepted responsibility for murdering his wife." (In an aside Bradley added, "His nickname for Christine was 'Bitch.'") The district attorney was correct that Michael appeared to be unrepentant; Michael had been told by other inmates that he would be eligible for early release only if he showed remorse for his crime, but he emphatically refused to do so. He would not lie to get out, he told his parents. His innocence, he said, was all he had.

When the DA's office received notice that Michael had been denied parole, someone—it's unclear who—scrawled a note on the letter from the Texas Department of Criminal Justice. In small, blocky letters, it read, "Victory."

Six years earlier, Michael had hit rock bottom. In 2001 a letter had arrived for him at the Ramsey I

Unit informing him that his son had decided to change his name. Eric was eighteen at the time. He had recently been adopted by his aunt, Marylee, and her husband, whom she married when Eric was twelve. That the boy had rejected his own name was too much for Michael to bear. Before Eric was born, Christine had wanted to name him Michael Morton Jr., but Michael had balked, telling her that he would rather their son have his own distinct identity. And so they had compromised on Eric Michael Morton. Now Eric Michael Morton no longer existed.

“That’s when I finally broke,” Michael told me. “Nothing before then did it—not Chris’s murder, not my arrest, not my trial, not my conviction. Not getting a life sentence. Not the failed appeals, not the lab results that led nowhere. Eric was what I had been holding on to. He was the reason I was trying to prove my innocence. Once I found out that he had changed his name, I knew that reconciliation was not a possibility anymore. We weren’t going to be able to put this back together. That was a hollow, empty feeling, because getting out had never been the goal. It was getting out so that I could tell Eric, ‘Look, see? I didn’t do this.’

“I can’t remember if it was Marylee or Eric who wrote to tell me, but I remember being nearly catatonic for at least a week. It was like the bottom fell out. This wasn’t just another difficult thing to overcome, this was the end. This was a death. I literally cried out to God, ‘Are you there? Show me something. Give me a sign.’ I had nothing. I was spent, I was bankrupt. It was the most sincere plea I have ever made in my life. And I got nothing. A couple weeks went by and . . . nothing. No response.

“I was lying in my bunk one night listening to the radio on my headphones, and I ran across a classical station. I heard something you rarely ever hear: a

harp. There was no slow buildup, no preamble to what happened next. I was just engulfed in this very warm, very comforting blinding light. I don't know what to call it—an ecstatic experience? a revelation?—because it was indescribable. Any words I use to explain it will fall short. I had this incredible feeling of joy. There was an overwhelming sense of this unlimited compassion aimed right at me. Then I heard my alarm go off and it was over, and I sat up in bed. Outwardly, everything was still the same. But I knew that I had been in the presence of God.

“My life didn't change right away. Everything didn't instantly fall into place. I was in prison for another decade, so it wasn't like God knocked open the doors for me. Becoming a believer was a slow, organic process that I had to grow into. But I was different after that. You can't buy inner peace, but I had it.”

II.

During the five years that Michael and his attorneys sought to have the bandana tested and Bradley tried mightily to resist their efforts, the bandana itself sat within the Williamson County Sheriff's Office. It didn't look like anything extraordinary. The deep-blue Western-themed handkerchief was bordered by a white lariat pattern that repeatedly spelled, in loopy script, the word “Wrangler.” Scattered across the fabric, which was deeply creased, were a number of small brown bloodstains.

Whose blood was it? On January 8, 2010, the Third Court of Appeals reversed Stubblefield's decision and allowed testing on the bandana to go forward. Justice G. Alan Waldrop noted in his decision that the unidentified fingerprints on the sliding-glass door of the Morton home and the footprint in the backyard did, in fact, suggest that there was a trail of evidence connecting the bandana to the crime scene. Further, he suggested that DNA testing could

definitively determine whether or not there was a link. “If the bandana contains Christine’s blood, it is sufficient by itself to establish a trail.”

Still, the bandana was seen as a long shot. “I did not have high hopes,” Morrison told me. She and Raley had requested that the bandana be shipped from Williamson County to a private lab in Dallas that could amplify small amounts of DNA using the most cutting-edge technology available. But Bradley insisted that the bandana instead be submitted to the Department of Public Safety crime lab for analysis, even though the lab was not equipped to amplify DNA. In a letter to Stubblefield, Raley, who had grown increasingly impatient, wondered if Bradley’s insistence on using the DPS crime lab stemmed from “a desire to cause additional delays, or to minimize the odds that interpretable DNA results will be obtained.” Finally, after five months, Stubblefield ruled that the bandana, as well as a single strand of hair that was found on it, be shipped to the lab that the Innocence Project had initially requested. By then the dried blood on the bandana was nearly 24 years old.

Testing small quantities of degraded evidence takes time, and private firms that specialize in the process are in high demand. For a full year, the blue bandana sat in the lab in Dallas. It was stored carefully, folded into a neat square, its secrets held within. In May 2011, it was submitted for testing, which was completed the following month. The results, which Morrison was informed of by a phone call from the lab, were breathtaking. Both the blood and the strand of hair matched Christine’s DNA profile. The DNA profile of an unknown man was also recovered, intermingled with Christine’s blood and hair. Michael’s DNA was absent.

Morrison, who already had plans to be in Dallas that

week to work on another wrongful conviction case, met Raley at DFW Airport so they could tell Michael the news together. The mood in Morrison's rental car that morning was "euphoric," Raley told me. "I don't think the wheels ever actually touched the ground." It was the first time during the eight years they had worked together that Raley had seen Morrison allow herself to be confident about their chances of getting Michael out. The dauntless Yale graduate had always met Raley's enthusiasm with the cautious pragmatism she had developed after years of dealing with lost evidence, recalcitrant prosecutors, and a slow-moving justice system. That morning, she beamed as they headed east into the Piney Woods, toward Palestine, where Michael had been transferred to another prison—the Michael Unit—after earning his master's degree.

Michael suspected that the news was good when he learned that Morrison was coming. Although he had spoken on the phone with her for years, he had never actually met her in person before. "I knew this wasn't just a grip and grin," Michael told me. When Morrison and Raley were escorted into the cramped visitation booth where he sat waiting for them, he could see that they were elated. He pressed his hand against the glass that separated them in greeting and picked up the phone on his side of the partition. His attorneys talked animatedly, passing the phone receiver back and forth between them. "I don't remember the exact words they said, but we were all bouncing off the walls," he told me. "After a while Nina said, 'Okay, sit down and take a deep breath. They've fought us all this way, and they're going to keep fighting. This isn't over.'"

Proving a DNA-based innocence claim requires showing that a jury would not have found the defendant guilty had the DNA results been known at the time of trial. Doing so, however, can take years.

Michael's lawyers understood that Bradley would almost certainly oppose any innocence claim and that years of appeals could follow. Even if Michael's conviction were eventually overturned by a higher court, the DA's office could still choose to retry him. The quickest way to clear his name would be to learn if the unknown man's DNA profile matched any one of the millions of individuals with prior convictions that are stored in the FBI's national DNA database, CODIS.

