



## Anthony Graves

On August 18, 1992, police were called to a burning home in Somerville, Texas, where they found the bodies of 45-year-old Bobbie Davis, her 16-year-old daughter, and her four grandchildren, ages 4 to 9.

Davis and the grandchildren had been stabbed, beaten and strangled. Davis's daughter, Nicole, had been fatally shot.

A few days later, police arrested Robert Carter, 26, the father of one of the grandchildren, after they noticed he had burns and bandages at the children's funeral.

During questioning, Carter, of Brenham, Texas, admitted he committed the murders and set the house ablaze. Pressed to name an accomplice, Carter pointed to Anthony Graves, 26, a cousin of his wife, Theresa Carter.

On August, 22, 1992, Graves was taken into custody. Carter went before a Burtleson County grand jury and recanted, saying that Graves was not involved in the murders. However, two members of law enforcement told the grand jury that they heard Graves implicate himself in the crime while in his cell.

Graves and Carter and Carter's wife were indicted for the murders.

Carter was tried and convicted in February 1994. He was sentenced to death.

Graves, also of Brenham, went on trial in October 1994. On October 21, immediately before the trial, Carter met with the prosecutor, Charles Sebesta, and said that he alone committed the crime—that Graves was not involved.

When Sebesta said he didn't believe him because the evidence suggested multiple people were involved, Carter then said he had committed the crime with Graves and someone named "Red." When Sebesta suggested that "Red" was Carter's wife, Cookie, Carter denied it and offered to take a polygraph exam.

After the polygraph examiner said Carter exhibited deception, Carter changed his story again—saying he had invented "Red." Later, he admitted that his wife was sometimes called "Red."

At the time, Sebesta was working on a deal that would require Carter to testify against both his wife and Graves in return for a life sentence if his death sentence were reversed on appeal.

By the following morning, October 22, 1994, Carter refused to testify against his wife. So the deal was modified—Carter would not be asked any questions about his wife.

At the trial, Carter testified that he had committed the crime with Graves. He testified they went to Davis's home because Graves was upset that Bobbie

**State:** Texas

**County:** Burtleson

**Most Serious Crime:** Murder

**Additional Convictions:** Arson

**Reported Crime Date:** 1992

**Convicted:** 1994

**Exonerated:** 2010

**Sentence:** Death

**Race:** Black

**Sex:** Male

**Age:** 26

**Contributing Factors:** False or Misleading Forensic Evidence, Perjury or False Accusation, Official Misconduct

**Did DNA evidence contribute to the exoneration?** No  
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Davis had gotten a job promotion that Graves believed should have gone to his mother. At the time, Carter said he went to the door and spoke with Davis, then said he had to get something from his car. When he got to the car, Carter said, Graves went inside.

Carter said he went into the house not long after and found a bloody scene—Davis was dead and so were the grandchildren. Carter said he found Davis's daughter in a room and shot her five times.

The prosecution presented a knife that was similar to one once owned by Graves. A prosecution witness testified that the knife blade fit exactly into the wounds on the victims. Sebesta said the blade "fit like a glove."

Family members testified that Graves was in his mother's home in Brenham on the night of the crime.

On November 1, 1994, a jury convicted Graves and he was sentenced to death.

Murder charges against Carter's wife were eventually dismissed and never pursued.

Graves continued to fight to prove his innocence, but his appeals were denied.

On January 13, 1995, he was granted a post-conviction hearing on a motion for new trial contending that one of his alibi witnesses had declined to testify at the trial after Sebesta threatened to indict her for the murders if she testified. The motion, however, was denied.

On April 23, 1997, Graves' conviction and sentence were upheld by the Texas Court of Criminal Appeals.

Later in 1997, Graves was granted another post-conviction hearing. An expert witness testified that the testimony regarding a knife at Graves' trial was misleading. At the trial, a prosecution witness said tests showed that a knife that was similar to one once owned by Graves could have made the wounds inflicted on the victims. Dr. Harrell Gill-King, director of the Laboratory of Forensic Anthropology and Human Identification, testified that the prosecution conclusions about the knife were unreliable.

The motion for new trial was denied.

Carter continued to insist that Graves was innocent. Graves obtained a post-trial hearing on the recantations, but on February 3, 2000, the motion was denied.

On May 1, 2000, Carter was executed. His final words from the gurney were that Graves was innocent and that he had lied in court.

With his state appeals exhausted, Graves filed a petition for a writ of habeas corpus in U.S. District court. On March 3, 2006, the U.S. Court of Appeals for the 5th Circuit set aside Graves' conviction and sentence, ruling that Sebesta had failed to provide exculpatory evidence—including Carter's many contradictory statements—to Graves' defense lawyers.

Washington-Burleson County District Attorney Bill Parham then appointed veteran prosecutor Kelly Siegler and investigator Otto Hanak to retry the case. After conducting a lengthy re-investigation of the case, Siegler and Hanak concluded that Graves was innocent, and that Sebesta, who retired in 2000, had misled jurors, manufactured evidence, elicited false testimony and concealed evidence of Graves's innocence. On Oct. 27, 2010, the charges were dismissed and Graves was released from prison.

On June 30, 2011, the State of Texas awarded Graves \$1.45 million in compensation.

– Maurice Possley

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Report an error or add more information about this case.

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## A JOURNEY FROM DEATH TO FREEDOM

*David and Lars Ake Augustsson from Sweden have been friends of Anthony Graves since 1999. They happened to be in Texas during those momentous days when Anthony stepped out from the shadow of death into the sunlight of freedom and life. Here is Lars' story – check also out their pictures and videoclips from the welcome-home-party!*

When a phone call wakes you up in the middle of the night it seldom brings good news. Especially if you are in some motel room far away from home and have spent the last days going from a jail to a prison with an execution in between. But this is what happens to my son David and me one night in San Antonio, Texas.

We arrived in Texas on October 19, which is a Tuesday and were going to stay here for two weeks. Pretty much of what we are going to do in the first week is planned already: visits with Anthony and some of his family, and also attending a demonstration outside the Walls Unit in Huntsville where there will be an execution. We are also interested to know if there are any noticeable effects from Pamela Colloff's well-researched article on his case in the October issue of the influential magazine Texas Monthly ([www.texasmonthly.com](http://www.texasmonthly.com))

Next day we go to Brenham, Anthony's home town. From there we travel State Highway 36 north. It passes through the small town of Somerville, where the terrible murders took place in 1992, the murders of which Anthony was accused to have taken part. We stop at Lyons Community Cemetery nearby the highway, which is the black people's burial ground. There is a huge grave with the names of the six victims from the Davis family, four of them little children.

### First visit to Anthony

Our goal is the small town of Caldwell. Since it is Wednesday we go to visit with Anthony in the county jail where he has been since the spring of 2006, waiting for a new trial, things have not changed. The visitation time is 20 minutes, which is too little time to say anything essential. And anyway our conversation is recorded by the sheriff's office so we stay away from subjects that we do not want to reach the ears of the prosecutor.

Before we part we exchange some words about the prisoner that is going to be killed. His name is Larry Wooten, and Anthony has known him since way back when they were on

Death Row together. Anthony doubts that Wooten is guilty, and is sure he is mentally handicapped, which would make him ineligible for the death penalty.

In the evening of that same Wednesday we meet with Arthur, Anthony's younger brother, in their hometown Brenham. He tells us that an investigator working for Kelly Siegel, the special prosecutor in Anthony's case, has been in contact with him. The investigator told Arthur that both he (the investigator) and Siegel believe that Anthony is innocent, but Arthur is wise not to trust those words. So many people have used dirty tricks in Anthony's case that you have to stay skeptical about anything that is said by either the prosecutor or the judge in the case. The judge, Reva Towslee-Corbett, daughter of the judge that presided over the court that gave Anthony the death penalty in 1994, is the one who has hired the special prosecutor in this case.

### Larry Wooten's last day

Next day, Thursday 21, we go to Huntsville. At about 5pm we are at the Walls unit right in the middle of Huntsville. At this the oldest prison in Texas, people have been executed since 1924. Today Larry Wooten, sentenced for a double murder and robbery in 1996, is going to die after 12 years on Death Row.

A small group of protesters, some 15 people at most, have assembled outside the cordoned-off area in front of the prison. Under banners protesting the death penalty some speeches are made, none of them very good. The time is nearly 6pm when first one group, and then another group of people walk up the stairs to the main building of the prison. Those are the witnesses – one group are relatives of the murder victims, one group are relatives or friends of Larry Wooten, and there are also some media representatives. This means that the execution is about to begin.

While we wait in silence I think of previous executions, like Carlos DeLuna in 1989, Ruben Cantú in 1993, Gary Graham in 2000, Todd Willingham in 2004. In all of these cases extensive investigations have shown that the guilt of those men is far from certain; but the grim truth is that once someone is killed the discussions tend to die out, so an execution is sometimes a way of silencing doubts. Of course this is also what you fear in Anthony's case: that they will re-sentence him to death and send him back to Death Row where he will be forgotten.

After 15-20 minutes the groups leave the prison, which means that Larry Wooten is dead. Since the state of Texas started executing people in 1982 – after a break in executions since 1964 – he the 464<sup>th</sup> prisoner to be killed.

Most of Friday October 22 we spend at the Polunsky unit outside Livingston, Texas, where Death Row is located and where we visit two friends we have known just as long as we have known Anthony, since the summer of 1999. It was then we first visited Death Row and over several days met with Michael, who is sentenced for killing a woman and her little son in 1986, T-Rock who is sentenced for killing his wife and her brother in 1993. And Anthony, who did not proclaim his innocence, but just said: “Look into my case and judge for yourself”. We did that and there were enough facts even then – that the main witness Robert Carter took back his testimony, that the prosecutor Sebesta scared off Anthony’s main witness Yolanda Mathis from testifying – to make you realize that there was something very wrong with this case.

### Second visit with Anthony

Sunday October 24 we return to Caldwell for another 20 minutes with Anthony. We don’t talk about the execution, we try to stay positive and talk about the future. Anthony is glad when we notice that he has lost some weight, in spite of the mostly unhealthy prison grub (pancakes and other starchy food) and he shows us that he has stopped shaving his head and is letting his hair grow back: “Got to look nice when I get out of here!”. We tell him that we sent a money order for a phone card so he can call us, because we don’t know if and when we will be able to visit the next time. (He is allowed to use his phone card to call friends and family, but the rate is very expensive and he is not allowed more than 20 minutes’ conversation – which is also monitored, of course.)

Sunday evening we go to Houston to meet with Nicole Casarez, who has made invaluable contributions to establishing the truth in Anthony’s case. As a professor of journalism she led the students who discovered still more facts that pointed towards Anthony’s innocence. Since Nicole also has a law degree, she was qualified to be a member of Anthony’s defense team and is allowed unsupervised visits with him. She tells us some interesting facts that still are not known, but she is also very careful not to hope for too much right now. “We must probably count with the re-trial in the spring of 2011 as planned.” So we leave to spend next week in San Antonio, meet with friends there and wait for Anthony to call.

### The telephone call

The cell phone rings very late on Tuesday October 26. It is Arthur apologizing for calling so late, but he has been trying to reach us all afternoon to invite us to Doris, his mother's house on Saturday. "Anthony is going to be there." What? Arthur can't act cool anymore. "He is free! He got out this afternoon!" What? I repeat the question, still trying to understand what Arthur is saying. David and me don't get very much sleep the rest of the night, we talk and think and try to get it into our heads that Anthony really, really is out of hell.

As soon as day breaks we check out the websites of the Texas newspapers and TV stations to make sure we have not been dreaming. It seems that for once both prosecutors, both the regular District Attorney and the Special Prosecutor, and the people who have been working for them have told the truth. They have found nothing that links Anthony to the crime.

We spend the most of this day driving around in San Antonio, to the west side where the most black people live, to the north side where the most white people live, to the south and east where the population is mainly latino, trying to grasp what has happened. We visit the historical old Spanish missions around the city, and it feels like Anthony's freedom is also a historical event.

### The story in "The Eagle"

The fullest account of what happened that day was published some days later, October 31, by reporter Matthew Watkins, of the newspaper The Eagle from Bryan-College Station ([www.theeagle.com](http://www.theeagle.com))

*"Defense attorney Jimmy Phillips Jr. was the first to learn on Wednesday of the development his team was waiting to hear, working toward, hoping for, daily.*

*But he left it to his co-counsel, Nicole Casarez, to share the news with their client.*

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*Graves was writing a letter inside his cell when a guard opened the door and walked him to a small interrogation room. His lawyers were waiting there.*

*Casarez grabbed him by the hands before he could sit down. She looked him in the eyes and said: "Anthony, God is good. God is good. Your charges are dismissed, Anthony. It's over. You got through it."*

*Graves staggered and almost fell.*

*"You mean I am free?" he asked.*

*"You're going home," she said.*

*[---]*

*Burleson County District Attorney Bill Parham planned to file a motion to dismiss the case against Graves at 9 a.m. Thursday morning. That would give Graves' third lawyer, Katherine Scardino, time to return to Texas from Seattle and allow TV cameras to film his first seconds of freedom.*

*But District Judge Reva Towslee-Corbett vetoed that idea.*

*"No, we are not waiting," Towslee-Corbett told Parham. "Bring me the paperwork and he is going to be released."*

*Parham filled out a one-page "motion to dismiss" form. On the blank line for reason, he wrote: "We have found no credible evidence which inculpates this defendant."*

*The judge signed the form and the Burleson County District Clerk filed it at 3:57 p.m. Parham then drove the document to the Burleson County Jail.*

*That's where Graves' lawyers delivered the news. Casarez gave him some clothes and told him to put them on.*

*"You are going to walk out of here," she said.*

*Graves began to cry. He'd later describe the last 18 years of his life with one word: "Hell."*

*"There is no need to even elaborate," he said. "Just hell. When you think about hell, there it is."*

*He was then asked to describe the 24 hours after his release. He used only one word for that, too: "Heaven."*

### ***A new world***

*Graves put on a gray blazer, blue shirt and a tie in the jail and was escorted out the back by a deputy.*

*By the time his lawyers checked out and walked through the front door, he was standing by Phillips' silver Lexus with a box of his belongings. Phillips stopped and stared at Graves standing in the sunshine. Graves smiled and waved.*

*The two lawyers asked him what he wanted to do, and he asked to go home to his mom's house in Brenham.*

*As they drove, Casarez called Graves' mother, Doris Curry, and handed him the cell phone.*

*"What are you cooking for dinner tonight?" he asked.*



*Confused, Curry said she didn't know.*

*"I'm hungry and I need to eat something when I come home," he said.*

*Curry screamed. Graves told his mother he would see her soon. When the conversation was over, he didn't know how to hang up -- cell phones were a rare luxury when he was arrested in 1992.*

*Phillips drove the 30 miles to Brenham slowly while Graves looked out the window. They passed new stores and houses and Graves was amazed at how much had changed.*

*"Everything is different -- people are different," he said later.*

*He was fascinated with the technology in Phillips' car -- especially the GPS screen that talked and gave directions.*

*They arrived at his mother's house as the sun was setting. Graves hugged her for about 10 minutes. It was the first time they'd touched in 18 years.*

*Meanwhile, word spread through the city of Graves' release and soon Curry's home had 50 to 60 people inside. Both sides of the street were lined with cars. Some people just honked and waved as they slowly drove by.*

