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### JOHN HORTON

#### Other Murder Exonerations with False Confessions



John Horton

Shortly before 10 p.m. on September 19, 1993, a lone gunman entered a McDonald's restaurant in Rockford, Illinois. Almost immediately, he fatally shot 26-year-old Arthur Castaneda, a customer who was eating a cheeseburger. The gunman then herded about seven other customers behind the counter, though three teenagers managed to flee out a side door.

The gunman ordered Mary Casey, the restaurant manager, to open a floor safe in an office, saying, "You got 20 seconds to open it, bitch, or I'm going

to pop you." Casey opened the safe and handed him two brown file folders containing about \$500. He also took a six-pocket file folder. She offered to open the cash register tills, but the gunman refused and fled on foot.

A woman in the drive-through lane saw a man run through the parking lot and leap onto a railroad embankment before disappearing from view. A woman standing in the parking lot also saw the robber running away.

Police gathered descriptions from the numerous witnesses, including the two women outside, Casey, several customers, and Michelle Jackson, an employee who was mopping the floor at the time. Most of them agreed that the gunman was a black man with a medium to dark complexion, about 5 feet 8 to 6 feet tall and weighing 200 to 230 pounds. Most said he was in his twenties and wore a dark coat with a hood over his head and a scarf or bandana covering the lower half of his face. Two witnesses said the man was wearing green Army-style pants, including Casey, who spent the most time in direct contact with him. Casey said the gunman wore black gloves and dark, well-worn work boots.

When police arrived, Casey said that someone had attempted to rob the restaurant less than 24 hours earlier— at about 1 a.m.—just after the restaurant was closed for the night. Patrick Kenney, another manager, told police that he was unlocking a side door as he leaving when he saw a masked man wearing a dark sweatshirt and holding a black semi-automatic pistol come out of the bushes. The employee ducked back inside, relocked the door, and told everyone else to get back. The robber then left.

Kenney also told police that he believed the robber who had committed the murder was the same person who had robbed the restaurant more than a year earlier on August 7, 1992. Kenney said he

<b>State:</b>	Illinois
<b>County:</b>	Winnebago
<b>Most Serious Crime:</b>	Murder
<b>Additional Convictions:</b>	Robbery
<b>Reported Crime Date:</b>	1993
<b>Convicted:</b>	1995
<b>Exonerated:</b>	2017
<b>Sentence:</b>	Life without parole
<b>Race:</b>	Black
<b>Sex:</b>	Male
<b>Age at the date of crime:</b>	17
<b>Contributing Factors:</b>	False Confession, Perjury or False Accusation, Official Misconduct, Inadequate Legal Defense
<b>Did DNA evidence contribute to the exoneration?:</b>	No

recognized the robber's voice and that both times, the robber herded customers and employees into the back and threatened to "pop" the manager if the safe wasn't opened.

Over the next several days, police received reports from anonymous sources who claimed that 17-year-old high school student John Horton was telling people that he was the gunman. Police were led to 17-year-old Denise Davis, a former girlfriend of Horton, who said she heard Horton claim responsibility for the crime.

On the afternoon of September 24, 1993, Horton voluntarily came to the police station because he heard that police wanted to talk to him. Horton was 5 feet 11 inches tall and weighed 185 pounds. His criminal history consisted of three traffic tickets.

At about 4:45 p.m., two detectives began interrogating Horton. He said that at the time of the crime, he was at his sister's home and had talked on the phone with his girlfriend, Melissa Pappas, from 9:30 p.m. to almost 10 p.m. He said his brother, Larry Horton, then drove him to Garlyn Wilks's house to pick up some clothes, and after that they went to their mother's home.

He admitted he had a Tec-22 semi-automatic pistol he was trying to sell. He said, however, that his cousin, Clifton "Buddy" English, had borrowed it and used it to commit the crime. Horton said that English told him he had taken two bags with about \$400 in cash out of the restaurant safe.

Horton also said that English was the person who tried to rob the restaurant hours earlier—Horton had been waiting in the car when English took the Tec-22, but came back empty-handed.