"Then there would be no question of Michael's innocence," Morrison told me. "When you have a name and a face to put to the DNA, it usually removes any possible hypotheses about contamination or tampering or accomplices." Initially, though, it was unknown whether the DNA profile, which had been extracted from bloodstains that were old and fragile, was detailed enough to be compared with those in CODIS. "Among the many miracles in this case is that had the DNA profile on the bandana been missing just one more marker it would not have been eligible for a national search," Morrison said.

The DNA profile was entered into CODIS, and on August 9 Morrison was informed that there had been a match. His name was Mark Alan Norwood, a drifter with a long criminal record, including arrests in Texas, California, and Tennessee for aggravated assault with intent to kill, arson, breaking and entering residences, drug possession, and resisting arrest. Old mug shots revealed a man with a large, drooping mustache, his chin tilted upward, looking down at the camera with a cold-eyed stare.

Almost 25 years to the day after Christine was murdered, Morrison and Raley called Michael to tell him that the man whose DNA was found on the bandana had been identified. "I remember Michael

was quiet for a while after we told him,” Raley said. “There was just silence on the other end of the line. And I said, ‘Michael, are you there?’ I thought he might have fainted or something. And he said, ‘Yes, I’m here. I’m just letting this all wash over me.’”

As dramatic as the DNA results were, the Williamson County district attorney’s office was not ready to admit that Michael had been wrongly convicted. No sooner did the news break that another man’s DNA had been identified than Bradley began to discount the significance of the bandana, pointing out that it had been found roughly one hundred yards from the crime scene, not in the Morton home. “I don’t think, on its face, that a DNA result [on] . . . a piece of evidence away from the crime scene immediately proves innocence,” he told the *Austin American-Statesman*. “It does raise some good issues that are worthy of investigation, and we will do that.” As Morrison had predicted, Michael was in for a fight.

By then, he was accustomed to the stubbornness of the system that had put him away, and he knew better than to expect it to yield. He understood that the district attorney’s office was deeply invested in maintaining that he was guilty. Yet he did not fully fathom how singularly obsessed Williamson County had been in its pursuit of him until he was able to see portions of Sergeant Wood’s reports and notes. This material, which the Innocence Project had, after years of litigation with the DA’s office, acquired through a public records request, was nothing short of astounding.

The stack of old documents contained critical clues that might have helped identify Christine’s killer had they ever been followed up on. Michael learned from a 1986 sheriff’s deputy’s report that several of his neighbors had seen a green van parked by the

vacant, wooded lot behind his home around the time of the murder and had observed its driver walking into the overgrown area that extended up to his privacy fence. He read an internal memo to Wood about a call received from one of Christine's relatives in Phoenix who reported that a check his father-in-law had made out to her had been cashed after her death with what appeared to be a forged signature. (On later inspection, Michael would realize the signature was actually his own.) The internal memo, which was unsigned, included a telling note to Wood: "They seem to think that Chris' purse was stolen, course, we know better than that." Though Christine's purse was missing from the crime scene, Anderson had brushed aside this detail by telling the jury that Michael had staged a burglary to deflect attention away from himself.

It was this sense of certainty that appeared to have blinded investigators to what was surely the most incredible missed clue in the entire case: a handwritten phone message for Wood reporting that Christine's credit card had apparently been used at a store in San Antonio two days after her murder. "Larry Miller can ID the woman," stated the message, which included a number to call. Wood did not appear to have ever investigated the lead.

As he sifted through the papers, Michael felt "no anger, just bewilderment," he told me. "By that time, I had been pummeled with so much, for so long, that I recall just staring at the pages, stunned." For the first time in almost 25 years, he began to have a sense of clarity about what had happened. Michael carefully turned the pages and came across an eight-page transcript of a phone call that had taken place between Wood and Michael's mother-in-law, Rita Kirkpatrick, less than two weeks after Christine's murder. As he studied each typewritten word, Michael could feel his throat tightening.

“Eric and I were alone at my house . . . , which was the first time he and I had been alone since his mother’s death,” Rita told Wood. “I was putting on makeup in the bathroom. Eric layed [sic] his blanket on the floor of my bedroom. He said, ‘Mommie is sleeping in the flowers.’ His dad had told him that last week at the cemetery. Then he kicked the blanket and said, ‘Mommie, get up.’” Rita explained to Wood that at Marylee’s suggestion she had written down everything her grandson had then said. She read her exchange with the boy back to the investigator:

Eric: Mommie’s crying. She’s—stop it. Go away.

Grandmother: Why is she crying?

Eric: ‘Cause, the monster’s there.

Grandmother: What’s he doing?

Eric: He hit Mommie. He broke the bed.

Grandmother: Is Mommie still crying?

Eric: No, Mommie stopped.

[Grandmother:] Then what happened? . . .

*Eric: The monster throw a blue suitcase on the bed.
He’s mad . . .*

Was he big?

Yeah.

Did he have on gloves?

Yeah, red.

What did he carry in his red gloves?

Basket.

What was in the basket?

Wood.

The boy's account perfectly matched the crime scene. Christine had been bludgeoned in her bed. Wood chips had been found in her hair, suggesting that she had been beaten with a log or a piece of lumber. A blue suitcase and a wicker basket had been stacked on top of her body. But it was the last part of Rita's conversation with Eric that Michael found the most astonishing:

Where was Daddy, Eric? . . . Was Daddy there?

No. Mommie and Eric was there.

Rita had then added, "So, Sgt. Wood, I'd get off the . . . domestic thing now and look for the monster and I have no more suspicions in my mind that Mike did it."

Just as Allison had suspected more than two decades earlier, there had been critical evidence in Wood's reports—evidence that would have changed the outcome of Michael's trial had the jury ever learned of it. But the transcript did not end there. Michael read along with disbelief as, over the course of the next six pages, Wood failed to ask a single pertinent question or inquire about a time when he could question Eric. Wood sought instead to convince Rita of a bizarre theory that the "big monster with the big mustache," as she referred to the killer—a reference, presumably, to a description that Eric had given her—had actually been Michael wearing his scuba-diving gear.

When I asked Michael to describe what he had felt after reading the transcript, he bowed his head and searched for the right words for a long time. “The magnitude of the tragedy felt more profound,” he said finally. “I had no idea that Eric had seen anything as catastrophic as his mother’s murder.” After reading the transcript, he told me, “I was doubled over.” He was incredulous that his wife’s family had known that Eric had said that a stranger killed Christine. “The betrayal by my in-laws became magnified,” he said. Why did he think the Kirkpatricks never told him of Eric’s account? “The police said I did it, so I did it,” Michael told me.

Soon after the results of the DNA testing became front-page news, Michael received a letter from Margaret Permenter, a friend of Christine’s. Permenter apologized for having believed the worst about him and asked for his forgiveness. (Her mistaken assumption that Michael was guilty, she told me, was based on a single conversation she’d had with a woman at the Williamson County courthouse in 1987. “I called the court to order a transcript, because I hadn’t been able to attend the trial,” she told me. “The woman I spoke with told me that the medical examiner testified that Chrissy had died at a time when she could only have been with Mike. And that was enough for me.”) Michael sent a gracious letter back, absolving her of blame. He reserved his anger for the Williamson County authorities who he believed were responsible for his wrongful conviction. “To this day, I wrestle with what might have been—and what continues to be—their motivations,” Michael wrote. “I still wonder, why? Careerism? Peer pressure? Hubris? Misplaced duty? A warped longing to ‘get’ the bad guys? I don’t know. I only know what they did.”