*Graves stood with his family. He was in shock.*

*"It just wasn't real to me, and it's still not real to me," he said the next day. "For 18 years, I woke up to steel doors, sleeping on a steel bunk with a plastic mattress, going through hell. My own personal hell for 18 years and one day I walk out. It's hard to make adjustments. It's hard to process."*

*Rick Ojeda arrived to help as soon as he could. Ojeda is a private investigator from Georgetown and worked for Graves' lawyers in the case. The pair built a friendship, and Ojeda promised to buy Graves a beer on the day he was released.*

*Ojeda worried about Graves' safety at Curry's house. Graves said he didn't know some of the people who wanted to speak to him. And the presence of one person he did know was especially concerning. Cookie Carter, the wife of the man who murdered those six people in the Somerville home, had shown up unexpectedly.*

*[---]*

*On Wednesday, Ojeda decided Graves would be safer spending the night with him. As they drove out of town, they remembered their promise to drink a beer together. They stopped at a gas station and bought two cans of Coors Light, toasted and sipped them outside Ojeda's car.*

*It was Graves' first taste of alcohol in 18 years, and it quickly affected him. After about three sips he said he'd had enough. They poured the rest out and drove to Georgetown.*

*At the house, the changes in Graves' life were illuminated. He ate a dinner of prime rib and mashed potatoes instead of jail food. He asked Ojeda what time the phones turned off --*

*forgetting that phone curfews only needed to be followed in jail. And he needed help from Ojeda to turn on the shower because he'd never seen one like it.*

*But the biggest change was that there was someone to talk to. On Death Row, the only company in his 60-square-foot cell was a radio awarded to him for good behavior. That was upgraded to a television with 15 channels when he moved back to Burlson County, but his main social interaction there was with the jail employees who occasionally brought a mop and bucket to clean his room.*

*So Graves ended his first day of freedom talking. He discussed his case but also listened and counseled Ojeda's wife about family problems. They finally went to bed at 3 a.m.*

*Graves was amazed by the comfort of the Ojeda guest room mattress, but he didn't sleep. He tossed and turned until it was time to get up.*

### ***Liberty or death***

*His lawyers arranged a press conference after lunchtime Thursday in Scardino's Houston office. Ojeda drove Graves there, and they ate ribs from Bill Miller Bar-B-Q in the car. Graves devoured his so enthusiastically that his shirt was covered with grease when he arrived.*

*He changed into a suit that his attorneys bought for the retrial and walked into the room where the reporters had been corralled. Graves knew that his case had attracted public attention -- he was featured in a long Texas Monthly article last month -- but was shocked to see more than two dozen journalists waiting to meet him.*

*"This is crazy," he said. "Am I getting a contract?"*

*He sat down alone on a plush gold sofa with microphones arranged on the table in front of him. Reporters fired away with questions, but he didn't have answers to many of them. How did he feel? He was still trying to figure that out. What will he do next? He's just going to take it one day at a time.*

*There was, however, one question that he was determined to answer: What do you think of the people that did this to you?*

*"I don't have any bitterness," he said. "I'm not going to give anyone that energy. I'm happy to be here. I'm happy to be alive. I'm happy to be with family and friends. God is going to deal with the rest."*

*During the 30-minute press conference, he repeated the word "energy" five times. Each instance he was speaking about Sebesta, the former Burlson County district attorney who prosecuted the case that sent him to Death Row. He said it would be a mistake to focus his "energy" on Sebesta, when Graves had already given him 18 years of his life. Negative "energy" wouldn't accomplish anything, he said.*

*So Scardino stepped into the room and provided the rage for him. She pointed to Graves, who is short and bulky and sets people at ease with a grin that reveals a gold tooth in the middle of*

*the white ones. She said she knew him as a kind-hearted, jovial man, and it infuriated her that anyone could think he was a "cold-blooded murderer."*

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*Patrick Batchelor, a special prosecutor in the case, offered Graves a deal in 2009: Batchelor wouldn't seek the death penalty if Graves pleaded guilty. He would spend the rest of his life in prison, but he wouldn't be executed.*

*Graves said he never considered it.*

*"I knew it was going to be liberty or death for me," he said. "There wasn't going to be any in between ... How am I going to do a life sentence knowing that I'm innocent? That's a slow death. Free me or kill me, but I am standing on what is right."*

### The judge's role

There is only one thing missing from this story – in fact from all the stories that are published around Anthony's release – namely an analysis of the judge's role. Reva Towslee-Corbett is not only the daughter of the judge in Anthony's first trial, a trial that is now officially deemed as a scandal and a travesty of justice.

She has also ever since Anthony was awarded his new trial been most actively trying to make things harder for him, by setting an the bail so high – 1 million dollars, later reduced to “only” 600 000 dollars – and still more by her hirings of Special Prosecutors in this case. The first Special Prosecutor, Patrick Batchelor, had close ties to Sebesta and was renowned for his aggressively pursuing the death penalty. When Batchelor left the case, stating health reasons, the judge hired Kelly Siegel from Houston, also with a solid reputation of sending people to Death Row, often by winning the jury with dramatic re-enactments of her version of the crime.

But when neither Parham nor Siegel could find any facts that supported the original verdict, but when they instead found proof of prosecutorial misconduct from Sebesta, dirty tricks that were overlooked by the judge in the original case, Towslee-Corbett's father, she angrily and hastily signed the release documents rather than facing a her court in a public hearing.

### Welcome home

Saturday morning we are driving north from San Antonio when the phone rings, and since the display says that the call comes from Arthur's phone I assume that he has something to say

about today's party. It is not until I hear the familiar phrase: "Hey, what's up my brother?" that I realize it is Anthony talking – for the first time in these eleven years we are talking without anyone else listening in. It is hard to find other words for how grateful we are to be here on a day like this, and on our way to the first hugs with Anthony.

The party is already in full preparation when we arrive at Doris' house on a small street in a predominantly black neighborhood in Brenham. Ribs are being barbecued, sausages are on another grill, we meet with Anthony's sister Dietrich who is on her way to pick him up to go and buy some new clothes before coming here. While we wait some guys arrive with a sound system, speakers and a mixer-table are set up. Guests arrive with bowls of salad, rice, beans, loaves of bread, cartons of soda and beer and ice-chests. We are on the look-out for Anthony, of course, but it is great also to give big hugs to his mother Doris and to shake hands with neighbors and people who went to school with Anthony.

"There he is now! There's Anthony!" He steps out of the pick-up-truck, dressed in a light blue t-shirt, blue jeans, and a cap from the baseball team Houston Astros, the man that we previously only met in the white prison clothes of Death Row and the striped clothes of the jailhouse. And it finally comes true, the moment that we have hoping for but had never really been sure would arrive, when we get to hug him and hear his laughter nearby. It is one of the big moments of our life, to actually touch freedom.

And all the time people are arriving, there are hugs and laughter everywhere on this warm and glorious Saturday afternoon, and when the music starts playing we recognize Anthony's favorite music, the bands and the artists we have talked about so many times: Maze, O'Jays, Luther Vandross, and people are starting to dance under the trees and Anthony is in the middle of them. "Look at Anthony", David says, "how he can't stop touching everyone he talks to."

And soon nearly all of his family are present, his brothers Arthur and Derrick, his sisters Dietrich and Demetria, and also his sister Cindy and brother Kevin from his father's second marriage. And his three sons Alex, Terence and Terrell, and also Echo who Anthony raised when she was a child and who he regards as his daughter. David and me (and for some hours a photographer from Houston Chronicle) are the only white people among at least 60 guests at the party, and it feels good to introduce ourselves to everyone as friends of Anthony from Sweden.

There is a very emotional moment when Doris takes the microphone to say thanks to everyone for coming, but most of all praises God: “Has given me my son back. Hallelujah!” The party gets very still during prayer. Then Anthony takes the microphone to also give thanks to God, “God is good! Now let’s dance some more!”

### Peace and a future

Dark is slowly falling when we leave the party and go to find Anthony, who has already left. We find him at Arthur’s house together with his sons. We just tell him to take it easy and say that we will do some more planning once he has rested, once he has got his ID and driver’s license back, got himself a computer and email. When he has got a passport! Because he is coming to Europe to meet and hug as many friends as possible.

Next day’s Houston Chronicle has a report from the big party, with a picture on the first page of Anthony and his sisters Demetria and Dietrich. But an inside article might be even more welcome.

The headline says: “Slain victims’ relatives looking for peace. They blast former DA efter Graves’ exoneration.”

*“After almost two decades of attending trials, hearing intricate details of how his mother, two daughters, sister, niece and nephew were stabbed, killed and set ablaze in 1992, Keith Davis and his family hope to find peace after the exoneration of Anthony Graves, the only remaining suspect convicted in the murders.*

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*After Graves’ exoneration this week, Davis and his family realized that much of what they were led to believe about Graves was through manipulation of then-prosecutor Charles Sebesta.*

*‘I thought that Charles Sebesta had some compassion for my family,’ Davis said, ‘but his ultimate was to win at any cost, and he didn’t care how we felt one way or another.’*

*Davis believes Sebesta was deceitful with fake evidence and manipulated witnesses.*

Two days later we are on our way back home, after two of the most overwhelming weeks in our lives. We started out in a jailhouse and outside a death house, and ended up at a party for freedom and justice and love and truth.

October 2010

## Innocence Lost

**Since August 23, 1992, Anthony Graves has been behind bars for the gruesome murder of a family in Somerville. There was no clear motive, no physical evidence connecting him to the crime, and the only witness against him recanted, declaring again and again before his death, in 2000, that Graves didn't do it. If he didn't, the truth will come out. Won't it?**

by Pamela Colloff

**Editor's note:** *On October 27, 2010, just a month after the publication of this story, the Burleson County district attorney's office dropped all murder charges against Anthony Graves and released him from the county jail, where he was awaiting retrial.*

I.

A few hours before dawn on a sticky summer night in Somerville, a one-stoplight town ninety miles northwest of Houston, police chief Jewel Fisher noticed the faint smell of burning wood. Fisher was following up on a late-night prowler call east of the main drag, in the predominantly black neighborhood that runs alongside the railroad tracks. Turning down the town's darkened streets, he suddenly caught sight of a house on fire and realized that he was looking at the home of 45-year-old Bobbie Davis, a supervisor at the Brenham State School. Flames climbed the walls and skittered along the roof of the one-story brick structure, casting a murky orange glow. The windows had already been smashed in by several neighbors, who had screamed the names of the children they feared were trapped inside, pleading for them to wake up. Fisher quickly radioed for help, but when volunteer firefighters arrived, they discovered the bodies of Bobbie, her teenage daughter, and her four grandchildren inside. Each person had been brutally attacked and left to die in the blaze.

Word of the killings, which took place on August 18, 1992, traveled quickly through Somerville. The tragedy had no precedent; it was—and eighteen years later remains—the

most infamous crime in Burlison County history. “Many in the neighborhood remarked that this was the kind of thing that you expected to happen somewhere else, not in Somerville,” read a front-page article in the *Burlison County Citizen-Tribune*. Bobbie had been bludgeoned and stabbed. Her sixteen-year-old daughter, Nicole Davis, a popular senior and top athlete at Somerville High School, had been bludgeoned, stabbed, and shot. Bobbie’s grandchildren—nine-year-old Denitra, six-year-old Brittany, five-year-old Lea’Erin, and four-year-old Jason—had been knifed to death. (Bobbie’s daughter Lisa was mother to the oldest and youngest children; Bobbie’s son, Keith, was father to the two middle girls.) All told, the victims had been stabbed 66 times. Even the youngest member of the Davis family, who stood three and a half feet tall, had been shown no mercy. Jason, who investigators would later determine had cowered behind a pillow, was stabbed a dozen times. His body had been doused in gasoline before the house was set on fire.

After daybreak, neighbors gathered to survey the ruins of the Davis home, and TV news crews from Houston came by helicopter, circling overhead. Two Texas Rangers arrived that morning, and two more later joined them, but they had few early leads. There were no obvious suspects and hardly any clues; the fire had ravaged the crime scene, and the killer—or killers—had left behind no witnesses. A night clerk at the Somerville Stop & Shop, Mildred Bracewell, came forward to say that two black men with a gas can had purchased gasoline shortly before the time of the murders. A hypnotist employed by the Department of Public Safety elicited a more precise description from her of one of the men, and a forensic artist sketched a composite drawing of the suspect. Still, there were no arrests.

Four days after the murders, the Rangers got their first break. Five hundred mourners—nearly one third of Somerville—turned out for the funeral, which was held in the local high school gymnasium. Among them was Jason Davis’s absentee father, a 26-year-old prison guard named Robert Carter, whose bizarre appearance that day drew stares. His left hand, neck, and ears were heavily bandaged, as was most of the left side of his face. When Bobbie’s sister-in-law approached him at the cemetery to inquire about his injuries, Carter’s wife, Cookie, quickly answered for him. “His lawn mower exploded on him,” she said. Carter added without explanation, “I was burned with gasoline.” His conversation with his deceased son’s mother, Lisa Davis, was no less strange. Lisa had suffered an unimaginable loss; that day, she would bury two children, as well as her mother, sister, and two nieces. (That her own life had been spared was a quirk of fate; had she not traded shifts with a co-worker at the Brenham State School, she would have been at the Davis home on the night of the murders.) As Carter reached to embrace her, she took a step back, startled by what she saw. “What happened?” she asked, studying his face. Abruptly, Carter turned around and walked away.

After the funeral, the Rangers paid Carter a visit at his home in Brenham, fifteen miles south of Somerville. “I figured y’all would be over here to talk to me because of the bandages,” he told them. The Rangers had learned from Lisa that she had recently filed a paternity suit against Carter, a first step in obtaining child support. Carter had been served

with papers just four days before the killings. Ranger Ray Coffman, the case's lead investigator, read Carter his Miranda rights and asked him to come in for questioning.

That afternoon, at the DPS station in Brenham, Carter sat down with the four veteran Rangers assigned to the case: Coffman, Jim Miller, George Turner, and their supervisor, Earl Pearson. The Rangers were skeptical that one person could have brandished the three weapons used in the murders—a gun, a knife, and a hammer—and had surmised early on that the Davis family had been killed by as many as three assailants. Carter was grilled by the Rangers, but he remained steadfast in his insistence that he knew nothing about the killings. He had burned himself, he told them, while setting fire to some weeds in his yard. By evening, he and the Rangers had reached an impasse, and he agreed to take a polygraph exam. Three of the investigators—Coffman, Miller, and Turner—drove him to Houston, where the test could be administered by a licensed polygraph examiner. He failed it sometime after 11 p.m.

The Rangers continued to interrogate him until well past midnight. After several hours, they wore down Carter's resistance, and he finally agreed to make a statement about the crime. At 2:53 a.m., Ranger Coffman turned on the tape recorder, and Carter began to talk. He had been present at the Davis home on the night of the murders, he allowed, but it was another man—his wife's first cousin, Anthony Graves—who was to blame. As he began, he stumbled over the killer's name, once calling him Kenneth. Later he corrected himself: "I said Kenneth. It wasn't Kenneth. I'm sorry. Anthony."