While detectives were interrogating Horton, other officers were questioning 15-year-old Lynn Hollingshed. Eventually, police prepared a statement that Hollingshed signed stating that Horton had admitted several times to involvement in the crime—admissions heard not just by Hollingshed, but also by numerous others.

Police also brought in English for questioning, but he denied involvement in the crime. He said that from September 18 (the day before the crime) until the early morning hours of September 19, he was home with his live-in girlfriend, Tammy Buresh, his brother Michael, and Michael's girlfriend. He said that during the evening, he had chatted with their neighbors.

That evening, police spoke to Buresh, who said English didn't speak to the neighbors—they didn't even meet them until after the crime occurred. Moreover, Buresh said she wasn't home on the night of the crime—she was at work. She said her time cards would verify her statement, but police never checked them.

By that time, Horton's interrogation had lasted six hours. The detectives suggested to Horton that perhaps he shot Castaneda by accident. They then thrust in front of him a six-pocket file that resembled the one of the two folders taken from the restaurant.

The detectives said that Horton then confessed almost immediately that he had committed the crime. However, when asked what he was wearing, Horton said he had on blue and white Nike tennis shoes (not worn work boots), a zip-up jacket (not a hooded jacket), and black windbreaker pants (not green Army-style pants). Two hours later, at 1:47 a.m. on September 25, 1993, Horton signed the confession—nine hours after he arrived at the station. English was then released.

Over the next several days, Melissa Pappas (Horton's girlfriend), Garlyn Wilks, and Dessie Mimms (Wilks's mother) corroborated Horton's Sunday night alibi. Pappas also told police that English had committed the crime and that English had told Horton he had done it. Pappas said that English had tried to rob the restaurant less than 24 hours earlier and that Horton had been in the car at the time.

Horton's brother, Larry, told police that on Monday, September 20, 1993—the day after the murder and robbery—English admitted to the crime and gave him the Tec-22. Larry told police he had hidden the

gun in his sister's attic. He provided a house key to his sister's home so police could retrieve the gun.

Meanwhile, English was arrested for a murder at the Bombay Bicycle Club. He subsequently pled guilty and was sentenced to 66 years in prison.

John Horton was charged with first-degree murder and armed robbery. In March 1995, he went to trial in Winnebago County Circuit Court.

The prosecution relied primarily on the confession, Hollingshed's testimony, and ballistics tests that linked a shell casing found at the restaurant as well as the slug removed from Castaneda to the Tec-22 recovered in the attic. The state called none of the seven people that Hollingshed said were present when Horton talked about the crime to testify.

None of the witnesses to the crime—customers and McDonald's employees alike—was able to identify Horton as the robber. Michelle Jackson, who was mopping the floor when the crime occurred, said she knew Horton from high school and was certain Horton was not the perpetrator.

Denise Davis, Horton's former girlfriend, testified that Horton said he committed the crime, but told the jury she didn't believe him and that he was bragging to build a reputation.

The trial judge refused to allow Horton's defense lawyer to introduce testimony from four witnesses who would have said that English confessed to them that he committed the crime. These witnesses included Larry Horton and Felicia Horton, first cousins of English, as well as the mother of one of English's children.

The defense consisted of testimony of Larry Horton, Garlyn Wilks, and Wilks's mother, who corroborated Horton's alibi.

The defense contended the confession was false and focused on details that were untrue, such as the statement that he shot Castaneda because he thought he was a manager based on how he was dressed. In fact, Castaneda was wearing blue jeans, a gray pullover sweater, and a black Hard Rock Café jacket.

On March 22, 1995, after 10 hours of deliberation, the jury convicted Horton of first-degree murder and armed robbery. On August 4, 1995, prior to sentencing, English contacted Horton's defense lawyers and confessed that he was the lone gunman who shot Castaneda and robbed the restaurant. English provided a sworn statement. The defense sought a new trial, but the motion was denied.

At the sentencing hearing, Horton told Castaneda's family, "I am not the one...who took your son. I hope you believe what I am saying because it's the honest to God truth." The judge then sentenced Horton to life in prison without parole.

Horton appealed, although his attorney did not challenge the exclusion of English's pretrial confessions. The Illinois Appellate Court upheld the convictions, noting, "English might have believed he had little to lose by confessions to the McDonald's shooting and robbery. Thus the trial court could have viewed English's 'confession' as an attempt to avoid the adverse verdict rendered against his cousin."