III.

At first the whereabouts of Mark Alan Norwood—the

convicted felon whose DNA had been detected on the bandana—were unknown. To prevent his name from being publicized, he was referred to only as John Doe in court documents. “We were very concerned about what he might do if he saw his name in print, because we felt he was a flight risk,” Raley told me. Locating him was of paramount importance to Michael’s attorneys, but they did not believe that the district attorney’s office felt the same sense of urgency. Even after Williamson County opened an investigation on Norwood in August 2011, Bradley and his staff continued to question the importance of the DNA results, casting doubt on the bandana’s “chain of evidence.” (Strict protocols now dictate how law enforcement collects and transports evidence; in Michael’s case, the bandana had been recovered not by a police officer but by Christine’s brother, John Kirkpatrick, who had picked it up, placed it in a plastic bag, and driven it to the sheriff’s office.) “There could be many innocent explanations for why DNA is on that bandana,” assistant DA Kristen Jernigan asserted during a hearing late last summer.

To debunk that hypothesis, Morrison launched her own parallel investigation. The first step would be determining whether Norwood *could* have committed the murder; if he had been living out of state at the time or if he had been in jail on an unrelated charge, then Morrison would have to pursue other possibilities. (“Sometimes a CODIS hit leads you right to the killer,” she told me. “And sometimes it leads you there indirectly, by identifying someone who is closely connected to the killer, like a crime partner or a roommate.”) Though she lacked the resources law enforcement has to conduct a nationwide search, she was able to draw on a network of volunteers who had worked with the Innocence Project on other wrongful conviction cases. “We don’t have much money, but we do have a

lot of people who want to help us for free, so we had private investigators and lawyers across the country—everywhere that Norwood had a criminal record—volunteering to go to the nearest courthouse and pull his files for us,” she said. Based on information culled from these sources, she was able to assemble a detailed time line that plotted out where Norwood had previously resided. “We figured out pretty quickly that he had been living in the Austin area at the time of the murder, and that he was out of custody”—not behind bars—“on the day that Christine was killed,” she said.

It was while looking over this time line that Raley’s longtime paralegal, Kay Kanaby, made a revelatory discovery. Like everyone who worked at Raley’s close-knit, six-attorney law firm, Raley & Bowick, Kanaby had become preoccupied with Michael’s case. A former oncology nurse who had spent the early part of her career caring for leukemia patients at M.D. Anderson, Kanaby had seen her share of tragedy, but she was particularly struck by the injustice of Michael’s odyssey through the criminal justice system. As she studied the time line and Norwood’s lengthy rap sheet, she noticed that the serial criminal had never been charged with murder—a curious omission, she thought, if he actually was the man who had killed Christine. “I didn’t think someone would commit a crime like that once,” she told me. She searched the Internet for any mention of unsolved murders in the places where Norwood had passed through—Davidson County, Tennessee; Broward County, Florida; Riverside County, California—but little information was available online. She was relieved when she found that the Austin Police Department maintained a web page devoted to cold cases. As she scrolled through photographs of the victims in those cases, one photo, of a woman named Debra Baker, gave her pause. “She looked like Christine Morton—dark hair,

early thirties, attractive,” Kanaby said. “The resemblance was striking.”

Kanaby read the case summary beside the photo. It stated, “Debra Baker was last seen the night of January 12, 1988. She failed to report for work at Elliot Systems on January 13. She was found deceased in bed by a family member who went to the residence to check on her. She had been beaten multiple times with a blunt object and there was evidence of possible forced entry into the residence.”

Kanaby was floored. Whoever had murdered Baker had used the same M.O.—bludgeoning her in her bed—as Christine’s killer, just seventeen months after Christine’s death.

Kanaby saw that the address of Baker’s home was listed, and she plugged it into GoogleMaps. As the satellite image of the North Austin neighborhood materialized before her on her computer screen, she noticed that the street where Baker had lived, Dwyce Drive, ran parallel to Justin Lane, where Norwood had lived at the time. “I got chills,” Kanaby said. “I didn’t have his exact address yet, but I could see that Justin Lane and Dwyce Drive were about two hundred feet apart. The homes on Justin Lane backed up to the homes on Dwyce. Their proximity seemed like more than just a coincidence.”

She hastily wrote an email to Morrison asking if her investigators could pinpoint Norwood’s old residence on Justin Lane. As she waited for a reply, she continued looking online for information about Baker. She soon stumbled across a criminal justice blog on which Baker’s daughter, Caitlin, had written several long posts. “There were pleas from her from 2005 begging for any information that anyone might have about who had killed her mother,” Kanaby said.

“She had clearly done this out of desperation. She said that the police had not adequately investigated the murder and that detectives had told the family they were working on it, but she didn’t believe they were.” Kanaby read on as Caitlin explained that she had barely known her mother because the murder had happened when she was three. “It was heart-wrenching,” Kanaby said. So too was the realization that Caitlin and Eric had been the same age when they lost their mothers.

Were the Morton and Baker cases linked? she wondered. As she studied the map, she had the “steadily escalating sense,” she told me, that they were. “I couldn’t stop thinking that if Norwood had been arrested and convicted of Christine’s murder, Debra might still be here, and Caitlin’s story, like Eric’s, would have been so different,” she said.

Morrison was not able to obtain the information until five days later. On August 23 she emailed Kanaby, telling her that investigators had verified which house Norwood had lived in on Justin Lane. Kanaby typed his address, and then Baker’s, into GoogleMaps and looked at the image that appeared on her screen. “He basically lived around the corner from her,” she told me. “I kept staring at the blue line that traced the path from his house to hers.”

Morrison was already in Texas when she learned of Kanaby’s findings, having flown in from New York to attend a hearing in Georgetown that afternoon. The hearing would take up a request made by the defense that was almost certainly doomed: that Judge Stubblefield recuse Bradley from the case and appoint a special prosecutor to review the evidence with fresh eyes. Stubblefield—who had consistently sided with the state since the battle over DNA testing had begun—was not swayed. “It would be truly an extraordinary act for this court to disqualify

or recuse Mr. Bradley,” he observed, expressing his confidence that the two prosecutors who were present—Jernigan and first assistant DA Lindsey Roberts—would handle the case in an unbiased manner.

Stubblefield then turned his attention to another request from the defense. Citing the materials uncovered by the Innocence Project’s public records request, Raley had made a strenuous case for Judge Lott’s sealed file to be unsealed. He argued that the transcript of Wood’s phone conversation with Rita Kirkpatrick was so plainly favorable to Michael—it conveyed an eyewitness account of the murder in which an unknown intruder, not Michael, was identified as the killer—that Lott would have undoubtedly disclosed it to the defense had he known of its existence. That he hadn’t, Raley insisted, proved that Anderson had never produced the transcript to the judge. “The way to find that out is to unseal the file,” Raley argued. Confident that everything had been above board, Jernigan did not object. “There’s nothing to suggest that this transcript wasn’t in that Court of Appeals’ file,” she said.