Carter told the Rangers that he had driven Graves to the Davis home after one o'clock in the morning. Graves, he said, had asked him if he knew any women, and the only prospect who had come to Carter's mind was sixteen-year-old Nicole. He had dropped Graves—who was, by Carter's own admission, a stranger to the Davis family—off at the front door while he stayed in the car. He did not say exactly how Graves had gotten inside. As he waited for Graves to return, Carter said, he heard someone shouting, and then screams. Alarmed, he let himself in to look around. To his horror, he said, he had walked in on a killing spree. "There was blood everywhere," Carter said. "He was going from room to room." Carter maintained that he helplessly looked on while Graves single-handedly murdered the Davis family. "I had no part in it," he insisted, though he had already accurately described the precise locations where many of the victims had been killed.

Afterward, he said, Graves had retrieved a gas can from the storage room, poured gasoline throughout the house, and set it ablaze, scorching him in the process. Remarkably, he expressed no anger toward the man who, by his own telling, had just murdered his son. After the rampage, he said, he drove Graves back to Brenham and dropped him off at Graves's sister's apartment.

During the tape-recorded conversation, the Rangers never stopped to ask Carter fundamental questions that could have determined whether Graves was actually present at the scene of the crime. They never pushed Carter to explain why he would have taken a man who was looking for sex to a house full of sleeping children. Or why Graves would



have brutally murdered six people he did not know. They never questioned him about the improbable logistics of the crime he had just described. (How had Graves managed to find a gas can inside the storage room of a house he had never visited?) Nor did they press Carter to admit his own role in the killings. (Wouldn't Bobbie Davis, whose body was found nearest the front door—where investigators had determined there was no sign of forced entry—have been more likely to let in Carter, the father of her grandchild, than a stranger who had turned up at her house in the middle of the night?) Even after Carter divulged that he had burned his own clothes upon returning home, Ranger Coffman continued to focus on his accomplice, twice prompting Carter to say that he wanted to help investigators find his son's killer.

Although Carter's statement was badly flawed, the Rangers had gotten what they wanted: an admission from Carter that he was at the scene of the crime and the name of an accomplice. The possibility that he had falsely named Graves to shift the attention away from himself was never fully explored and would haunt the case during its long and meandering path through the court system over the next eighteen years. "I hope that you don't use this to lock me up," Carter said when he was done, his face still partially obscured by bandages.

What evidence the Rangers were able to find later that day pointed exclusively to Carter himself. A cartridge box in his closet held the same type of copper-coated bullets that had been used to kill Nicole. The .22-caliber pistol that he usually kept above his bed was missing. The Pontiac Sunbird that he had admitted driving to the Davis home was gone; he had traded it in at a Houston car dealership two days after the killings. And yet even as his story fell apart, the Rangers continued to pursue their case against Graves. Two warrants were issued hours after Carter made his statement: one for Carter, who was immediately arrested, the other for Graves. There was no physical evidence that tied Graves to the crime and no discernible motive—only the word of the crime's prime suspect.

Graves, who had moved back to Brenham from Austin that spring after getting laid off from an assembly line job at Dell, was picked up before noon at his mother's apartment and brought to the Brenham police station in handcuffs. In the station's booking room, a surveillance camera captured the half hour that passed as the 26-year-old—who was never told why he was being detained—waited, bewildered. He repeatedly asked an officer who busied himself with paperwork what he was being held for, but he was informed that he would have to wait until a magistrate arrived to read him the charges. Graves turned his attention to another officer, who he hoped would be more forthcoming, but the man feigned ignorance. "You don't know neither?" Graves said, sighing. "I wish somebody would tell me what's going on." When the justice of the peace finally appeared, Graves jumped to his feet, eager for information.

"You're Anthony Charles Graves?" asked the justice of the peace, glancing up from the warrant that she held before her. She was flanked by two police officers.

"Yes, ma'am," he said.

“Anthony, this is going to be your warning of rights,” she said. Her delivery was matter-of-fact: “You’re charged with the offense of capital murder.”

“*Who?*” he said, dumbfounded. He stared back at her blankly.

“An affidavit charging you for this offense has been filed in court,” she continued. As she read him his Miranda rights, he watched her in disbelief. “At this time, no bond has been set,” she said. “Do you understand what I’ve told you, Anthony?”

Graves held up his hands in protest. “Capital *murder?*” he said, incredulous. “Me? Wh-wh-who murdered? I mean—”

A man wearing a white Western hat interrupted him. “You’ll have a chance to talk to the officers who are actually working the case,” he said.

“This is a *big* mistake,” Graves said, his voice rising. “Capital *murder?*” Dubious, he turned to the police officer who had brought him down to the station. “This is a joke,” he said, breaking into a grin, as if he were suddenly on to the elaborate prank that he seemed certain was being played on him. “Somebody’s messing with me, right?” The officer, who did not smile back, ordered him to have a seat.

Graves studied the copy of the arrest warrant that the judge had handed to him, trying to make sense of it. He repeated the words “capital murder” eighteen times, enunciating each syllable as if doing so would help him better grasp their meaning. “This is a big mistake,” he repeated. “This has got to be straightened out *today*.” Finally, before he was led down the hall to talk to the Rangers, he slapped the side of his head and cried out, “Am I dreaming?”

## II.

Roy Allen Rueter was listening to the radio at Magnetic Instruments, a Brenham machine shop, when he heard the news that Graves had been charged with six counts of capital murder. Graves had worked for Rueter for three years before moving to Austin to work at Dell, and he had played third base for the company softball team, the Magnetic Instruments Outlaws. Though the two men outwardly had little in common—Rueter, who is white, hailed from a prominent local family; Graves, who is black, was raised in Brenham’s federal housing projects—they had become close friends. After Outlaws games, they would talk late into the night about softball and women, and Graves had counseled the twice-divorced Rueter on matters of the heart. “He could always lift you up out of your own self-indulgent misery,” Rueter said. “He had a big, deep laugh and a lot of charm. Everyone liked Anthony, especially women.” Rueter later proposed to a former classmate of Graves’s, to whom he has been married for the past nineteen years, and he credits Graves, who offered encouragement and counsel during their courtship, for bringing them together. When they got married, Graves was in the wedding party.

The news on the radio deeply affected Rueter. “I knew—everyone who knew Anthony knew—it had to be a mistake,” he said. “I could never imagine him raising his hand to any woman or child, much less doing what he was accused of doing. It was inconceivable.” Rueter called the best lawyer he could think of, Houston defense attorney Dick DeGuerin, and asked him to take on the case. The veteran trial lawyer agreed to represent Graves at his upcoming bond hearing, where the state would have to prove that it had enough evidence to hold Graves. DeGuerin’s expertise did not come cheap; his fee for the hearing and a preliminary investigation was \$10,000. Without hesitation, Rueter wrote him a check. “I figured it would take a few days to get straightened out, and then Anthony would come home,” he said. “I kept thinking, ‘Christ, how did Anthony’s name get mixed up in this?’ ”

While Rueter’s father gave his son a job in the family business and bankrolled his favorite diversion—the Outlaws—Graves’s father had been an ephemeral presence in his son’s life. Graves’s childhood in Brenham, the home of Blue Bell Ice Cream, did not unfold in the pastoral small town of the creamery’s television commercials, which are heavy on mom-and-apple-pie nostalgia. He was born to a single mother, Doris Graves, just after her seventeenth birthday and raised in the dreary projects on Parkview Street. His father, Arthur Curry, was a musician and an inveterate womanizer who worked for the Santa Fe Railroad. “He lived with us for a while, and then he’d wander, and then he’d come back,” Doris told me with a shrug. “He was the man of my dreams, the love of my life—blah, blah, blah. That’s the way the story goes.” They married when Graves was two and had four more children together, but Curry’s visits grew more infrequent. In his absence, Graves became the man of the house, making sure that his brothers and sisters did their homework, ate dinner, and went to bed while Doris worked the 2 to 10 p.m. shift at the Brenham State School. Graves succeeded in keeping out of trouble, except when it came to girls. When he was fourteen, he told Doris tearfully that he had gotten a girl pregnant. “He said, ‘Mama, don’t you think it’s time you taught me about the birds and the bees?’ ” she recalled. “And I said, ‘Looks like you’ve already been stung.’ ”

Graves was a handsome kid with a dazzling smile, and he was popular with his peers. The 1980 Brenham High School yearbook, *The Brenhamite*, features photo after photo of him as a smooth-faced freshman, beaming beside his teammates. He played football and basketball, and he ran track, but it was baseball that he excelled at. His sophomore year, he was devastated to learn that he had been cut from the varsity team to make room for seniors. Rather than be relegated to junior varsity, he moved in with his paternal grandfather in Austin and enrolled in Westlake High School, an elite, virtually all-white school with a championship baseball team.

Former coach Howard Bushong, who led Westlake to state titles in 1980 and 1984, remembered him as a likable kid with a good arm and serious potential. “I was excited to have his caliber of talent in our program,” he said. But Graves’s chance to prove himself—and to perhaps cinch a college scholarship or advance to the minor leagues, as Westlake’s best players often did—was short-lived. His grandfather handed him off to his father, who was living in Austin but who would disappear for days on end, leaving him

stranded without food or a way to get to school. Halfway through the semester, his father left for good. Doris picked up her son and brought him back to Brenham.

When Graves returned, he was held back because he had not finished his semester at Westlake. His loose-limbed confidence was gone; rather than throw himself back into baseball, he sat out the next season. He dropped out of school his senior year after another girlfriend informed him that she too was pregnant. Interest from a major league scout, who had approached him about playing in the minors, fizzled once he quit the team. Graves was seventeen, with two children—a three-year-old son and a newborn—to support. He went to work at Blue Bell, loading trucks, and got a job in a factory that made metal clothes hangers. The following year, 1983, his father was shot and killed by a romantic rival in Houston. In the wake of his father's death, Graves briefly moved to California, where he worked as a security guard. When he returned to Texas, he got into the first real trouble he had ever been in; at 21, he was arrested during a Brenham Against Drugs sweep. After he learned that prosecutors were seeking a fifteen-year sentence, he agreed to plead guilty to selling a small amount of pot and cocaine. He served 120 days in a minimum-security prison in Sugar Land.

After his stint in Sugar Land, Graves put his life in order and went to work as a machine operator at Magnetic Instruments, making oil field equipment. He got along with the other men in the shop, and he helped the Outlaws maintain a winning record on the softball field. During his three years with the company, there was only one incident that had left Rueter shaking his head. One morning, when Graves was working on little sleep, a co-worker swiped two doughnuts that Graves had set aside for breakfast. Graves sucker-punched him, breaking his nose, and when the man lunged for him, Graves ran to his toolbox and pulled a paring knife. A co-worker immediately stepped in and defused the situation. No police report was filed, and neither man lost his job; they were both sent home for a week without pay. Later, though, the confrontation would be used to cast Graves, who had no prior history of violence, as someone who was capable of an act as brutal as the Davis murders.

Graves's whereabouts at the time of the murders could be confirmed by at least three people, all of whom placed him at his mother's apartment in Brenham. His 19-year-old brother, Arthur, and his sister Deitrich, who was 21, remembered him coming home shortly before midnight with his girlfriend, Yolanda Mathis. According to Graves's brother, sister, and girlfriend, it had been a typical night at home. Graves and Mathis had eaten fast food from Jack in the Box and stayed up talking, while Arthur had carried on a marathon phone conversation with a female friend. At about 2 a.m., the couple had lain down on a pallet on the living room floor. (Graves, who was out of work, was staying at the apartment temporarily.) Arthur recalled getting off the phone at about 3 a.m. Before turning in for the night, he had checked to see if the front door was locked. The apartment was cramped, and in order to reach the door, he had needed to step over Graves and Mathis. "Anthony got annoyed," Arthur told me. "He said, 'Man, what are you doing? Turn out the light!'" By then, the crime—which had gotten under way sometime after 1 a.m., according to Carter's statement—was done. Somerville's chief of police had reported the fire at roughly 2:56 a.m.

According to Dick DeGuerin, their story was corroborated by someone he interviewed in the course of his investigation, someone who had no allegiances to Graves: the middle-aged white woman who had been on the other end of the line with Arthur. She and Arthur, a soft-spoken gospel singer who played the organ at New Hope Baptist Church, often talked late into the night, and sometimes he sang her love songs. On the evening of the murders, he had serenaded her with Johnny Mathis standards. When Graves caught him crooning “Misty” into the phone, he had ribbed his little brother mercilessly. The woman, who could overhear Graves mocking his brother in the background, had come to Arthur’s defense, and Arthur had passed the phone so that she could have a word with Graves herself. “She could verify that he had been home when the crime was being committed, but she was reluctant to get involved because she was white,” DeGuerin said. “She was concerned that it would look funny that she had been on a long telephone call with Arthur in the middle of the night. But she did candidly tell me that Arthur had a beautiful voice and that Graves had gotten on the phone while Arthur was singing to her. She said that if she had to testify, she would.” (The woman, who has denied ever speaking to DeGuerin, did not respond to interview requests for this story.)

Ranger Coffman’s 51-page report makes no mention of the white woman—or of Arthur, Deitrich, Mathis, or the Jack in the Box employee who vividly remembered Graves’s visit to the drive-through window, down to the precise details of the order he placed. In fact, little of the report concerns Graves at all; Carter is its focus. So cursory was the Rangers’ investigation into Graves that they never bothered to search his mother’s apartment, where he was arrested. (Some items of clothing and his aunt’s car, which he had been driving, were processed by the DPS crime lab, but nothing was discovered that connected him to the crime scene.) Had the Rangers spoken to more people who knew Graves, they would have learned that while he and Carter had indeed met before, through Cookie, they were not friendly; they traveled in different circles and knew each other only in passing. An introvert, Carter worked the night shift at a prison in Navasota and was considered a bit “off” by people who knew him. He had little in common with the easygoing, gregarious Graves.

When the Rangers questioned Graves after his arrest, they pressed him to tell them about the killings, but Graves insisted that he had no idea what they were talking about. When they told him that “Robert” had fingered him as the killer, he was unable to place his accuser. (Days later Graves would tell a grand jury that if Robert Carter had indeed implicated him in the Davis murders, “he needs psychiatric evaluation.”) He agreed to take a polygraph exam, and like Carter, he was driven to Houston. That evening, Graves—who had not eaten since the previous night and was rattled after more than seven hours in police custody—failed the test. Polygraphs are not admissible in court because of their unreliability, but they can help determine the direction of an investigation. Again the Rangers demanded that he tell them everything he knew about the murders, urging him to give Carter up. Exhausted, Graves broke down in tears, reiterating that he had no knowledge of the crime. When he did not confess to the killings, he was taken to jail.

Three days later, when Carter testified before a grand jury, he recanted the story he had told the Rangers, saying that he had been pressured to name an accomplice. (Exactly what had transpired during the hours leading up to Carter's tape-recorded statement to the Rangers is unknown; no audio or video recording was made of his interrogation, and the Rangers declined to be interviewed for this article.) "I said 'Anthony Graves' off of the top of my head," he insisted. "They told me they would cut me a deal, that I could walk if I give up a name, if I give up a story, and that's what I did." His attempt to clear Graves would have been more credible had he not claimed that he too knew nothing about the crime.

With Carter waffling, the Rangers' case against Graves rested on Mildred Bracewell, the convenience store clerk who had undergone hypnosis to help the investigation. After Graves's arrest, Bracewell had picked him out of a photo lineup and a subsequent live lineup. (Her husband, who had also been at the Stop & Shop that night, could not.) Bracewell was never able to identify Carter, and her selection of Graves was problematic; he did not fit her original description or resemble the composite drawing that had been sketched from her hypnotically recalled memories. Bracewell had originally told investigators that the man was tall, with an oblong face, and clean shaven. Graves was five feet seven, moonfaced, and had a mustache.