Horton, acting without a lawyer, filed three separate post-conviction petitions over the next several years. All were dismissed without a hearing. One of the petitions contained a 1998 recantation by Denise Davis, Horton's former girlfriend, who said she testified falsely that Horton bragged of committing the crime. She said she lied because she was angry with Horton for leaving her and getting a new girlfriend.

In 2012, Joshua Tepfer, an attorney at the Center on Wrongful Convictions at Northwestern University School of Law, and a team of law students began re-investigating the case. In 2013, Tepfer filed a request with the Winnebago County Circuit Court to file a post-conviction petition.

The petition included affidavits or letters that recounted five different confessions from English. It also included sworn statements from all of the individuals that Hollingshed claimed were present when Horton admitted involvement—all saying that Hollingshed's testimony was false.

The petition presented evidence that Horton had been in a car accident several weeks before the robbery and had sustained a serious knee injury that left him physically incapable of sprinting away from the restaurant and leaping onto railroad ties as witnesses had described. The motion said that Holton's defense attorney had provided an inadequate legal defense by failing to present evidence of the injury and failing to interview the people Hollingshed had mentioned in his testimony.

The petition also included a February 19, 2013 sworn confession from English. He said that he had robbed the McDonald's a year before the shooting, and that he had attempted to rob it again 24 hours before the crime while Horton waited in the car, but he slipped near the entrance and ran away. English said that during the crime, he was wearing dark green Army fatigues, a dark bandanna over his face, and black gloves. He said he shot Castaneda, and also drew a map that accurately depicted where people were located in the restaurant. He said he did not take any money from the cash register tills because he believed the registers had alarms.

English also said that in February 2006, he wrote to the prosecution confessing to the crime, and that he confessed again during a mental health screening in prison in 2008. Dr. James Tiller, who performed the screening, verified that English confessed, and said his impression at the time was that English was telling the truth.

English further stated that he confessed to the Hill Correctional Center Internal Affairs Division. This too was verified by reports at the prison.

The petition also stated that the prosecution had failed to disclose to Horton's lawyer that Hollingshed had a prior criminal record. Hollingshed claimed at trial that he was not granted favorable treatment in return for his testimony. At the time, however, he was facing nine separate criminal charges – including shooting into a car of five people – yet was allowed to plead to only one charge and sentenced to boot camp.

On October 21, 2014, the trial court denied Horton permission to file the petition. The court held that English's 2013 confession had been litigated in the past and rejected. The court rejected the other evidence as well.

Tepfer, who was by then affiliated with the Exoneration Project at the University of Chicago Law School, appealed. In October 2016, the Illinois Appellate Court took the extraordinary step of reversing Horton's conviction and ordering a new trial rather than just overruling the denial of the defense request to file the petition. The court held that the prosecution had failed to disclose evidence about Hollingshed that could have been used to impeach his testimony at the trial.

Appellate Judge Ann Jorgensen, in a separate concurrence, wrote that it was her "hope that those reading this decision will take note of the numerous outrageous errors and missteps that occurred in this case. I believe that the evidence that (Horton) presented to support his actual innocence claim is significant."

When Horton, who was then confined at the Menard Correctional Center in southern Illinois, was informed of the decision, several correctional officers congratulated him. Two of them actually wept. One guard had often commented to Tepfer when he visited the prison that Horton "does not belong here."

On February 10, 2017, Horton was released on bond pending a retrial. On October 4, 2017, the prosecution dismissed the charges.

– *Maurice Possley*

**Report an error or add more information about this case.**

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Posting Date: 10/9/2017

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## ABOUT THE REGISTRY

The National Registry of Exonerations is a project of the Newkirk Center for Science & Society at University of California Irvine, the University of Michigan Law School and Michigan State University College of Law. It was founded in 2012 in conjunction with the Center on Wrongful Convictions at Northwestern University School of Law. The Registry provides detailed information about every known exoneration in the United States since 1989—cases in which a person was wrongly convicted of a crime and later cleared of all the charges based on new evidence of innocence.

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