Stubblefield ordered that the file be retrieved from the appellate court in Austin—a process that would take a few days—so he could open it and review it with attorneys from both sides. “I personally am curious and would like to see it,” the judge added. He paused for a moment before concluding the hearing, which was taking place just down the hall from Anderson’s courtroom. “We must all have the courage to learn the facts and to let them lead us where they may, regardless where that might be,” he said.

The following morning, as the heat wave that gripped Texas broke all records, marking the

seventieth consecutive day when the temperature soared over 100 degrees, Morrison and Raley made their way to the Austin Police Department for a meeting they had requested with its cold-case unit. The two lawyers were met by detectives and a prosecutor from the Travis County DA's office, who listened intently as Morrison and Raley laid out the pieces of their case, from Norwood's DNA on the bandana to Kanaby's findings. The warm reception stood in contrast to the way they had been greeted over the years in Georgetown. "Everyone was very interested in what we had to say," Raley recalled. "They told us they would look into the possibility of comparing the DNA from the Baker crime scene to the recent Norwood evidence." As Morrison and Raley left the police department that morning, they were buoyed by the hope, however remote, that a link might be found between the two cases—a link that would erase any doubts about Michael's innocence. Raley's excitement was tempered by his frustration. "We were having to conduct our own investigation," he said. "We were doing the work of law enforcement. I kept thinking, 'Why isn't anyone in Georgetown trying to figure this out?'"

Two days later, on August 26, Jeffrey Kyle—the clerk for the Third Court of Appeals—drove from Austin to Georgetown to hand-deliver Lott's sealed file to Stubblefield. By then Morrison and Raley had returned home, and so Patricia Cummings, a local criminal defense attorney who had become a member of Michael's legal team, served as a witness to the unsealing. As she and the two prosecutors, Jernigan and Roberts, waited for the judge, Kyle stood with them, holding the small brown envelope that contained Lott's file.

"I think the expectation, at least from the DA's office, was that there was going to be a lot of material in there," Cummings told me. "But we could all see that

the envelope was very thin.” Stubblefield finally summoned them into the foyer of his chambers, where they remained standing while he opened the envelope. He pulled out six pages. All that was inside the file was a report of Wood’s, written on the day that Christine was killed, and a one-page form that Michael had signed, allowing deputies to search his pickup. “No one said much afterward, but it was very, very awkward,” Cummings said. After Stubblefield had copies of the file’s contents made for everyone, Cummings excused herself, then raced to her car and pulled out her cellphone to call Morrison. “There’s nothing there,” she said.

Stubblefield recused himself from the case the following week when Morrison and Raley stated in court filings that the absence of Wood’s reports and notes from Lott’s file raised the “specter of official misconduct.” (Stubblefield did not provide a reason for exiting the case, but he would have likely faced criticism had he not, given that Anderson was a fellow judge and longtime colleague.) In his absence, the Texas Supreme Court named a neutral party from outside Williamson County, state district judge Sid Harle, of San Antonio, to preside over the case.

Soon after, Travis County DA Rosemary Lehmberg contacted Harle to request an appointment. The judge—who was in the midst of a capital murder trial in his home district—elected to speak to her by phone instead, but he had a court reporter transcribe the exchange, which took place on September 16. During a hearing in Georgetown ten days later, he provided a sealed transcript of the conversation to Morrison, Raley, Jernigan, and Roberts and called a recess during which the attorneys could read it. The transcript contained an earth-shattering bit of information: a pubic hair that had been recovered from Debra Baker’s bed in 1988 did, in fact, match Norwood’s DNA profile.

“I remember screaming a lot as we read that transcript,” Morrison told me. “I said to John, ‘The case is over! We are done! This is it!’” Why, I asked her, was she so certain? “There was no argument that could be made with a straight face that it was a coincidence that Norwood’s DNA was found at the scene of both crimes,” she said.

The Williamson County DA’s office did not see things the same way. When attorneys from both sides of the case reconvened in the courtroom as reporters looked on, Raley—still shaking his head in amazement—stated what by then seemed obvious. “I would imagine that in light of this new information, the state should be prepared to agree to relief for Michael Morton immediately,” he said firmly. “*Right now.*” But when Harle moved the hearing into chambers so they could speak freely about Norwood, whose name was still being withheld from the public, the two prosecutors dug in their heels.

Roberts told the judge that the bandana should undergo further DNA testing, and Jernigan brought up a report from the files of the late Williamson County sheriff Jim Boutwell, who had overseen the investigation into Christine’s murder, that seemed to cast doubt on the importance of the bandana. The report had been written by a sheriff’s deputy the day after John Kirkpatrick had turned the bandana over to investigators. In the report, the deputy stated that he too had seen the bandana while earlier canvassing the area, but he justified not gathering it as evidence by explaining that he had not noticed any blood on it. (The stains were small and easy to overlook.) Based on that report, the DA’s office put forth a far-fetched theory: that Christine’s blood had gotten onto the bandana *after* John picked it up, when he returned to the Morton home. (How, exactly, John had managed to get whatever dried blood remained at the house onto the bandana was

not explained—nor was it explained how a hair of Christine’s had come to be found on the bandana.) In other words, even if Norwood had dropped the bandana, that did not make him Christine’s killer.

But the position that the DA’s office had taken was untenable. By then both Morrison’s investigators and Williamson County sheriff’s deputies had managed to locate Norwood—he was found living with his mother thirty miles east of Austin in the town of Bastrop—lending the reinvestigation of the case a new urgency. With local media reporting that evidence in the Morton killing had been linked to an unnamed suspect in a Travis County murder, Bradley folded. Four days after the hearing, he called Barry Scheck.

This was a remarkable turn of events; just two years earlier, Bradley and Scheck had famously clashed over the state’s reinvestigation of the troubled case of Cameron Todd Willingham, who was executed in 2004 for the deaths of his three daughters in an East Texas house fire. (Bradley, who was appointed by Governor Perry to head the Texas Forensic Science Commission, had openly disparaged Scheck’s efforts to examine whether Willingham had been wrongly convicted using flawed forensic science.) But during an intense weekend of phone calls back and forth, Bradley finally relented to Scheck’s terms. Bradley agreed not only to release Michael on bond while the Court of Criminal Appeals considered his claim of actual innocence but also to allow Michael’s attorneys, during that time, to conduct a court-supervised investigation into possible misconduct in the case. The unusual arrangement would allow them to question Anderson, Wood, and others under oath.

“I didn’t just want to get out,” Michael told me. “I wanted to know exactly how this had happened to

me.”

Monday, October 3, 2011, was Michael’s 8,995th day in prison. It would be his last. He spent the morning giving away the few items he had that had made life more tolerable—a radio, an oscillating fan, a pair of sneakers—and took his final walk around the yard. That afternoon he was led from his dorm to a holding cell where he would spend the night before being transported back to Georgetown for his release. As a guard walked him through the dorm, he heard the rumble of applause. Over the years, Michael had earned the respect of his fellow inmates. He was known as a generous person who, along with two other prisoners with whom he attended Bible study, had routinely performed small acts of kindness for those who were the worst off—the men who never received any visitors or money in the mail with which to buy creature comforts. During the dog days of summer, Michael had used the commissary money his parents sent him to buy ice cream for some of them, earning himself the nickname the Ice Cream Man. Now, as he walked down the concrete hallway for the last time, he looked up and saw scores of inmates standing on the second tier, clapping and whistling and cheering for him.