At the bond hearing that October, more witnesses turned up to bolster the state's case. Graves had been put in a cell directly opposite Carter's at the county jail, and a sheriff's deputy and a jailer took the stand to say that they had separately overheard him admit his guilt to Carter. "Yeah, I did it, and don't say a thing about it," the jailer, Shawn Eldridge, remembered him saying. The sheriff's deputy, Ronnie Beal, recalled, "I heard Mr. Graves state to Mr. Carter that he had done the job for him and to keep his damn mouth shut." DeGuerin tore apart the witnesses' credibility, getting Beal to admit that he had not yet met either inmate when he heard them talking through the intercom, casting his identification of their voices into doubt. And Eldridge was forced to acknowledge that on the night in question, he did not write down what he had heard; in fact, he had waited eight days before making a statement to law enforcement officers about Graves's purported confession, a long time to withhold critical information in a high-profile murder case.

Ranger Coffman told the court that there were other witnesses who had heard Graves's remarks, but they were not called to testify. Before stepping down from the stand, the Ranger added that he had seen "what appeared to be blood" on a pair of Graves's shoes, a claim that was not substantiated when the results later came back from the crime lab.

But, DeGuerin warned Graves, no matter how flimsy the evidence against him, the judge was not likely to dismiss such a high-profile case. In the end, Graves—whose arrest had been heralded on the front page of the local newspaper—was denied bond. He would have to remain in the county jail for the next two years, until his case went to trial. After the bond hearing, DeGuerin withdrew as Graves's attorney. According to Rueter, DeGuerin had informed him that taking the case to trial would run between \$150,000 and \$200,000, an amount that Rueter had balked at. "Had I known then what I know now, I

would have tried to find a way to pay the whole damn thing,” Rueter told me, his eyes watering. “I mean, how do you put a price on a human life?”

### III.

The case that the Rangers handed off to the Burleson County district attorney’s office was hardly a slam dunk. “I think in many ways the Graves case was the most difficult case that I tried,” said Charles Sebesta, who served as the district attorney of Burleson and Washington counties for 25 years. “But at the same time, the cupboard wasn’t bare when it came to evidence. We were comfortable with the evidence.” Sebesta—who is lanky and genteel but who enjoyed a reputation during his long tenure as chief prosecutor as a bare-knuckle courtroom adversary—faced enormous pressure, not only to win a conviction against Graves but also to secure a death sentence. Somerville mayor Tanya Roush captured the community’s anger over the killings when she told the *Austin American Statesman* that some residents did not think putting Graves and Carter on trial was worth the trouble. “They’re saying, ‘Bring back the hangin’ tree, and save the taxpayers’ money,’” she said.

In Graves’s case, the prosecution’s star witness had recanted, and four Rangers had been unable to turn up a plausible motive or any physical evidence that tied Graves to the crime. Still, the district attorney’s office pressed ahead, trying to build a case from the few prospective witnesses it had. Prosecutors also charged another person as an active participant in the Davis murders: Carter’s wife, Cookie. Her indictment stemmed from her unconvincing testimony before the grand jury, in which she had insisted that Carter had been home with her all evening on the night of the murders. She had also sworn that she had seen no burns on his face when she had left for work the next morning. Investigators had learned that at a health clinic, she had directed a nurse to bandage her husband’s wounds in such a way that he would not look too conspicuous at a funeral they were obligated to attend. Most significantly, Cookie had a bitter rivalry with a member of the Davis family. Both she and Lisa had sons with Carter, born just eight months apart. According to Carter, the paternity suit had capped a tumultuous few years, during which he and Lisa had carried on an affair. Shortly before the murders, Cookie had given him an ultimatum, demanding that he choose between her and Lisa.

Neither the Rangers nor the prosecution seems to have seriously considered the notion that Carter might have named Graves in order to deflect attention from his wife. Nor was another theory fully explored: that Carter, as he would insist after his own trial, was actually telling the truth when he claimed to have had no accomplice. The district attorney had a clear vision of what had happened on the night of August 18, 1992. “There were three weapons, and there were three active participants in the crime: Graves, Cookie, and Carter,” Sebesta told me. “As far as culpability, we know that Graves was the worst one. He had the knife. He was going room to room killing the children. Carter told us that.”

Despite his belief that all three people had executed the crime, the only case that Sebesta could easily make was the one against Carter. The evidence against him—particularly the

bullets that tied him to Nicole's murder—was substantial, and in February 1994 a jury in the Central Texas town of Bastrop, where the trial was moved on a change of venue, found him guilty of capital murder and sentenced him to death. As Graves's trial date drew near, Sebesta negotiated a deal with Carter's appellate attorney: If Carter testified against Graves, the state would allow him to plea to a life sentence if his conviction were reversed on appeal. The chances of a reversal were slim, but Carter was inclined to placate the district attorney, given that his wife was under indictment, and he agreed to help the prosecution when Graves went to trial. Even so, Sebesta was not convinced that he would testify. "Our agreement with Carter was extremely tentative," he said.

The prosecution caught a lucky break that August, one month before jury selection began, when Ranger Coffman and an investigator with the district attorney's office spotted Rueter shaking hands with Graves at a pretrial hearing. The investigators took Rueter aside to ask him a few questions. Despite a wild goose chase that Carter had led them on, the murder weapons had never been discovered, and they were eager to know if Graves had ever owned a knife. "I told them that I'd given Anthony a souvenir knife, but it was a piece of shit that wouldn't hardly stay together," Rueter said. "I'd bought two at the same time and kept one for myself. Mine was so flimsy that I had to keep a rubber band wrapped around it so it would stay shut." Rueter readily agreed to hand over his knife for testing, certain that nothing would come of it. "I'm around metal all day, and I knew that thing couldn't kill a rabbit," he said. "I figured they would test it and that would be the end of that." Rueter's switchblade, however, would become a powerful tool in the hands of the prosecution.

"We were going forward with the case even without the knife," Sebesta told me. "But the knife evidence was a godsend."

When *The State of Texas v. Anthony Charles Graves* got under way on October 20, 1994, it was clear that the case would likely be won or lost on Carter's testimony. But even on the eve of his scheduled court appearance—with opening statements having already been made—prosecutors were not certain that their most important witness would actually take the stand or what he planned to say if he did. Carter's most recent telling of the murders, which he had recounted to Ranger Coffman weeks earlier, implicated Graves and a shadowy third figure named "Red," whom he described as "a fellow from Elgin" who had "red hair . . . gold in his mouth, red complexion." (Carter would later say that Jamaican drug dealers were to blame.) The night before he was scheduled to testify, the prosecution team visited him in the Brazoria County jail, in Angleton, a small town about an hour's drive south of Houston, where the proceedings had been moved, at the defense's request, in hope of finding an impartial jury.

At the outset of the meeting, Carter did not regale his visitors with another fantastical story. Instead, he made a simple declaration, one that could have altered Graves's fate if Carter had waited to announce it on the witness stand the following morning. "I did it all myself, Mr. Sebesta," he blurted out. "I did it all myself."



The district attorney was unconvinced. “I gave no credence to it, because it didn’t happen,” Sebesta told me. “Six people were killed. There were multiple stab wounds, and some of the victims were hit over the head with a hammer. One of them was shot five times. We talked about it for a few minutes, and finally I said, ‘I’m tired of this. We’re wasting our time.’ ”

Sebesta quickly shifted the focus of the conversation to Carter’s wife. In fact, it was the subject of Cookie, not Graves, that occupied the rest of the evening. For the next two hours, Sebesta grilled Carter about Cookie and what role she might have played in the killings. As the night wore on and Carter continued to insist on his wife’s innocence, a polygraph examiner was brought in to question him about her involvement. He concluded that Carter showed signs of deception when he answered no to two questions: “Was Cookie with you at the time of the murders?” and “Was Red actually Cookie?” When Carter was informed that he had failed the test, he began to weep.

According to Sebesta, he then confessed that Cookie had taken part in the killings, claiming that she was the one who had wielded the hammer. (Carter added that he had shot Nicole, while Graves stabbed the remaining victims.) Assistant prosecutor Bill Torrey would later write: “This examination, which concluded about 10:30 p.m., was instrumental in ‘breaking’ down Carter’s resistance and facilitating his testimony; testimony which, in post-verdict interviews with jurors, was absolutely essential in their minds, toward corroborating a largely circumstantial case.”

The next morning, as the time neared for Carter to take the stand, he had cold feet. At 7:30 a.m., when the district attorney met with him again, “he basically said that he wasn’t going to testify, period,” Sebesta recalled. “He said, ‘I can’t give her up.’ ” Finally, shortly after 9 a.m., following several reminders from the bailiff that Judge Harold Towslee was waiting for them, Sebesta approached Carter with a deal: If he agreed to take the stand, prosecutors would not ask him about Cookie. Carter at last relented. He would testify against Graves.

Before Carter raised his right hand to be sworn in, Sebesta informed the court of the prosecution’s agreement with the witness: Carter would testify as long as he was not questioned about his wife’s possible involvement in the murders. The district attorney made no mention of the fact that Carter had claimed, less than 24 hours earlier, to have committed the crime by himself, though prosecutors are required by law to hand over any exculpatory evidence to the defense, whether they believe its veracity or not. Sebesta would later claim—when the issue came to light during Graves’s appeals—that he was “ninety-nine percent” certain he had told Graves’s lead attorney, Calvin Garvie, of Carter’s declaration when they bumped into each other in the hallway that morning. Garvie remembers things differently. “He obviously didn’t tell me that,” he explained to me. “That conversation never took place.” Had Sebesta informed him of such a crucial admission, he said, “You can be sure that I would have asked Carter about that on cross-examination.”

Graves, who sat behind the defense table in a borrowed suit, his expression stoic after two years behind bars, was elated to learn that Carter was testifying. “There’s no way this man can sit in front of me and tell a lie like this,” he told Garvie. But when Carter took the stand, he told the jury exactly what prosecutors had hoped for, recounting in a slow, deliberate voice how the two men had gone to the Davis home on the night of the crime. Carter took responsibility for only Nicole’s death; Graves, he testified, had wielded the knife. (He never mentioned who had bludgeoned the victims with a hammer.) In this version of the story, Carter added a new flourish: Graves had taken part in the murders because he was enraged that Bobbie Davis had received a promotion that he felt his mother, who was also a supervisor at the Brenham State School, deserved. And to explain away his grand jury testimony, in which he had declared Graves’s innocence, he stated that he had done so out of fear; one day at the county jail, he said, his and Graves’s cells had both been left open, and Graves had threatened and choked him. Jailers had apparently forgotten to lock the cells that held the two highest-profile murder suspects in the county’s history.

The defense had not been certain until that morning that Carter would testify, and Garvie’s cross-examination was brief and superficial. Garvie, who had never handled a death penalty case before, told me that he was hamstrung by what he and his court-appointed co-counsel, Lydia Clay-Jackson, did not know: They were unaware not only of Carter’s last-minute recantation but also of his statement naming Red as a third assailant, which was not provided to them until later in the trial, when Ranger Coffman took the stand. In addition, the defense attorneys had chosen to pursue an unusual trial strategy: Even though the deal that prosecutors had struck with Carter did not prevent the defense from questioning Carter about his wife, Garvie elected not to. He and Clay-Jackson thought that the indictment against Cookie, like the indictment against Graves, was unfounded, given the lack of evidence against her. They also believed that one of their strongest witnesses was Cookie’s sixteen-year-old daughter, Tremetra Ray, who could tell the jury that Graves had never called the Carter residence shortly before the murders to ask Carter if their plans were “still on,” as Carter had testified. But Tremetra also maintained that her mother was home on the night of the murders. And so Garvie never questioned Carter about the deal he had made with prosecutors, or asked him who had swung the hammer that night, or pressured him to explain what Cookie’s role—if any—might have been.

Before Carter was shackled and transported back to death row, Sebesta posed a seemingly harmless question on redirect examination. “With the exception of the time you went to the grand jury and denied any involvement, all the different stories that you have told have all involved Anthony Graves, have they not?” he asked.

In fact, both the district attorney and his witness knew otherwise; as recently as the previous evening, Carter had said that he had acted alone. But Carter agreed. “They have,” he said.

Sebesta summoned a procession of prosecution witnesses to the stand, but Mildred Bracewell, the hypnotized store clerk, was not among them. Carter had changed his story

since making his original statement to the Rangers, testifying that he had purchased gasoline *before* picking up Graves and driving to Somerville; his new account made Bracewell's eyewitness identification all but impossible. In her absence, the district attorney focused instead on the "knife evidence." Rueter's switchblade—state exhibit #192—was shown to the jury, and Rueter was called to testify that he had given Graves a virtually identical knife. Travis County medical examiner Robert Bayardo, who delivered a detailed account of the victims' stab wounds, stated that the blade, or a knife just like it, could have been the murder weapon. Yet under cross-examination, he also conceded that its dimensions were "very common." To buttress his testimony, Sebesta called Ranger Coffman to the stand. With his resolute gaze, the lawman was the picture of unimpeachable authority. As he held state exhibit #192 in his hands, it was easy to forget that Rueter's switchblade was not the actual murder weapon but a stand-in with no connection to the crime.

The Ranger described how, on a visit to the medical examiner's office, he had observed Bayardo insert the switchblade into puncture wounds found on two of the victims' skulls. (A forensics expert would later conclude during Graves's appeals that Bayardo's techniques were not only unscientific and inaccurate but also likely damaging to the evidence—a claim that the former medical examiner denies. "The knife went in and out without any force, without damaging the bone," he told me.) When the coroner slid the knife into the skulls, the Ranger told the jury, "it fit like a glove."

The two original witnesses from the jail—Ronnie Beal and Shawn Eldridge—were called to testify, as were two more men: inmate John Bullard, who had been arrested for forgery, and a local rancher named John Robertson. Bullard claimed to have heard Graves ask Carter, "Did you tell them everything?" and observed the two inmates using hand signals after they realized that the intercom was on. (Bullard also admitted that he had been on three different psychotropic medications at the time.) Robertson, who told the jury that he had stopped by the jail to drop off dinner for a friend, stated that he had overheard Graves say, "We f—ed up big-time," and assure Carter that any incriminating evidence had been disposed of. Like Beal and Eldridge, he professed to have listened to the two men over the jail intercom. But in aggressive cross-examination of all four men, Clay-Jackson was able to establish that the intercom worked only intermittently and that the jail, which was not air-conditioned, had been noisy that August night, with a fan whirring and a TV blaring in the background. She scored her best point of the trial when she had Eldridge, the jailer, look over his log from the night in question, which included detailed notations ("Served supper"; "Med. to Bullard") but no mention of Graves's supposed confession.

After the state rested, the defense called Robert Bux, the deputy chief medical examiner for Bexar County, who testified that the fatal injuries could have been caused by "any single-edged knife." Wanda Lattimore, a supervisor at the Brenham State School, disproved the motive that Carter had provided for Graves when she told the jury that Graves's mother had never expressed any interest in the position to which Bobbie Davis had been promoted. But the defense's best effort to establish Graves's innocence—proving that he was home at the time of the crime—fell short, handicapped by the fact

that the white woman whom Arthur had sung to on the phone refused to testify. (“She cried and told me that her parents would disown her if they ever knew about her relationship with me,” Arthur said, still thunderstruck at the memory.) Arthur told the jury in no uncertain terms that his brother had been at home that night, but his sister Deitrich was never called to corroborate his testimony. That task fell to Graves’s girlfriend, Yolanda Mathis. Shortly before Mathis took the stand, while jurors were outside the courtroom, Sebesta sprang a trap.