Michael carried a Bible that his sister had given him, a few photos, and a toothbrush. Filled with the anticipation of what was to come the next day, he managed to sleep for just a few hours. Early in the morning, two Williamson County sheriff’s deputies arrived to bring him back to Georgetown. The protocol for transporting an inmate—even a man who was about to be freed on grounds of actual innocence—required that he be handcuffed and put in leg irons, but one of the deputies hesitated before reaching for his cuffs. “Now, Mr. Morton,” he said, “if you start having bad thoughts, I want you to

remember that when all of this happened to you, I was only twelve years old.” Michael smiled and assured the deputy that he had nothing to worry about. He held his wrists out to be shackled, eager to get on the road.

The drive took three hours. Staring out the window of the squad car, Michael studied the brown, desiccated landscape that stretched westward from the Piney Woods. Leaning forward, he asked the deputies if there had been a fire in the rolling farmland and was told that the devastation was a result of the state’s historic drought. He had read about the drought, but he had not yet seen the toll it had taken and was amazed by the sight of the parched and brittle fields. There were other details that startled him too, like the peculiar metal spires he saw in the distance every now and then, which he soon understood were cellphone towers. When one of the deputies pulled over at a gas station, he studied the self-service pump with its digital display and credit card reader. The last time he had seen the outside world was seven years earlier, when he had been transferred to the Michael Unit. He had not driven a car since midway through Ronald Reagan’s second term.

When they arrived in Georgetown late on the morning of October 4, Michael could see that it too had undergone a transformation. Though still a small town, it thrummed with traffic that poured off the interstate, and the subdivisions that ringed it seemed to stretch on forever. No longer a sleepy, rural area, it had been overtaken by the northernmost edge of greater Austin. The century-old Greek Revival courthouse at the center of town where he had been convicted was shuttered. Michael was taken to the new jail, next to the Williamson County Justice Center—the spacious, modern courthouse where his bond hearing was to

be held. In his cell, he found a tidy pile of clothes that his mother had hurriedly bought for him the previous day. Having worn only loose-fitting prison whites for as long as he could remember, he stared at them as he was unshackled: a white button-down shirt, khakis, boxers, and a pair of socks. Unaccustomed to buttons, he fumbled them as he dressed himself. As he slid on the khakis, which felt impossibly soft, he began to cry.

A sea of faces greeted him in the courtroom: Morrison, Raley, and Scheck were there, as was Bill Allison, who embraced him. His mother, Patricia, and his father, Billy—who had asked the members of their church to pray for their son’s release for nearly 25 years—sat behind him with his younger sister, Patti, beaming. Reporters crammed into the courtroom, craning for a better view. As Michael scanned the room, he saw a young woman who he would later learn was Caitlin Baker, Debra Baker’s daughter. She sat quietly by herself, observing the proceedings. He spotted Mario Garcia at the back of the courtroom and motioned to his friend to step forward, enveloping him in a long, silent bear hug.

The hearing lasted just a few minutes, during which Harle apologized to Michael from the bench. “We do not have a perfect system of justice, but we have the best system of justice in the world,” the judge observed before agreeing to the terms of his release. For several minutes, everyone stood and applauded as Michael smiled broadly, his face electrified by the joy of the moment. “I thank God this wasn’t a capital case,” he told the crowd of reporters and TV cameramen. They trailed after him as he took his first steps out of the courthouse, his face upturned toward the sun.

Michael was already in his parents’ SUV, beginning to pull away, when Raley motioned for them to stop.

A dark-haired woman in her sixties stood next to him, looking distraught. Raley explained that she was Lou Bryan, one of the jurors from the 1987 trial. She had learned only that morning, when she picked up the newspaper, that DNA tests had proved Michael to be innocent. “I’m—I’m so sorry,” she managed to say as she stared at Michael in disbelief.

He reached out to squeeze her hand. “I understand,” he said.

IV.

By the time Michael walked out of prison a free man, Ken Anderson had long been a respected member of his community. He was a Sunday school teacher and Boy Scout volunteer who cast himself, in his rulings, as a champion of both crime victims and children. A father of two, the 59-year-old jurist held a regular mock trial for fifth graders that he called “The Great Stolen Peanut Butter and Jelly Caper,” and he frequently made appearances at local schools to talk about the dangers of drugs and alcohol. He was a prolific writer, and of the eight books he had written, his most impressive work was a biography of Dan Moody, a Williamson County DA from the twenties whose prosecution of the Ku Klux Klan helped win him statewide acclaim and put him in the Governor’s Mansion. Like Moody’s, Anderson’s ambition reached beyond Williamson County. At the courthouse, rumor held that he had his sights set on obtaining an appointment to the Court of Criminal Appeals, the state’s highest court for criminal cases.

So it was a sudden reversal of fortune for Anderson when, eight days after Michael’s release, the CCA overturned Michael’s conviction on grounds of actual innocence. The ruling meant that Anderson had secured a guilty verdict against an indisputably innocent man. Yet whether he, or anyone else involved in the case, would ever be held accountable

for the wrongful conviction remained an open question.

Immediately after his release, Michael's legal team began digging for answers. Thanks to Scheck's negotiations with Bradley, the lawyers—who now numbered six, including Morrison, Raley, and Scheck—were able to depose Anderson, Mike Davis (the former assistant DA who helped prosecute the case), and Wood and take affidavits from many others. The testimony was revealing. During his deposition, Anderson said that he had likely informed Allison and his co-counsel, Bill White, of the transcript in which Rita Kirkpatrick told Wood what Eric had seen but admitted that he had no recollection of what he had actually done.

“There's no way on God's green earth, if that was in my file, I wouldn't have told them that Eric said that the monster killed his mother,” Anderson testified. Allison and White are both emphatic that he never did so. “If we had known what Eric told his grandmother, we would have fought hard to have the jury hear that evidence,” Allison told me. “Eric's account would have been critical, because it supported the theory we presented at trial that an unknown intruder killed Christine.”

Shortly after the investigation concluded in November, Anderson made what still remains his only public statement about the case. Standing outside the old courthouse on the town square in Georgetown, the white-haired judge looked down at his prepared remarks as he told reporters that he had behaved ethically—“In my heart, I know there was no misconduct whatsoever”—and that he had no plans to step down from the bench. Caitlin Baker, who stood in attendance, was unimpressed, telling reporters afterward that Anderson should resign. She held Anderson partially responsible for her

mother's murder, she said, because his single-minded pursuit of Michael had allowed the real killer to go unpunished. "She could be alive right now," she said. Her outrage was fueled by what was widely seen as Anderson's failure to take any personal responsibility for his role in a conviction that he had long trumpeted as one of the pinnacles of his prosecutorial career. "As district attorney at the time, and as woefully inadequate as I realize it is, I want to formally apologize for the system's failure to Mr. Morton and every other person who was affected by the verdict," he had said before fielding a few questions and walking away.