“Judge, when they call Yolanda Mathis, we would ask, outside the presence of the jury, that the court warn her of her rights,” the district attorney announced. “She is a suspect in these murders, and it is quite possible, at some point in the future, she might be indicted.”

Never before, in the more than two years that had passed since the killings, had Mathis been identified as a suspect. (When I pressed Sebesta about this, he said, “There was some thought that she could’ve been a fourth person in the vehicle,” although nothing in the Ranger reports or the trial record supports such a charge. In hindsight, he added, “I don’t think she was involved.”) Garvie could have requested that Judge Towslee stop the proceedings and hold a hearing, at which point Sebesta would have been obligated to show the court what proof he had to substantiate his claim. But Garvie never called his bluff. (“I thought he would fight for my son because he was of color too,” said Doris, who had retained Garvie by cashing in her life savings. “But he let Sebesta intimidate him.”) Ethically, Garvie told me, he felt bound to warn Mathis, who had no attorney, that she had been named as a possible suspect. When he and Clay-Jackson informed her that she could face indictment for the murders, she became hysterical. Terrified, she refused to testify.

Mathis’s absence left a gaping hole in the defense’s case that went unexplained to the jury. Making matters worse, the witness whom Graves’s attorneys had pinned their hopes on, Tremetra Ray, strained credulity when she testified that both her mother *and* stepfather, Robert Carter, had been home all evening on the night of the murders. Before the state rested at the close of the five-day trial, Sebesta underscored the fact that the switchblade Rueter had given Graves was never recovered, emphasizing that Graves had denied owning a knife when he had testified before the grand jury. “We have a co--defendant who has placed Anthony Graves at the scene,” Sebesta told the jury. “He has placed a knife in his hand.” In the end, though jurors knew about Carter’s deal with prosecutors, they chose to believe his account of the night of August 18, 1992. After more than twelve hours of deliberation, they found Graves guilty of capital murder.

“Five children and a grandmother had been brutally murdered, and because of that, I think the burden on the state to prove its case beyond a reasonable doubt was somewhat less than it should have been,” Garvie told me. During the trial’s emotional penalty phase, a death sentence seemed all but a foregone conclusion. After Graves’s workplace fight was offered as proof of his propensity for violence, the jury listened as the anguished members of the Davis family cataloged their grief. “There are some crimes that are so violent, that are so horrendous, that there is but one decision that you as a jury can make,” Sebesta advised jurors at the conclusion of his closing argument. “Pick up the

photographs of those six people and you'll know what to do." The jury—whose foreman was the panel's lone black member—took less than two hours to assess a punishment. Anthony Graves was sentenced to death.

#### IV.

Four years later, on January 14, 1998, Carter penned a remarkable letter to his high school English teacher, Marilyn Adkinson, and her husband, Howard, a pastor, both of whom had visited him on death row. "I'm not sure how to begin this letter, but with God's help, of course, 'I can do all things' (Phil. 4:13)," wrote Carter, who had undergone a dramatic jailhouse conversion since Graves's trial. In careful handwriting that filled three pages, he confessed to the Adkinsons that he had falsely testified against Graves to protect his wife—"she is totally innocent"—and, by extension, their son, Ryan. "The D.A. and law enforcement believe she was involved, so I lied on an innocent man to keep my family safe," he wrote. "I even told the D.A. this before I testify against Graves, but he didn't want to hear it."

Both Carter and Graves had been sent to the Ellis Unit, in Huntsville, where they separately lived out their days amid the more than four hundred condemned men awaiting their execution dates. After their convictions, charges against Cookie were dropped due to a lack of evidence. During his time on death row, Graves maintained a near-spotless disciplinary record. (He was cited once for possessing what was deemed to be contraband: some green peppers that he had swiped from the food cart.) Carter, meanwhile, diligently read the Bible, making detailed notations in the margins. As his execution date approached, he spoke of Graves's innocence to more than half a dozen people, including his appellate attorneys and at least two death row inmates: Alvin Kelly, who was executed in 2008, and Kerry Max Cook, who had been sentenced to death for the 1977 murder of a Tyler woman. (During his fourth trial, in 1999, Cook pleaded no contest in exchange for his freedom. DNA evidence later showed that semen at the crime scene belonged to another man.) Of hearing Carter's confession, Cook would write in his memoir, "As I looked deeply into the face of Robert Carter, I knew—just as I knew my own innocence—I had witnessed the truth."

Carter also penned letters to the Davis family, declaring that Graves had no knowledge of the crime. To Lisa, he wrote, "I just don't want [an] innocent person to die for something they don't know anything about." To Kenneth Porter, the father of Lisa's other murdered child (the "Kenneth" he would later suggest had been on his mind when he gave his initial statement to the Rangers), he wrote, "I am the only one responsible . . . I also know that I have lied in the past about this and I can certainly understand you and the rest for not wanting to believe me now." Hopeful that he could correct the record, he reached out to Graves's state habeas counsel, Patrick McCann. "He asked me to come to Huntsville because he had important information to tell me," McCann said.

Carter had contacted McCann at a critically important time in Graves's appeals. The Texas Court of Criminal Appeals had reviewed his case, and in 1997 it upheld his conviction. The court—which in the late nineties overturned 3 percent of capital

convictions, the lowest reversal rate of any state in the nation—had rejected the argument that there was insufficient evidence at trial to corroborate Carter’s testimony. McCann had been appointed to handle the next phase of Graves’s appeals: filing a state writ of habeas corpus. In the long and byzantine path that a case follows through the courts after a defendant is handed a death sentence, the writ ushers in the most important stage, in which new and exculpatory evidence can be introduced. But the time frame when such evidence may be brought before the court is finite; in Texas, death row inmates are usually limited to a single state habeas appeal—and only during this habeas phase may new facts be introduced. McCann hurried to Huntsville to meet with Carter, who he hoped would admit that his testimony at Graves’s trial had been perjured. As a court reporter took notes, Carter gave McCann a deposition in which he claimed sole responsibility for the crime.

There was just one problem: Carter’s attorney, Bill Whitehurst, had already barred McCann from speaking to his client. “We could not have our client going out and giving depositions, talking about how guilty he was, at the same time that we were presenting a federal writ of habeas corpus, trying to get him a new trial,” Whitehurst explained. “It was obvious that McCann believed in his client’s innocence and wanted to do everything he could to help him, and I respect that. But I also had an obligation to my client, which I took very seriously.” In going around Whitehurst, McCann—who was less than three years out of law school—had also failed to notify the district attorney’s office of his plans to take a deposition from Carter. It was a fatal error: Because he had deprived prosecutors of the chance to cross-examine Carter, the deposition was rendered inadmissible. McCann’s only remaining opportunity to get Carter on the record was to subpoena him to appear at a 1998 evidentiary hearing that Judge Towslee had granted on several issues raised in the writ. But Whitehurst, a past president of the State Bar, warned the young lawyer that Carter would plead the Fifth if he were subpoenaed. Rather than risk his case on a notoriously unreliable witness, McCann did not call him. The court would never hear Carter’s recantations.

Thirteen days before Carter’s execution, in the spring of 2000, after all of his appeals had been exhausted, Graves’s counsel was granted the opportunity to question Carter under oath. Attending the death row deposition were Sebesta and Graves’s new appellate lawyers: veteran capital defender Roy Greenwood and former state district judge Jay Burnett. (McCann, a Navy reservist, had been called to active duty in Bosnia.) As he sat before the assembled attorneys in his starched prison whites, Carter stated in a low, flat voice that he alone had murdered the Davis family. Without betraying any emotion, he said that he had set out for Somerville on the night of August 18, 1992, with the intention of killing his son. He did not attempt to justify himself or explain whether or not he had anticipated that five other people would be present at the Davis home that night. (Nicole, Brittany, and Lea’Erin had returned the previous day after spending the summer in Houston.) Yet he did describe in specific and chilling detail how he had carried out the crime. First, he said, he had stabbed Bobbie to death after knocking her unconscious with a hammer. As for how he had overpowered the remaining victims single-handedly, Carter was nonchalant. “They were asleep,” he said.

Under cross-examination from Sebesta, Carter grew animated, pushing back as the district attorney once again questioned him about Cookie. “I told you personally, just like I told Ranger Coffman that day when you came to that jail,” Carter said. “I told you, just like I told my brother, ‘It was all me,’ but you said you didn’t want to hear it.”

“We said we wanted the truth, didn’t we, Robert?” asked Sebesta. “Isn’t that what we told you? ‘We want the truth’?”

“I’m talking about the day at the jail,” Carter countered. “You said that you didn’t want to hear that coming out of me.”

“I don’t recall that,” Sebesta said.

On May 31, 2000, the day that Carter was set to die, his family gathered in Huntsville. He read the Bible, visited with his mother, and ate his final meal: a double cheeseburger and fries. At 6:02 p.m., he was led to the execution chamber, where he was strapped to the gurney. After two IVs were inserted into his arms, the warden asked if he had any last words. “I’m sorry for all the pain I’ve caused your family,” Carter said, turning toward the six grieving relatives of Bobbie Davis who had gathered as witnesses. “It was me and me alone. Anthony Graves had nothing to do with it. I lied on him in court.” Carter looked to his own family, who stood on the other side of the execution chamber, behind Plexiglas, but Cookie was not there. She had become distraught that morning and returned to Brenham. “I am ready to go home and be with my Lord,” Carter said, shutting his eyes. As the lethal dose of chemicals flowed into his veins, he coughed, then uttered a soft groan. He was pronounced dead at 6:20 p.m.

Death row inmates who maintain that they have been wrongly convicted are at the mercy of not only the judiciary—where capital appeals typically take more than a decade to move through both the state and federal courts—but also of reporters, law professors, journalism professors, and student volunteers, who may or may not choose to look into their claims of innocence. Often an inmate’s last hope is to capture the attention of an organization like the University of Houston Law Center’s Texas Innocence Network, an ad hoc organization of professors and law students that researches such claims. (Court-appointed appellate attorneys who lack the resources to fully investigate capital cases are usually grateful for the help.) The Innocence Network—which works in conjunction with the journalism department at Houston’s University of St. Thomas—first learned about Graves from his attorneys; David Dow, the network’s director, suggested to a journalism professor at St. Thomas named Nicole Cásarez that her students look into the case.

“We started with nothing,” remembered Cásarez, a former Vinson & Elkins associate with short brown hair and a concerned, precise manner. “Four or five students and I drove to Austin in the fall of 2002, and we read the trial transcript, sitting around Roy Greenwood’s dining room table, taking handwritten notes. From there, we asked ourselves, ‘Who do we need to talk to?’ ” She and her students next traveled to Brenham, where they met two of Graves’s alibi witnesses, Arthur and Deitrich Curry. Cásarez and her students found the siblings to be credible, but it was their interview with Yolanda

Mathis that left a profound impression. “Yolanda confirmed that she had been with Anthony all night, but she also explained that they had not been in a big, serious relationship,” Cásarez said. “She had been one of many women in Anthony’s life. That was important, because she did not have the motivation that a brother or sister might have to cover for him. She told us, ‘Why would I still say I was with him that night if it weren’t true? I’m married. I’m a mother. Why would I want to protect a child murderer?’” The conversation was a turning point for Cásarez. “Until then, all we knew was that Yolanda had been called and didn’t testify,” she said. “Hearing her story, seeing how thin the evidence had been at trial, I began to feel very uncomfortable with this case.”

At the time, Graves’s prospects looked bleak. In 2000 the Texas Court of Criminal Appeals had denied his writ of habeas corpus—in essence, concluding that he had received a fair trial. Afterward, his lawyers filed a motion asking the court to grant him another habeas appeal, arguing that he should be granted such an opportunity because his first habeas attorney had been incompetent. (McCann’s failure to subpoena Carter, they reasoned, was proof of ineffective assistance of counsel.) The court agreed to consider the claim, but in January 2002, a 6—3 majority ruled against Graves once again. Writing for the majority, Judge Cathy Cochran stated that a defendant was guaranteed the right to a qualified court-appointed attorney but not necessarily to one who performed well. Judge Tom Price penned a stinging dissent, noting that it was the Court of Criminal Appeals that had appointed McCann to Graves’s case in the first place. “ ‘Competent counsel’ ought to require more than a human being with a law license and a pulse,” he observed. With that, Graves’ state appeals were done. His last resort would be the federal courts, which would not be able to take into account Carter’s recantations. “If it wasn’t in the state record, the federal court couldn’t consider it,” Cásarez explained.

But if his federal appeals were successful, there was always the chance—however unlikely—that he would be granted a retrial, in which any new or exculpatory evidence that had been discovered would likely be admissible. So Cásarez and her students forged ahead, interviewing upward of one hundred people over the next few years. “We got in touch with anyone who might know anything about the case,” Cásarez said. They tried, fruitlessly, to convince the white woman whom Arthur had serenaded on the night of the murders to speak with them, but she refused. “She had denied knowing Arthur, so I made Xerox copies of cards she had sent him and a note she had written on the back of one of her deposit slips and forwarded them to her,” Cásarez said. “A man’s life was on the line.”

They succeeded in getting Carter’s older brother, Hezekiah, who had dodged them several times before, to finally agree to an interview when they visited him at his house in Clay, near Somerville. Hezekiah explained that he had traveled all the way to Angleton—a nearly three-hour drive—on the eve of his brother’s testimony in Graves’s trial at the behest of the district attorney, who had arranged to pay for his expenses and a hotel room. “Mr. Sebesta told me that Robert was having reservations about testifying,” he wrote in a sworn affidavit. “I agreed to come down to Angleton and talk to Robert.” Hezekiah stated that before taking the stand, his brother had been “troubled, uncomfortable and scared.”



Cásarez's students also met with John Bullard, the heavily medicated jailhouse snitch, who, they learned, was under the mistaken impression that his testimony had helped Graves. Bullard, whose cell had been near Graves's, explained that he had only heard the man proclaim his innocence. Cásarez interviewed jailer Wayne Meads, who had been on duty at the county jail on the same night that Beal, Eldridge, and Robertson claimed to have overheard Graves admit to taking part in the killings. Meads told Cásarez that he had overheard nothing unusual on the intercom that night. "If I had heard either Carter or Graves confess, it would be something I would never forget," he said. Casting more doubt on the reliability of the jailhouse testimony was a revelation about Robertson. Acting on a tip, one of Cásarez's students, Sarah Clarke Menendez (who would later go on to graduate from Harvard Law School), sifted through records at the Burlison County courthouse and found that Robertson had been under indictment at the time that he reported Graves's alleged statements to investigators. The charges against him, for cruelty to horses, were never pursued.

One of the most revelatory moments in Cásarez's investigation came when she visited Marilyn Adkinson, Carter's high school English teacher. Adkinson had never observed any signs of trouble in Carter when he was younger, she told Cásarez—in fact, he had no criminal record before the killings—but she mentioned something that she had found curious. Carter had held on to a book that she had assigned his class years before, Theodore Dreiser's *An American Tragedy*. He had never gotten around to reading it until he was on death row. When he finished it, Adkinson explained to Cásarez, he had told her, "This is my life."