Many observers in Williamson County wondered if the matter would end there. Rarely have Texas prosecutors had to answer tough questions about their conduct, even in the wake of wrongful convictions. But in February, Judge Harle ruled that the investigation conducted by Michael's lawyers suggested that there was probable cause to believe Anderson had broken the law in failing to turn over evidence that was "highly favorable" to the defense. Harle recommended that the Texas Supreme Court launch a court of inquiry to look into the matter. A week later, the Supreme Court concurred with Harle's findings and ruled that an inquiry should proceed. Anderson would have to answer for his alleged misconduct.

There was no precedent for this decision. A court of inquiry is an arcane and extremely rare legal procedure, unique to Texas, that can be used to investigate wrongdoing, most often on the part of state officials. But as far as anyone can remember, it has never before been used to probe allegations of prosecutorial misconduct, much less when the subject of the investigation was a sitting district judge. Nevertheless, the decision was well received. "The pursuit of justice shouldn't end with an

innocent person's release from prison," the *Austin American-Statesman* concluded in an editorial extolling Harle's recommendation.

By then the tide of public opinion had turned against Anderson and Bradley. As the face of the Williamson County DA's office, Bradley—who had devoted untold time and taxpayer money to opposing Michael's requests for DNA testing—was excoriated in the local press. "Adjust the facts as needed, feign respectability, stick to the talking points, and, above all else, protect your friends and associates," wrote local legal blogger Lou Ann Anderson, suggesting that Williamson County was less tough on crime than "light on justice." Though Bradley had long been considered bulletproof politically in Williamson County, he soon found himself in a hard-fought race against a primary challenger. Despite support from Governor Perry, who sent letters to the county's registered Republicans exhorting them to vote for Bradley, the DA was defeated by a stunning ten-point margin. The race had become a referendum on his handling of the Morton case; in the months leading up to primary day, his critics had tied bandanas to his political signs.

This fall, attention turned back to Anderson. On October 4, the one-year anniversary of Michael's release, the state bar issued a withering report on Anderson's conduct. Sixteen years earlier, the agency had named him "Prosecutor of the Year"; now it filed disciplinary charges against the judge. After a ten-month investigation, it had concluded that Anderson had deliberately withheld evidence. A judge appointed by the Texas Supreme Court will hear evidence at an upcoming disciplinary hearing, which has not yet been scheduled. If the judge determines that Anderson withheld evidence, he could be reprimanded, have his law license

suspended, or be disbarred.

As devastating as these penalties would be to a sitting judge, Anderson is no doubt far more concerned about the possible outcome of the court of inquiry, which is slated to begin on December 10. Fort Worth district judge Louis Sturns will preside over the inquiry, with legendary Houston criminal defense attorney Rusty Hardin—once a top prosecutor in the Harris County DA’s office—serving as special prosecutor. The unusual legal proceeding will be held in Georgetown, at the Williamson County Justice Center, just down the hall from Anderson’s courtroom. The irony of the situation will not be lost on anyone; the former DA—who subjected Michael to a ruthless cross-examination in 1987—could himself be called to testify while Michael looks on. If Sturns finds that Anderson violated the law, he could refer the case to the Texas attorney general’s office, even though Anderson’s attorneys have argued that the statute of limitations has long since expired on any offenses that he might be charged with. Michael’s lawyers, however, argue that the four-year window during which a prosecutor can be charged for violations such as suppression of evidence has not yet closed because Anderson committed an ongoing act of “fraudulent concealment” that did not end until August 2011, when Judge Lott’s file was unsealed.

Anderson is also expected to put on a vigorous defense that will draw on a narrow reading of what his legal obligations were to turn over evidence. He did not provide Wood’s reports and notes to Lott, explained Anderson’s attorney, Eric Nichols, “because it should be abundantly clear to any objective reader of the record that what the state agreed to produce was only a report from the day on which Christine Morton’s body was found.” The strategy of Anderson’s legal team will presumably

involve trying to shift blame onto the late Sheriff Boutwell, whose mishandling of the investigation into Christine's murder cast a long shadow on the case. They have pointed to the fact that several pieces of evidence, such as the phone message about Christine's credit card, were found only in the sheriff's office's files, not the former prosecutor's. Regardless, Allison told me he believed it was implausible that Anderson had not seen all the documents in the case, irrespective of where they were stored. "As the DA, Ken would have had complete access to the sheriff's office's records," he said. "Quite frankly, I can't imagine him stepping anywhere near the courtroom before going through every piece of paper first. He's very meticulous." No one knows exactly how long the court of inquiry will last; it could well be concluded before Christmas.

The denouement of the Morton case will come in January when Mark Alan Norwood, who was arrested last fall in Bastrop, will stand trial for Christine's murder. Given Williamson County's obvious conflict of interest—its own prosecutors, while fighting Michael's efforts to prove his innocence, discounted the very same DNA evidence that implicated Norwood—the case will be tried by special prosecutor Lisa Tanner of the attorney general's office. Because there is a gag order in the case, it is unknown if state investigators have been able to connect Norwood back to the green van, the contents of Christine's purse, or Michael's .45 automatic, which was also stolen from the Morton home. It also remains to be seen whether the DNA hit in the Baker case will be admissible.

For Michael, the experience will be surreal. He will essentially be watching his original trial replayed, featuring evidence that his jury never heard, with another man sitting behind the defense table. In recent court appearances, Norwood has appeared

unkempt, his dark, greasy hair pulled back into a ponytail, his expression blasé as he surveys the bank of TV cameras in the courtroom. (Because of publicity surrounding the case, the trial has been moved to San Angelo on a change of venue.) “I won’t do anything to jeopardize the trial, of course,” Michael told me, “but I’ve wondered if I will be able to control myself when I see him face-to-face.” Yet Michael has already shown Norwood mercy. At his request, as well as that of the entire Kirkpatrick family, Tanner will not seek a death sentence.

Eric’s memories of childhood begin with playing T-ball in the suburbs of Houston. He is five years old, a cheerful kid with blond hair and a wide, unclouded smile. Try as he might, he is incapable of drawing any earlier images to the surface; everything that took place before he was five is a blank. A photograph he has seen of himself with his mother, which was taken shortly after he underwent open-heart surgery when he was three, has evoked only a few unsatisfying details; he can recall the Hot Wheels set that he is playing with in the picture, but he has never been able to summon up an actual memory of the smiling woman with dark hair who is looking at him adoringly. His mother is lost to him.

The few recollections he has of his father start after Michael was already incarcerated. He can remember the lemon drops that Michael used to give him during their twice-a-year court-mandated visits at the Wynne Unit, in Huntsville. And he can remember the hand-drawn mazes that would arrive in the mail every so often, which his dad had carefully penciled onto graph paper before finishing in ink, each one more intricate than the last.

Those innocent details were overwhelmed, as Eric grew older, by the anguish of understanding why his father was in prison. That his father had been

convicted of murdering his mother was a closely held family secret. Marylee had warned him not to tell his friends at school for fear that the stigma would rub off on him. “She and my grandmother wanted to protect me,” Eric told me. “Everything they did was to shield me from what had happened. Obviously I was told my dad had been found guilty, but it wasn’t something we talked about.” When they did have to confront the past by making the two-hour drive to see Michael, Marylee attempted to make each visit as positive an experience as possible; the day would begin with a stop at McDonald’s and a coloring book for Eric to fill in on the way to the prison. “I’m sure those visits were torture for her,” he told me, “but she always put on a good face for me.” Marylee was intent on moving forward, past the tragedy that had engulfed them, and Eric helped her, in his own way, by revising the family history. When friends asked about his mother, he said that she had died of cancer or that she had been killed in a car accident. He told people that his father had taken off not long after he was born and now lived in California.