The novel, which served as the inspiration for the 1951 film *A Place in the Sun*, tells the story of a young man from humble origins who is torn between two women: a wealthy woman, whom he hopes to wed, and a poor woman, with whom he shares a secret relationship. The poor woman gets pregnant and threatens to reveal their affair unless he marries her. Afterward, he takes her on a boat ride, and when their rowboat capsizes, he hangs back as she struggles to keep her head above water. Ignoring her pleas for help, he watches her drown. The parallels to Carter's life were not exact—neither woman in his life was wealthy by any measure—but the story gave Cásarez insight into the psyche of a man who had, by his own admission, felt enough rage to kill his own illegitimate child.

At the conclusion of *An American Tragedy*, the protagonist is caught, arrested, tried, and sentenced to death. Before he is executed, he becomes a Christian. "Marilyn told me that Robert really identified with this character," said Cásarez. "He told her, 'If I had read this book in high school, maybe all of this would never have happened.' "

From the viewpoint of the federal courts, the most important development in Graves's case would turn out to be a casual remark that Sebesta himself made to a television producer after Carter's execution. In 2000, during George W. Bush's first run for the White House, Geraldo Rivera came to Texas to make an hour-long NBC special, *Deadly Justice*, about capital punishment. Although Graves's case had received scant media attention in the eight years since his arrest, the show's producers interviewed him at the urging of Kerry Max Cook, whose own case was highlighted in the documentary. Sebesta

agreed to talk to producers as well. While the cameras were rolling, the district attorney admitted—for the first time—that Carter had told him, before taking the stand at Graves’s trial, that he had acted alone. “He did tell us that,” Sebesta said. “‘Oh, I did it myself. I did it.’ He did tell us that.”

The documentary, which painted Graves’s case in broad strokes, did not seize upon the singular importance of the district attorney’s admission. “If Sebesta had not said what he said, there’s a fair chance that Anthony would have been executed by now,” Greenwood told me. “His statement allowed us to raise a Brady claim for the first time, and that was the only winner we had.” *Brady v. Maryland*, a landmark 1963 Supreme Court ruling, requires prosecutors to turn over any exculpatory evidence to the defense. Failing to do so is a “Brady violation,” or a breach of a defendant’s constitutional rights—a claim that Greenwood could raise before the federal courts.

“This was the ultimate in Brady material,” Greenwood said. “It was a one-witness case, and the witness recanted! And it was not divulged to the defense.” That fact—that in the midst of Graves’s trial, Carter had told the district attorney that he had acted alone—did not come to the attention of Graves’s lawyers until the deposition Carter gave shortly before his death. “Having Carter say it didn’t matter,” explained Cásarez. “What mattered was having Sebesta admit it, which he did, on camera. Otherwise, it would have just been Carter’s word against Sebesta’s.”

Even with such a powerful argument in hand, it would take several years before Graves’s claim was considered by a federal court in any substantive way. The Fifth Circuit Court of Appeals began reviewing his case in 2003 after a lower court had denied relief, and the following year, it granted an evidentiary hearing. At issue was Carter’s statement to Sebesta that he had acted alone, as well as a second comment that the district attorney claimed Carter had made on the eve of his testimony at Graves’s trial: “Yes, Cookie was there; yes, Cookie had the hammer.” (Sebesta did not mention this until 1998, during a hearing in Graves’s first habeas appeal; Carter consistently denied ever implicating his wife in the crime.) The evidentiary hearing, which took place in federal district court in Galveston, included testimony from Sebesta and Graves’s two trial lawyers. U.S. magistrate judge John Froeschner, who presided over the hearing, found as fact that Sebesta did not reveal to the defense Carter’s statement that he committed the murders alone. But he denied Graves’s Brady claim, saying that Carter’s comments would not have altered the outcome of the trial; a jury, he reasoned, would still have decided to convict him. U.S. district judge Samuel Kent delivered a ruling that upheld Judge Froeschner’s findings the following year.

Dispirited, Greenwood asked Cásarez if she would begin drafting Graves’s clemency petition to the Board of Pardons and Paroles. (In 2005 Cásarez reactivated her law license so that she could join Graves’s legal team.) “It was the end of the road,” Cásarez said. “The Supreme Court was not going to take the case. If Anthony didn’t get his conviction reversed by the Fifth Circuit, it was done, dead, over.”

Greenwood appealed the decision to the Fifth Circuit, and on March 3, 2006, a three-judge panel handed down a stunning rebuke to the lower courts. In a unanimous opinion, the panel held that the state's case had hinged on Carter's perjured testimony. Had Graves's attorneys known of Carter's statements to the district attorney, wrote circuit judge W. Eugene Davis, "the defense's approach could have been much different . . . and probably highly effective." The court reserved particular criticism for Sebesta for having prompted two witnesses to say on the stand that Carter had never wavered, other than in his grand jury testimony, in identifying Graves as the killer. (Sebesta had done this not only with Carter but with Ranger Coffman as well.) Wrote Davis, "Perhaps even more egregious than District Attorney Sebesta's failure to disclose Carter's most recent statement is his deliberate trial tactic of eliciting testimony from Carter and the chief investigating officer, Ranger Coffman, that the D.A. knew was false."

With the stroke of a pen, Graves's conviction was overturned. The ruling did not make any determination as to his actual innocence or guilt. But by finding that his conviction had been improperly obtained, the court paved the way for a new trial.

Students began arriving in Cásarez's office late that afternoon. "We read the opinion out loud, and we were cheering," she said. "We were so relieved that finally someone saw the case the way we did." Amid the jubilation, she and her students puzzled over how to convey the news to Graves. "Death row inmates can't get phone calls, but I knew that he sometimes listened to *The Prison Show*," Cásarez said. "So we called KPFT, and I explained what had happened, and they agreed to call me at eight o'clock that night and give me one or two minutes on the air. My students and I wrote a short statement. I had to practice reading it without crying, because every time I read it, I would start crying. Anthony wasn't listening to *The Prison Show* that night, but someone else on death row heard the show and gave a note to one of the guards to take to him. The note said, 'Hey bro, just heard your conviction's been overturned. Congratulations. Guess you'll be getting out of here at last.'"

V.

On September 6, 2006, Graves walked off of death row. But there was no celebration beyond the floodlights and the coils of concertina wire, no crush of television reporters shouting questions, no tearful embrace with his mother, whom he had been allowed to touch just once during his fourteen years of incarceration. Instead, Graves walked out of his six-by-ten-foot concrete cell and into the arms of Burleson County sheriff's deputies, who transported him back to the county jail in Caldwell, where he would await retrial. The Fifth Circuit's ruling had not exonerated him, and he still faced the original criminal charges that had been filed against him in 1992. In the eyes of Burleson County, he remained a murderer, and a child killer at that. Judge Towslee's successor—his daughter, Judge Reva Towslee-Corbett—set his bail at \$1 million.

The Burleson County district attorney's office, which Sebesta left in 2000, could have dismissed the charges against Graves. A federal court had thoroughly discredited the testimony that had put him on death row, and the man who had admitted to the killings

had already been executed. Still, many people—most notably the surviving members of the Davis family—believed in Graves’s guilt and were not persuaded by Carter’s eleventh-hour recantations. Days after Graves’s conviction was overturned, Bobbie Davis’s niece, Anitra Davis, told the *Houston Chronicle*, “We are still waiting for justice.” The county moved forward with plans to retry Graves, and in early 2007 it appointed former Navarro County district attorney Patrick Batchelor as special prosecutor. (The Burleson County district attorney’s office recused itself from the case after Judge Towslee--Corbett ruled that an assistant district attorney, who had helped prosecute Graves thirteen years earlier, could not take part in the new trial.) A skilled adversary, Batchelor had previously won the capital conviction of a Corsicana man accused of a 1991 triple murder, Cameron Todd Willingham, who later became the subject of national debate when updated forensic science called his 2004 execution into question.

In February 2007 Batchelor announced that he would be seeking the death penalty against Graves. The defense suffered another setback that July, when Judge Towslee--Corbett handed down a startling decision: Carter’s original trial testimony would be admissible at Graves’s retrial. The judge reasoned that Graves’s constitutional right to “confront the witness”—that is, to question or challenge his accuser—had already been satisfied when Carter was subject to cross-examination in 1994. Attorneys with the Lubbock-based Innocence Project of Texas, which had taken on Graves’s case pro bono after Greenwood retired, filed a motion with the trial court arguing that any retrial in which Carter’s testimony could be read to a jury would simply be a replay of Graves’s original, flawed trial, a situation that amounted to double jeopardy. Judge Towslee-Corbett denied the claim, as did the Tenth Court of Appeals, in Waco, where the attorneys appealed her decision. Last year, the Court of Criminal Appeals declined to take up the case, allowing Judge Towslee-Corbett’s ruling to stand.

Graves’s retrial is now set to begin in February. As if his path through the legal system had not been protracted enough, the retrial has been beset by delays, including months in which parts of the victims’ skulls and other key exhibits have gone missing. (The evidence was later discovered in an old jail cell that had been welded shut.) Batchelor, who stepped down from the case for health reasons in late 2009, has been replaced by special prosecutor Kelly Siegler, a former Harris County assistant district attorney who has sent no fewer than nineteen defendants to death row. Siegler, who declined to comment on this case before trial, is known for her flamboyance and ability to make the horror of a crime viscerally real for a jury. She once famously re-created a murder by pretending to stab another attorney with the actual murder weapon while straddling him on a blood-stained mattress.

Representing Graves will be veteran capital defender Katherine Scardino and her co-counsel, Jimmy Phillips Jr. Assisting the trial lawyers as third chair will be Cásarez, who can quote the trial record from memory. In 1997 Scardino won the first acquittal for a Harris County capital murder defendant in 23 years. She still does not know whether Judge Towslee-Corbett, in admitting Carter’s testimony into evidence, will also allow in his letters, statements, and deposition recanting his accusations against Graves. “It would

be an injustice if Robert Carter's last statement is not heard by this jury," Scardino told me. "Even the strongest disbeliever has to stop and take note that he proclaimed Anthony's innocence from the gurney."

Meanwhile, the former district attorney remains as convinced of Graves's guilt as he was sixteen years ago, at his trial. Sebesta believes that Carter's change of heart was nothing more than a last-ditch effort to protect his wife. "I think Carter was afraid that Graves would make a deal with us after he was executed and give up Cookie in exchange for a life sentence," he said.

As we sat and talked one afternoon in Caldwell, Sebesta explained that he had known Carter's family all of his life. The Sebestas hailed from Snook, in southeastern Burleson County, and the Carters lived just down the road, in Clay. "He was a heck of a basketball player," said Sebesta of the man he sent to death row. The young man he remembered was "a little wimp," not someone who was capable of cold-blooded murder. "He was the instigator, but he wasn't the primary actor in this thing," he said. "As far as complicity goes, I think it was Graves, Cookie, and then Carter." It was the streetwise Graves, he held, who had wanted to "straighten things out" with Bobbie Davis. In his view, Graves, who throughout the trial had "stared straight ahead with steel-looking eyes," was utterly, morally debased. Sebesta said he had received "bits and pieces of information" that Graves and Cookie were kissing cousins, a charge he had insinuated to the jury at Graves's trial.

Still stung by the Fifth Circuit's ruling, Sebesta told me that he had taken a polygraph exam, which he publicized in advance to local media, to prove that he had disclosed Carter's statements to Garvie. After the first test was inconclusive, Sebesta took a second polygraph, using a different test structure, which he passed. ("In the opinion of this examiner, you have been completely truthful," read the polygraph report that Sebesta provided to me.) Indeed, the former prosecutor has gone to extraordinary lengths to clear his name. Last year, he paid for space in the Caldwell and Brenham newspapers to publish a five-thousand-word letter in which he vigorously defended himself. "When I get backed in a corner, I come out fighting," he told me. The seventy-year-old former prosecutor seemed keenly aware of his legacy. "We did not withhold evidence," he said, his blue eyes insistent. "I couldn't sleep at night if I would've done something like that."

For the past four years, as Graves has awaited trial, he has been confined to the Burleson County jail, a colorless, low-slung building by the side of Texas Highway 36, in Caldwell. Unlike his last stay at the jail, Graves, who is now 45, is not housed side by side with other inmates; given the nature of the crime for which he stands accused, the county has relegated him to solitary confinement, citing concerns about his safety. Besides brief exchanges with the guards and phone calls that are limited to fifteen minutes, his only human interaction takes place on Wednesdays and Sundays, when he is allowed a twenty-minute visit by family and friends. He cannot touch his visitors; they talk by phone, separated by a sheet of Plexiglas.

One day in June, I was escorted into a windowless, concrete room inside the jail, where Graves and I were permitted to sit face-to-face to discuss his case. A jailer led him in, and after his hands were unshackled, he took a seat across the table from me. The photos I had seen of him were taken when he was still a young man, but Graves is now a grandfather, and he has settled into middle age. His face was soft and round, his body thicker beneath his black-and-white-striped uniform.

As we talked, his story came tumbling out: of the Rangers, who were certain he was guilty, no matter what he said to the contrary; of the lineup, in which a woman he had never seen before had fingered him as the killer; of his trial, in which he listened to witnesses testify that he had confessed in jail to his guilt; of the souvenir knife, which the prosecution had held up as the murder weapon; of the man whose accusations against him could never be taken back, even after a dying declaration attesting to his innocence. We had been allotted two hours for our visit, but it was not enough. A jailer signaled that our time was up. Graves gave me an apologetic nod as he rose to go. “Maybe the sheriff will let you come back,” he said.

The sheriff, however, was not amenable to another media visit. And so I sent Graves a long list of questions, and in letters that followed, he described his time on death row, where his cell had afforded an unnerving view whenever a condemned man went to meet his fate. “Unfortunately for me, I could look out the window of my cage and see the officers placing the inmate in the van to be taken to the Walls Unit, to be executed,” he wrote. He explained his agony at being convicted of the Davis killings. “Never in a million years could I have imagined my life like this . . . to end up defending allegations that I’m somehow capable of killing women and children,” he explained. He drew a detailed drawing of his cell at the county jail, where a TV serves as his lifeline to the outside world. He signed off one letter, “Do you think Elena Kagan will be confirmed to the Supreme Court? Her hearing began today.”

In hopes of continuing our conversation in person, I returned to see Graves one Wednesday afternoon during visiting hours, when the jail’s reception area was crowded with women and children. Our time was limited to twenty minutes, so I kept my questions simple. I asked if we could talk more about his life now.

“I’ve missed so much,” Graves said. “My children are all grown. I have grandkids I’ve never touched.” His voice broke. “I’ve been alive for the past eighteen years, but I haven’t *lived*,” he said.

He had already told me that he was not a particularly religious person, so I asked what sustained him.

“Knowing I’m innocent,” he replied. “I’m not just going to lay down my life for something I didn’t do.”

Eventually I got to the question I had been wanting to ask. I was curious how he remembered the world that he had left behind when he was 26 years old. “If you ever get out of here—” I began.

“*When* I get out,” he interrupted. “When.”

“When you get out, what do you want to do first?” I ventured.

“Hug my mother and my children,” he said. “Take a bath. Eat some ribs off the barbecue pit, or a hamburger with real lettuce and tomatoes and onions.” He closed his eyes for a moment, as if savoring a memory he had secreted away. “Take my shoes off and touch the grass,” he said. “Or just open a door. Open a door so I can walk outside.”