And so for Eric, life moved on. He had a doting aunt and grandmother, a top education at a private Catholic school, friends from the many sports teams he played on, and a beloved mixed-breed collie named Shelby. “Everything was picture-perfect,” he told me. “It was *Leave It to Beaver*, only with a single mom.” When he was twelve, Marylee married a friend of hers from junior high school, and her new husband would play a large and positive role in Eric’s life; Eric would later take his name—Olson—when he was preparing to apply to college. His decision had less to do with cutting ties to Michael, he explained, than with wanting to become part of the Olson family, which by then included not only Marylee and her husband but the son they’d had three years earlier, whom Eric

thought of as his little brother.

Eric went on to attend Texas State University, where he became the president of a small Catholic fraternity. When he returned home to Houston, he went to work in the campus ministry at his old high school. He met his future wife, Maggie, while volunteering at a local church. A year before they married, he told her on a drive through the Hill Country, as he stared straight ahead at the two-lane highway, that his father had killed his mother. He asked her not to tell anyone. "It wasn't something that ate away at me or that I really dwelled on," Eric told me. "I put it out of my mind so I didn't have to deal with it. I just wanted to live a normal life."

In June 2011, three months after he and Maggie married, Eric received an email from John Raley. After trying fruitlessly for weeks to track Eric down, Raley's wife, Kelly, who is also an attorney at Raley & Bowick, had finally come across his wedding announcement on the website of a small local newspaper; using the details that were provided, she had figured out where Eric worked, and she passed along his contact information to her husband. "I have called you a couple of times recently, and I want you to know who I am and why I called," John Raley's email explained. "I am part of a team of lawyers who, for many years, have been volunteering our time on behalf of your biological father." Raley then laid out what had not yet been disclosed to the public: DNA testing had provided "powerful new evidence" of Michael's innocence.

Eric did not respond for seven weeks. He was 28 years old and had lived almost his entire life believing that his father had killed his mother. The email rattled him so much that two days went by before he even mentioned it to his wife. "I wasn't sure if it was real at first," Eric told me. "There had

never been any question that he did it, so this came totally out of the blue.” When Eric failed to answer, the Raleys enlisted their pastor to help, asking him to contact the priest who oversees the private school where Eric works. Only after he received a visit from the priest did Eric answer Raley’s email, sending a curt note acknowledging that he had received it. By then the hit to Norwood had been made, and Raley replied with a more detailed accounting of the facts surrounding the case. “The most important thing I can tell you,” he wrote in conclusion, “is that your father loves you.”

The following day, Eric wrote back: “My family does not have any desire to reenter this discussion or to relive what happened 25 years ago. Please do not contact my place of work or my family again.”

Eric’s first instinct, he told me, was not to shut his father out but to protect the woman who had raised him and prevent her from ever having to dredge up her grief over her sister’s murder. He did not tell Marylee about his exchange with Raley until weeks later. When he did, he found that she remained extremely skeptical that Michael could be innocent, even though she had, by then, read media coverage of recent developments in the case. Based on her communications with the Williamson County DA’s office, which was still trying to discount the relevance of the bandana, she continued to trust that Michael was guilty. Still, Eric kept educating himself about his father’s case, of which he knew little. He had never even been aware of Michael’s long fight to have the bandana tested. Encouraged by Maggie, Eric began to form a different view of his father.

Marylee, however, did not do the same. As she had always done, she accepted the DA’s office’s view of the case—that the DNA results did not exonerate Michael. No one at the DA’s office informed her of

the deal that Bradley had brokered with Scheck, so she was blindsided when she learned of Michael's impending release. She found out when *Austin American-Statesman* reporter Chuck Lindell emailed her to ask for comment on the afternoon before Michael walked free.

Eric had, by then, come to accept that his father was likely innocent, but he felt fiercely protective of Marylee, who was struggling to understand how everything she had been told was rapidly unraveling. And so, on October 4, the day of Michael's release, Eric kept his distance. He was not present at the courthouse to hear Judge Harle's apology or the crowd's applause. When classes let out that afternoon, Eric closed the door to his office and sat down in front of his computer. On the website of an Austin TV news station, he was able to find a live-streaming video of the press conference that was being held nearly two hundred miles away in Georgetown. He leaned in closer, looking on in wonder as his father—older and grayer, wearing an exuberant grin—spoke to reporters. Eric did not have the urge to be there with him, but neither did he have the impulse to turn away.

Two days later, he wrote to Raley. "I want to begin by sharing my appreciation for your hard work," he typed. "I hope that you continue the work you have done by pursuing the true murderer." His family, he went on, was having "difficulty processing this new information." He described the preceding weeks as "a bit uncomfortable." Despite that tension, he wrote, "I feel the need to begin to reconcile the situation. I cannot imagine the pain everyone has felt, and I know that I was blessed with a childhood in which I was sheltered from most of that suffering. However, I would like to slowly establish contact again with my father."

Immediately after his release, Michael returned to East Texas with his parents and settled into their spare bedroom. In time he would assume a high profile—speaking at universities about the lack of oversight for prosecutors, meeting with lawmakers to discuss legislative reforms—but in those early days, he was intensely private. He was unaccustomed to the everyday things he had once taken for granted: using metal silverware, or carrying a wallet, or being able to push open a door. The tactile experience of being touched by another human being was foreign to him, and he was taken aback whenever his mother or his sister threw their arms around him. Though the Innocence Project made sure that a social worker who had previously worked with exonerees was present on the day he was freed and available to help him in the months that followed, he did not seek out her counsel. “It was a blessed, easy transition,” he told me. “I had my family to help me and a roof over my head. Honestly, my return to the free world was not overwhelming compared to everything I’d been through up until then.” He delighted in mundane indulgences like taking off his shoes and walking barefoot across the carpet. Even doing the laundry, he told me, was its own pleasure. “Sorting socks and folding underwear may be work for some folks,” he said, “but you approach it from a radically different perspective if you haven’t been able to wear your own clothes for twenty-five years.”

The process of reconnecting with Eric was less straightforward. Michael tried to be patient as days and then weeks went by with no further word from him. It would take until shortly before Thanksgiving for Eric to agree to meet, and he did so without telling Marylee, who was still coming to grips with the revelations of the previous few months. John and Kelly Raley had offered their home in West Houston as a neutral location for the meeting. So one

Saturday afternoon in November 2011, Eric and Michael set out to meet again.

Michael paced the floor as he waited for Eric, who was running late. After a while, Kelly began to worry that Eric might not come after all, and so she was relieved when she finally saw a car pull up outside. Eric and Maggie got out and approached the house, where Michael waited in the foyer with Raley. “This grown man was standing there,” Michael told me of his surprise when Eric appeared at the door. “That was him, that was my little boy. I would have walked right past him if I had seen him on the street.”

They shook hands. Then Michael reached out for Eric, and they embraced for a long time. “He was emotional, more than I was,” Eric remembered. “I didn’t know how to react, because I didn’t know him. I kept thinking, ‘Should I be crying? What should I be feeling?’ I was just kind of stunned.”

Eric was quiet for most of the evening as he took everything in. But his father, who had yearned in the solitude of his cell for this moment, could not hide his eagerness for them to be close again. “Michael was so excited that he was almost manic,” Raley told me. “It was the fastest I’d ever seen him talk. I think he wanted to cram everything they had missed into that first hour together. Eric was respectful and courteous, but he did not engage.” Raley and his wife watched with growing concern through dinner as Eric said little, and when the conversation stalled, Kelly talked to Maggie about the baby that she and Eric were expecting. Finally, Raley steered Michael and Eric outside to the back patio with mugs of coffee, where they could talk by themselves. It was the first time they had been alone together in 25 years.

They sat in the darkness, in a white garden swing

that overlooked the yard, and it was only then that Eric opened up. “I told him that I was extremely freaked out,” Eric recalled. “I said, ‘I’m not mad. I don’t hate you. I just feel weird, and I don’t know how to act around you. Part of me feels like I’m betraying the Kirkpatricks right now. I know you’re excited to be out, but this is hard.’” Michael relaxed and listened as his son explained his mixed emotions. Slowly, the conversation eased into subjects that Eric had always wondered about: his mother, whose adult life he knew little about, and the three years they had all spent together as a family. “There was an organic, natural cadence we fell into,” Michael told me. “It just started going so well. We were alone, and it was good.”

Michael would see his son twice more that winter. In January he visited Houston shortly after the birth of Eric and Maggie’s daughter, and in February Eric came to East Texas to visit the extended Morton family. By then Eric had told Marylee about meeting his father, and he had been both surprised and relieved to discover that she was supportive of his desire to reconnect with Michael. But the Kirkpatricks themselves—having been conditioned for more than two decades to trust the sadistic portrayal presented of Michael at his trial—were more hesitant. (The conversation between three-year-old Eric and his grandmother, in which he described the murderer as a “monster,” had ultimately not persuaded the Kirkpatricks that Michael was above suspicion; encouraged by the sheriff’s office, they had always believed that Eric had simply made up the story after overhearing family members discussing details of the case.) When the entire family convened in April for the christening of Eric and Maggie’s baby girl, Michael received what he felt was a lukewarm reception—first at a dinner with Marylee and in particular at the baptism itself. “We greeted each other, but there

were few words spoken,” Michael said. Even John Kirkpatrick, who was responsible for finding the bloody bandana that helped to free Michael, was cordial but distant. “I sensed that none of them had accepted or internalized my innocence,” Michael told me. “But I also know that they were lied to, manipulated, and kept in the dark about the most important aspects of the investigation, so in the end, I have to forgive them.”

By then Michael had received compensation for the time he served; in accordance with state law, which requires that exonerees be paid \$80,000 for each year of wrongful imprisonment, he received just short of \$2 million. He contributed some of the funds to a prison ministry that had buoyed him during his time behind bars and bought a piece of lakefront property, where he plans to build a house. He will remain close enough to his elderly parents that he can help them, having already shepherded them through several health crises since his release; not long after he returned home, his father had a stroke and his mother broke her arm. “I feel like I got home right in time,” he told me.

He has toyed with the idea of moving out West someday, but too many ties bind him to East Texas. One is his relationship with a divorcée and mother of three grown children who attends the same church as Michael’s parents. “We’re like an old married couple because we’re in our fifties,” Michael said. “We have our reading night, when we lie around her living room and read our respective books. Another night is movie night, and we’ll watch something I missed while I was away.” Christine will never be far from his mind, he added. “I think of her, but she is not the overriding influence she used to be,” he said. “It’s a bittersweet thing to realize that. But maybe, in the end, healthy.”

Michael tries not to overwhelm Eric by going to Houston too often, though he told me there were few things that made him happier than seeing his son holding his granddaughter. When he does visit, he usually stays with the Raleys and stops by Eric and Maggie's home to say hello. On a recent visit, he and Eric went to an Astros game. It was the first time they had ever gone to a ball game together. "We haven't had much one-on-one time, so I figured the game was the easiest way to do that," Eric told me. "It was nice. Of course, it was weird too."

It was on the heels of this visit, the night after the ball game, that I met Eric and Maggie for the first time. As we talked in the living room of their small, ranch-style house on the western edge of Houston, Maggie explained that Eric had become much more receptive to welcoming Michael back into his life since the birth of their daughter. She looked at her husband. "When you were turned off to the whole thing and you didn't want to meet Mike, I just said, 'You're going to understand his feelings as soon as this little girl's born,'" she reminded him. "I knew you were going to understand what a father's love was and that it doesn't just go away."

Eric nodded. "That little girl has been my saving grace," he told me. "The whole family has come a long way this year, and I think she's helped with that." I asked him about Marylee and how she was coping with the situation. He thought for a moment. "I think it's difficult for her to share how much confusion she's felt in the process of forgiving my father," he said. "She's come a long way from where she was when she seemed so resistant and angry. Now her anger and frustration is focused on the system and on Ken Anderson. She doesn't believe my father is to blame anymore." He was hopeful, he said, that there would be greater reconciliation when they all attended the Norwood trial together. Eric told me

We heard the baby cry in the next room, and Maggie went to get her. A few minutes later she returned, holding the seven-month-old. The baby was tiny and alert, her expression placid as she stared at us. Her blue eyes were as bright as her late grandmother's, who would be 57 were she still alive. We all stared back at the baby as she studied us, watchful and serene, unaware of all the pain and suffering that had come before her. Her name, of course, is Christine.



A photograph of Greg Kinnear, a man with grey hair wearing a dark suit and a red tie, waving his right hand to a crowd. He is standing on a stage or set. In the background, there are people, including a woman in a grey dress and another in a black and white patterned dress. A sign with the word "GREG" is visible in the background.

A photograph of a room with a red mat on the floor. A small brown object is on the wall. A news channel logo '6' is in the bottom right corner.

Seclusion Rooms in North Texas Schools Spark Controversy

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**RSamuelson** • 2 years ago

Amazing, extremely well written piece. Thank you for sharing this story with the world. The wheels of justice turn slowly, painfully so at times, and it's heartening to know that innocence can prevail. Sadly, I'm sure there are many other stories like this where the innocent die in prison or, worse, are executed. Thank you again.

58  |  • Reply • Share ▾**Pamela Colloff** → **RSamuelson**
• 2 years ago

Thanks so much for your kind words! I agree with you that there are likely many more stories like this. If not for DNA testing and a team of determined lawyers, Michael would still be in prison.

32  |  • Reply • Share ▾**PaulFurber** → **Pamela Colloff**
• a year ago

I agree with Robert - extraordinary telling of an extraordinary story. I hope you get a Pulitzer for this.

11  |  • Reply • Share ▾**Death To Truthers** →
PaulFurber
• 8 months ago

Agree, this is Pulitzer material. Don't know how the awarding of that award is decided, but the author definitely deserves it. Best article I've read in