Watch a slide show from “[Guilt, Innocence, and the Death Penalty: Why Do Mistakes Happen?](#)” a discussion presented by TEXAS MONTHLY and the LBJ Library and Museum featuring panelists involved in the Anthony Graves case.

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<http://www.anthonygraves.org/anthony.html>

## About Anthony

*Anthony Charles Graves was born on August 29th 1965. He has been behind bars since August, 1992.*

He is accused of having taken part in the murder of six people, four of them children. Ever since he first was arrested he has maintained his innocence.

Many people are locked up in the United States. It has more prisoners than any other nation in the world. Most of them come from low-income families, like Anthony's. A disproportionate part of the people in prison are black, like Anthony. So what is so special about him?

One reason is that his innocence is obvious. A lot of prisoners claim that they are innocent, but in most of these cases there are facts that point to their guilt, or they have a previous criminal career. But Anthony was convicted solely on the basis of one piece of testimony by another convicted killer – a statement that was given reluctantly, under threat, and later retracted on several occasions.

Another reason that Anthony's case is important is that his freedom is within reach. In 2006, twelve years after the trial in which he was sentenced to die, the judges in a higher court decided that this trial was not fair. They wanted him to have a new trial and took him off death row. Since 2006 Anthony has been waiting, in a jail in a small town in Texas, for this new trial.

But should we care about what happens to this man, even though he is innocent? Can the case of this man, Anthony Graves, be of any importance to the big state of Texas in the big nation of the United States of America? Yes, it can and it will.

Texas is not just one of the richest and most powerful states in the U.S.A. It is also the stronghold of the capital punishment. If justice prevails and Anthony is set free, it will be an important demonstration, not just to Texas, but to the whole nation, of the flaws in the death penalty.

Anthony Graves is a living example of how easily an innocent man can be sentenced to die. That is why it is important for everybody who is against capital punishment to know about his case, and to support his struggle for justice.

Behind this brochure are some of Anthony's friends in France, Germany, Sweden and Switzerland. We know that most things that happen in the United States also have an impact on us in Europe. If and when Anthony is set free, it will show everybody that Texas can change, and this change will benefit us all



<http://www.deathpenaltyinfo.org/anthony-graves-becomes-12th-death-row-inmate-exonerated-texas>

Anthony Graves Becomes 12th Death Row Inmate Exonerated in Texas

Posted: October 28, 2010

in

What's New

Arbitrariness

Innocence

Anthony Graves (pictured) was released from a Texas prison on October 27 after Washington-Burleson County District Attorney Bill Parham filed a motion to dismiss all charges that had resulted in Graves being sent to death row 16 years ago. Graves was convicted in 1994 of assisting Robert Carter in multiple murders in 1992. There was no physical evidence linking Graves to the crime, and his conviction relied primarily on Carter's testimony that Graves was his accomplice. Two weeks before Carter was scheduled to be executed in 2000, he provided a statement saying he lied about Graves's involvement in the crime. He repeated that statement minutes before his execution. In 2006, the U.S. Court of Appeals for the Fifth Circuit overturned Graves's conviction and ordered a new trial after finding that prosecutors elicited false statements and withheld testimony that could have influenced the jurors. After D.A. Parham began to reassemble the case and review the evidence, he hired former Harris County assistant district attorney Kelly Siegler as a special prosecutor. Siegler soon realized that making a case against Graves would be impossible: "After months of investigation and talking to every witness who's ever been involved in this case, and people who've never been talked to before, after looking under every rock we could find, we found not one piece of credible evidence that links Anthony Graves to the commission of this capital murder. This is not a case where the evidence went south with time or witnesses passed away or we just couldn't make the case anymore. He is an innocent man," Siegler said.

(B. Rogers, "Prisoner ordered free from Texas' death row," Houston Chronicle, October 28, 2010; photo by [www.anthonysgraves.org](http://www.anthonysgraves.org)). Graves is the 12th person to be exonerated from Texas's death row since 1973 and the 139th such person in the country. Only Florida and Illinois have had more exonerations during this time. When Illinois had their 13th exoneration, the governor declared a moratorium on executions that continues to this day. Click [here](#) for a full list of exonerees since 1973. See Innocence.

[http://www.cbsnews.com/8301-504083\\_162-57399034-504083/the-fight-for-justice-for-anthony-graves/](http://www.cbsnews.com/8301-504083_162-57399034-504083/the-fight-for-justice-for-anthony-graves/)

March 18, 2012 1:01 AM

# The fight for justice for Anthony Graves

By

[Crimesider Staff](#)



Anthony Graves

(Credit: CBS)

(CBS) - When Anthony Graves was released from the Burleson County Jail on Oct. 27, 2010, we thought his fight was over. For 18 years - 12 on Texas Death Row - Anthony had proclaimed his innocence. Now, finally, he was a free man; the state of Texas had dropped all the charges against him. The next day, special prosecutor Kelly Siegler held a press conference where she explained to the world how Anthony had been framed for a multiple murder that he did not commit.

[Watch "Grave Injustice" on 48 Hours Mystery](#)

But when Anthony applied for compensation under the Tim Cole Compensation Act, we realized that another fight was just beginning. Pursuant to that Texas statute, inmates who are released from prison after being cleared of the crimes that put them there are entitled to \$80,000 for each year of incarceration, plus a lifetime annuity. We were shocked when Anthony's claim for compensation was denied by the Texas State Comptroller because Anthony didn't have a piece of paper from a judge that contained the words "actual innocence."

Thanks in large part to media attention that focused on Anthony's plight, and in particular the CBS 48 Hours Mystery episode about his case, a public outcry ensued. State Senator Rodney Ellis and Texas Representative Rafael Anchia sponsored a bill that amended the compensation statute to provide that inmates are eligible for compensation if they have "an affidavit from the prosecutor stating the dismissal was based on actual innocence."

Governor Rick Perry signed the bill in June, 2011. Ms. Siegler had already provided the necessary affidavit, and Anthony received his check from the Comptroller on June 30, 2011.

Although Anthony eventually won his fight, other Texas exonerees have not been so lucky. George Rodriguez, for example, served 17 years in prison before DNA evidence exonerated him in 2004 of a rape/kidnapping that he did not commit. Rodriguez was ineligible for compensation, however, because the Harris County District Attorney at the time refused to acknowledge Rodriguez's innocence. In 2009, Rodriguez sued the City of Houston, but that litigation has yet to be resolved.

*Contributed by Nicole Bremner Casarez, a professor at St. Thomas University in Houston*

[http://www.cbsnews.com/8301-18559\\_162-57399487/students-help-free-wrongfully-convicted-man/](http://www.cbsnews.com/8301-18559_162-57399487/students-help-free-wrongfully-convicted-man/)

March 18, 2012 12:19 AM

# Students help free wrongfully convicted man

*This story was originally broadcast on April 23, 2011. It was updated on March 17, 2012.*

*Produced by Lourdes Aguiar, Jenna Jackson and Jennifer Simpson Ashmawy*

SOMERVILLE, Texas - Before the early morning hours of Aug. 18, 1992, the police in Somerville, Texas found six bodies in the burned rubble of what used to be the Davis home.

"This was such a horrific event in that town and continues to be an event that really haunts the people of Somerville..." Texas Monthly reporter Pam Colloff told "48 Hours Mystery." "This was a family that almost everyone in town knew, liked, respected."

The victims: A grandmother, her daughter, and four grandchildren who were staying with them.

Colloff is still moved by the fact that the family never had a chance.

"There was Bobbie Davis, the grandmother to the four children who was bludgeoned and then stabbed to death," Colloff explained. "There was 16-year-old Nicole, her daughter, who was a high school student and athlete, who was bludgeoned and shot. And then there were the four grandchildren. They were 9-year-old Denitra, 6-year-old Brittany, 5-year-old Lea'Erin and 4-year-old Jason."

Glenda Rutledge is Lea'Erin and Brittany's mother.

"And my daughters, "Rutledge sighed, "were exotically beautiful. Beautiful...They were my legacy..." she continued in tears. "I was so looking forward to the chance to get it right... You know, to raise strong, sure, confident, successful women. You know, I wanted to do that so bad."

[Video: Davis family remembered](#)

[Photos: Somerville murders](#)

Rutledge's ex-husband, Keith Davis, lost almost his entire family that night.

"I mean these were little babies, and - and my mother, who... you know, who we adored, who was the center of our life," he said.

He was convinced it was a random crime.

"I just couldn't imagine someone from that area harming anyone in my family, 'cause we had never...we didn't have any enemies, we hadn't been in any trouble," said Davis.

Roy Rueter lived and worked not from the murders. Five days after the crimes, he remembers hearing there was a break in the case.

"I could hear the radio and the news would always come up..." he recalled. "And - it was early in the morning and they came up and they said, you know, arrest had been made...and they said uh - Anthony Charles Graves, age 27."

Anthony Graves was one of Rueter's best friends. Graves had worked for him for a while at his machine shop and the two became so close that Graves had even been in Rueter's wedding party.

"And it just it just freaked me out," he told "48 Hours Mystery" correspondent Richard Schlesinger. "But my immediate thing was, yeah, right. No way. And what - you know, what - what could possibly be going on here, you know?"

"You didn't believe it?" Schlesinger asked Rueter.

"Well of course not. Absolutely not."

Rueter knew Anthony Graves as a gentle man, a father of three. He was now hearing his friend was a murderer - of women and children.

"In my heart, my convictions were that's impossible," he said. "Anthony would never do that. Anthony would never - hurt or raise a hand to a woman. And especially not a child, especially the way he loved his children."

And when Graves was arrested, he seemed equally stunned.

Justice of Peace: You are charged with the offense of capital murder...

Anthony Graves: Who? (raising his hands to say stop) Capital murder? Me?

[Video: Excerpts of Anthony Graves' booking](#)

Rueter was so sure of his best friend's innocence that he put up \$10,000 of his own money to hire a top lawyer for his upcoming hearing, convinced it would all soon be over.

"There's no way they have anything," Rueter insisted. "They don't have anything."

Police did have the words of Robert Carter, the father of the youngest victim: 4-year-old Jason. Investigators had grown suspicious when they noticed Carter had injuries that were hard to explain.

"At the funeral for the victims, Robert Carter showed up heavily bandaged on the left side of his face and his left hand...and the bandages were covering up severe burns," said Colloff.

Carter claimed he burned himself after his lawn mower blew up.

"The Texas Rangers obviously noticed Mr. Carter at the funeral," Colloff explained. "It was difficult to not notice. And they visited him at his house after the funeral and took him in for questioning."

Carter insisted he had nothing to do with the murders, but the Rangers had learned that he had a motive. Carter was married, but he had recently been served with a demand for child support from another woman, the mother of his son, Jason. Investigators believe Carter went there to kill Jason..

"He very clearly wanted his 4-year-old son dead," said Colloff.

After the murders, investigators believe Carter set the fire to cover his tracks, but from the beginning, they believed he must have had help. There were so many victims and so many weapons.

"There was a gun, there was a knife and there was a hammer," Colloff said. "And, investigators found it difficult to believe that one person could have wielded three different objects in killing six different people."

The Rangers interrogated Carter for hours and he finally gave them a name.

"During his interrogation, Robert Carter placed himself at the crime scene, but he said that he had not taken part in the murders himself. That the person who had committed the murders was a man named Anthony Graves, who was his wife's first cousin," said Colloff.

Within hours, Anthony Graves had been arrested and taken to the police station. He took a lie detector test and failed.

At first, there was little more than Carter's word that tied Graves to the case. But investigators would soon get help from the last place anyone would expect: Anthony Graves' best friend.

[28 Photos](#)

## Crime scene photos: Somerville, Texas murders

[View the Full Gallery »](#)



In Somerville, Texas, nothing moves very swiftly except for the occasional freight train and sometimes the desire for justice.

"Emotions were running so high in Somerville leading up to these trials that the mayor at the time said that people in the community didn't even want to bother with trials, that they wanted to quote 'bring back the hanging tree,'" said [Texas Monthly](#) reporter Pam Colloff.

But events would unravel a little more conventionally. Robert Carter stood trial and was quickly convicted. Then it was time for Anthony Graves, the man whom Carter had named as his accomplice.

"Things you see in a horror movie ....they said I did," Graves told Richard Schlesinger.

"And did you?"

"No. Would never do anything like that...I'm not a violent person at all... It's crazy."

Graves said he knew Robert Carter only in passing and didn't know the victims at all. In fact, there was no physical evidence linking Graves to the crime.

"I'm, like... whatever is goin' on is gonna be cleared up because I haven't done anything wrong," said Graves.

### [Photos: Somerville murders](#)

But authorities only focused more on Graves. He had said he never owned a knife, but investigators learned he once did and that it was given to him by his good friend, Roy Rueter.

"And I said I - I gave Anthony a knife one time, around his birthday," Rueter told Schlesinger. "And - I had one that's exactly like it. ...And they asked me if I still had that knife. And I said, 'Yeah.'"

The actual murder weapons were never found. Investigators wanted Rueter's knife, the one he said was identical to the knife he gave Graves.

"And they said, 'Well, would you mind - would you mind if we - examined it?'" Rueter explained. "And I said, 'No, I wouldn't mind at all.'"

Rueter thought the knives were too flimsy to inflict any serious wounds. And some of the victims had knife wounds that went through their skulls. So Rueter was stunned when those test results came back.

"The blade fit inside the skullcap perfectly," he said.

"So the DA's office told you the knife, which was identical to the one you gave Anthony, fit perfectly into the holes in those babies' skulls?" asked Schlesinger.

"Yes," he replies.

"What did you make of that?"

"I - I didn't want to believe it."

"Because if that was true...?"

"My friend was a murderer...right?"

His friend Anthony Graves' murder trial began in October 1994. District Attorney Charles Sebesta's star witness was Robert Carter.

"I would have hated to have gone to the jury without Carter's testimony in all fairness," Sebesta told Schlesinger.

But Carter was a problem witness. He was a liar. He had changed his story several times, sometimes implicating Graves, sometimes not.

"And so, when he got on the stand, were you worried about what he would say?" Schlesinger asked Graves.

"No," he replied. "Because I told my attorney I wanted him to testify. I said because there's no way this man can look me in my face and lie on me. ...I was trying to have faith in the fact that this guy would be honest, you know. Because this is my life. This is my life."

"So what did he say when he got up on the stand?"

"He lie. He lie. He said I did the crime with him."

Carter took the stand and said it was Graves who stabbed several victims to death. And Roy Rueter had to testify about the knife he gave Graves.

"I mean, it was a very bad position to be put in," he said. "It was - I was very torn, you know - conflicted about it. But they said it fit perfectly."



"And how did his testimony feel to you as opposed to other testimony?" Schlesinger asked Graves.

"Like betrayal. Like betrayal," he replied. "Because he knows me. ...This man knew me. Knew my family. Knew my kids."

And there were more damaging witnesses waiting to testify against Graves. Charles Sebesta said he had found five people at the jail where Graves and Carter were held who said they heard them talking about the murders.

"When you have five people who overhear conversations, very, very damning conversations between Carter and Graves on what they did and what they've gotta do...that in itself... That's significant. That's very admissible," Sebesta explained. "I probably could have done with one or two. In a capital murder case you want as much as you can. We had five."

Sebesta may have had corroborating witnesses, but Graves had alibi witnesses.

His brother, Arthur Curry, testified for him and has never changed his story.

"My brother never left the house that night, never," Curry said. "And never is never. He never left the house that night."

Asked where he was that night, Graves told Schlesinger, "I was at an apartment, my mother's apartment, with my brother, my - a lady friend and my sister."

Graves' girlfriend, another alibi witness, was set to take the stand as well, but when the day came, she unexpectedly refused.

The man who lost most of his family, Keith Davis, had heard more than enough. "I seen this guy hundreds of times in court," he said of Graves.

"When you looked at Anthony Graves, what did you see?" Schlesinger asked.

"A murderer... It was like he had horns like the devil... He looked like an evil person to me at the time. "

The jury agreed. Anthony Graves was convicted of six counts of capital murder and sentenced to death.

"This is crazy," Graves told Schlesinger. "I go from my home, where I was supposed to be safe, feel safe, and then I'm going to death row for something that I didn't even do."

But as it turns out, the jury might not have heard everything.

By 2002, Anthony Graves had spent eight years on death row. He was one more inmate who swore he was innocent as the State of Texas moved ever closer to executing him.

"I'm not a violent person. I'm not a bad person. I respect people. I carry myself in a dignified manner," Graves tells Richard Schlesinger. "Why me? Of all the people in the world, why me?"

"Were you thinking about your death?" Schlesinger asked Graves.

"No. Never thought about my death," he replied. "I thought about my life... my children, my mom. ...I just need to hold onto something. A good memory."

Graves' optimism may have kept him going on death row, but for his family, as the years passed, it was getting harder to keep hope alive.

"I couldn't see a light at the end of the tunnel," Graves' brother, Arthur Curry said. "And just to even fathom him being put to death... That would be the ultimate nail in all of our caskets. If they killed him for nothing."

Robert Carter was executed and Graves kept losing his appeals. He was running out of chances when his case caught the attention of the [Innocence Network](#), which sent the case to Nicole Casarez' journalism class at [Houston's University of St. Thomas](#).

"We weren't out to prove anyone innocent. That was not our goal," Casarez said. "Our goal was just to find out the truth."

"Did you have any faith in them?" Schlesinger asked Graves. "I mean, did you think they could help you?"

"Yeah. Yeah. Because...being exonerated by the public meant just as much to me as being exonerated by the courts," he replied. "I wanted people to know that my mother didn't raise a murderer. My mother raised a good son. That meant something to me."

It didn't take long for the students and their professor to realize the case against Anthony Graves had serious problems - beginning with the star witness.

"I think one of the first things that we noticed was that Robert Carter had recanted his testimony against Anthony right before he was executed," Casarez explained. "And that's very unusual."

In May of 2000, while strapped to the gurney in the Texas death chamber, Robert Carter took sole responsibility for the murders. "It was me and me alone," he said. "Anthony Graves had nothing to do with it. I lied on him in court."

"And I think it's really important to listen to someone's, essentially, dying words," reporter Pam Colloff said. "If there's ever a time when someone might be telling the truth, I would think that might be it."

In fact for years before his execution, Robert Carter said to anyone who would listen that Anthony had nothing to do with the crimes. He even said the only reason he named Graves as his accomplice was because he saw him on the street before he was arrested.

"Anthony Graves did not have any part in the murders and was not present before, during or after I committed the multiple murders at the Davis home," Carter said in a taped statement in 1997.

[Video: Davis family remembered](#)  
[Photos: Somerville murders](#)

In the statement, Carter said that he told D.A. Charles Sebesta the same thing. In fact, he swears he said that to Sebesta just hours before he took the stand in Graves' trial.

"I told the District Attorney and investigators that Graves was innocent and had nothing to do with the murders," said Carter.

But Sebesta didn't believe him. Carter went on to testify against Graves anyway, because he said he felt pressured by the D.A.

"Without Robert Carter's testimony, the state didn't have a case," explained Casarez.

Except defense lawyers say Sebesta never told them that Carter had just recanted - as Sebesta was required to do by law.

"Well, imagine that you're Anthony's attorney and you are facing Robert Carter on cross-examination. How meaningful would it have been for you to be able to say, 'Mr. Carter, isn't it true that just five minutes ago you said Anthony Graves had nothing to do with this?' What would Robert Carter have said? Would he have cracked? Would he have taken back his testimony? We'll never know," said Casarez.

Sebesta has long insisted he told the defense what Carter said.

"His response was that, 'What is that, his eighth or ninth story?'" said Sebesta.

But Graves' attorney denies that. While the lawyers spent years arguing before appellate courts about what Sebesta did or did not tell the defense, the students were gathering new evidence on the off chance that Graves might get a new trial.

"We did weekend trips," Casarez explained. "And we would take two cars and we would have a list of people and places that we were gonna go."

The amateur investigators were uncovering troubling evidence...especially about those jailhouse witnesses who Sebesta said overheard incriminating statements from Graves from nearby cells and over the intercom.

"It was Texas summer so there were large fans running. One of the intercoms was actually ripped out of the wall and it was just wires," according to student Meghan Bingham. "So it kind of put the idea in our head that maybe this intercom system wasn't all that fantastic. You know, what could you hear? Was it actually working?"

"They were working...some of the intercoms in some cells were not working. I don't know which ones. But I do know that at least one of those intercoms on one and two or whatever cells they were in was working," Sebesta told Schlesinger.

"How do you know that?"

"Because I was told this...by law enforcement," Sebesta replied.

Nicole Casarez and the students also tracked down and met with Graves' former girlfriend - the one who could have provided him an alibi if she had taken the stand.

"She said she was very sorry that she hadn't testified at Anthony's original trial," Casarez explained.

So, why didn't the girlfriend testify? Right before she was supposed to take the stand, D.A. Charles Sebesta said in open court that she was a suspect in the case and might be indicted even though investigators had nothing on her.

"Sir, couldn't that be read though as a coy ploy, if you will, to scare away a woman who could very well alibi your defendant?" Schlesinger asked Sebesta.

"Had absolutely nothing to do with that," he replied.

[Video: Charles Sebesta interview](#)

"She fled in fear and in tears," Casarez explained. "She said, 'They put him in jail...on nothing. What's to stop them from putting me in jail on nothing?'"

After a four-year investigation talking to more than 100 witnesses, Nicole Casarez and her students turned over their findings to Graves' lawyers to help with his appeals.

"Anthony Graves is innocent," said student Michael Bingham.

"Anthony Graves is innocent," said Meghan Bingham.

"Anthony Graves is an innocent man," said Casarez.

But Anthony Graves remained behind bars, on death row, until March 2006, about 12 years after he was found guilty. Then, Graves got his first big break. A federal appeals court - one of the most conservative in the country - tossed out his conviction.

"I cried... And I pumped my fists and I was, like, 'Yes! God is good. Yes. I knew this. Yes. My case was overturned. Somebody seen the truth,'" said Graves.

The court skewered Charles Sebesta - called his behavior egregious - for among other things, intentionally withholding evidence that could have helped Graves; most notably that Carter had recanted right before he testified.

But even after the court's decision, Graves was not a free man. Sebesta had retired, but the new district attorney said he would try Graves again. So Anthony walked out of death row and into the county jail where he sat waiting for his next trial - for four years.

"You can't believe that it could actually happen in real life. But it did," said Katherine Scardino.

This time around, Graves has a seasoned defense team appointed by the judge: Scardino and Jimmy Phillips, assisted by Nicole Casarez.

"We don't know what we'd do without her," Scardino said. "I mean she's like our...Graves Encyclopedia."

The lawyers will have to be on their toes, because their opponent, Kelly Siegler - widely regarded as the toughest prosecutor in Texas- has been appointed to handle the Graves case.

"I would say this is one of the worst capital murder cases that anyone could ever talk about or deal with," said prosecutor Kelly Siegler.

She should know. Siegler has sent 19 men to death row. So in February 2010, she was ready, willing and eager to make it an even 20 when she was appointed to retry Anthony Graves.

"Did that scare you that she was coming after you?" Richard Schlesinger asked Graves.

"No," he replied. "...I was standing up for what was right. So it didn't make no difference who was on the case. The fact that I was innocent wasn't gonna change."

By the fall of 2010, Pam Colloff's investigation of the case had produced one of the [longest articles](#) in the history of Texas Monthly magazine.

"There were so many things about this case that fascinated me, beginning with how weak the evidence was...I wanted to understand how someone can be sent to death row on so little evidence," explained Colloff.

[Read Colloff's article, "Innocence Lost"](#)

Of course, making Graves' case in print is a lot easier than making it in court. With the trial date approaching and Kelly Siegler circling, attorneys Katherine Scardino and Jimmy Phillips were feeling the pressure.

"You make a mistake in a death penalty case and its over," said Phillips.

"They chose to hire a good prosecutor. ...We're gonna have to work hard and be double and triply prepared," Scardino said. "Kelly is a formidable opponent."

Siegler has beaten most of the best lawyers in Texas and now she asked for a meeting with the Graves team.

"Why did she want to meet with us?" Casarez wondered. "Was she trying to get information from us? Was she trying to learn what our trial strategy was? I didn't really know what to make of it."

Siegler met Graves' lawyers and asked a lot of questions. But the defense lawyers could not have imagined why. The prosecutor, with her 19 and 0 record on death penalty cases, was having serious problems with the case against Anthony Graves.

"I read every page of every document in 25 boxes," Siegler explained. "And at some point it switched from getting ready to go to trial, to can we go to trial, to oh my God, what happened here?"

Siegler and her investigator, Otto Hanak, soon realized Nicole Casarez and her students were right on target.

"Every single time we would reinvestigate or re-talk to a witness that they had talked do, we would find that they were right," Siegler said.

One by one, the pillars of the prosecution's case crumbled.

"We tried to find paperwork, people, anything that we could, especially a motive to say Anthony Graves committed the capital murder with Robert Carter," Siegler continued. "And we found nothing."

Otto Hanak tried to confirm the testimony from Sebesta's jailhouse witnesses.

"We can't find anybody that can positively say in court or in this room that I heard Anthony Graves say this. I heard Robert Carter say this," he explained.

He looked into Roy Rueter's knife, calling the blade "flimsy."

According to Hanak, a knife this flimsy could not have caused the kind of wounds to the skulls that were found on some victims.

"I personally do not believe that that blade is strong enough, nor is this knife made well enough, to go through...human skulls," he explained.

District Attorney Charles Sebesta had argued Graves' identical knife had inflicted 66 stab wounds the night of the murder.

"There's no doubt that that knife could have survived that," Sebesta told Schlesinger. "We had Texas Ranger testimony that it could have done it."

But Hanak, who is a former Texas Ranger, believes the knife would have left its mark on the killer.

"When you get down to the 10th, 11th, 12th stab wound...the knife becomes very slippery, becomes very bloody," he explained. "The person that inflicted those wounds is also going to have an injury themselves."

Asked if Graves had any injuries on his hands, Hanak replied, "None at all."

"Did Robert Carter have any injuries on his hands?"

"No," replied Hanak.

"So what does that tell you?" Schlesinger asked.

"That tells me that this is not the knife that caused those injuries."

Siegler thought any new case against Graves would have to be built almost solely on Robert Carter's testimony, but that was before she found out how Charles Sebesta got that testimony from his star witness.

"He made a deal with Mr. Carter?" Schlesinger asked Siegler.

"And what a deal he made," she replied.

Sebesta had a powerful card to play: Carter's wife, Theresa. Shortly after the killings, the D.A. had also indicted her for capital murder.

"She had given conflicting statements about his burns. There were a number of things that she did," said Sebesta.

The deal Sebesta made? He wouldn't question Carter about his wife on the stand if he testified against Graves.

"How does a prosecutor - I should say how does an ethical prosecutor put a witness on the stand - your main piece of evidence in a death penalty case and say, 'OK, you get up there and talk about what you did and what Graves did. But I'm not gonna ask you about your wife. You can't do that,'" said Siegler.

"Why in the world would you agree not to ask him about her?" Schlesinger asked Sebesta.

"Well, I needed his testimony," he replied.

And, Sebesta pointed out, the deal was approved by a judge and the defense never questioned it.

"I put on the record...I did put it on the record," said Sebesta.

The indictment against Carter's wife was later dismissed due to a lack of evidence. And Siegler never bought into Sebesta's theory that there had to be multiple killers.

"We appreciated the fact that you don't have to have three killers because five of the people killed were children, some little babies, asleep in their bed," Siegler pointed out. "How hard is it for a grown man to stab little babies asleep in their bed?"

And all the evidence Siegler said, pointed to Robert Carter, not Anthony Graves.

Schlesinger noted to Siegler, "There must have been a moment when you concluded, 'Gee whiz, this guy's innocent - not just not guilty, but innocent.'"

"It wasn't even a difficult decision, it was pretty clear," she said.

"And by innocent, he wasn't there; he had nothin' to do with it?"

"Nothing."

"He had never even been in town."

"No motive, no reason, no connection, nothing," said Siegler.

"Never in a million years would I have predicted that this would be the outcome of this case, particularly with Kelly Siegler as prosecutor," admitted Colloff.

On an autumn afternoon, in the rural Burleson County, Texas jail, Anthony Graves was summoned, unexpectedly out of his cell.

"I'm sitting and writing a letter...they come get me and say, 'Put your shirt on' and walk me to the front of the jail," Graves told Richard Schlesinger.



Nicole Casarez and Jimmy Phillips, members of his legal team, were there to see him with a message he waited to hear for 18 years: The murder charges had been dropped.

"Both of us could barely talk. We were so emotional," Phillips said. "And [Nicole] says, 'Anthony, God is great'. And he knew."

"She said, 'You're free man! You can leave right now...It's over Anthony,'" he recalled, shaking his head smiling.

And on Oct. 27, 2010, the man known as inmate number 999127 got his good name back. Anthony Graves, carrying all of his belongings and looking a little dazed, walked out of jail and into the warm Texas sun.

"48 Hours" was there to greet him.

"This is probably the dumbest question I've ever asked... How do you feel?" Schlesinger asked Graves upon his release.

"Aha! Oh, I feel good...I feel good...," he replied. "Eighteen years is a long time and I lost a lot... but today I gained my freedom."

His first call as a free man is to his mother.

"Say, what you cooking tonight?" Graves said on the phone. "Can you put something on because I'm on my way...This is your son!" (laughs)

His mother did not know that her son was free.

"And just so you know...I did not escape!"

Graves' first stop is home to his sons who had grown up without him and, at long last, to an embrace with his mother - the first in 18 years.

He is rejoining the world, picking up where he left off. After all that time behind bars, Graves finally has places to go and people to see.

At his lawyer's office, Graves is able to thank the people who may well have saved his life - the students who got him off death row.

There's someone else in the crowd. For the first time since Graves' trial, he sees Roy Rueter, his best friend whose testimony did so much to put him away.

"Damn you look old" Graves tells Rueter. "It happens to the best of us...but you know I love you."

Graves greeted his friend with a warm embrace.

Asked what that meant to Rueter, he got emotional as he told Schlesinger, "For him to take [a] minute - minute and a half and give me that assurance, that's - you know - that's what life is really all about."

"Was it hard to forgive him?" Schlesinger asked Graves.

"No," he replied. "No, it wasn't hard at all. He just became another pawn in their game of chess."

But Kelly Siegler is not nearly as forgiving. At a news conference, she lashed out at Charles Sebesta, who was once a fellow prosecutor.

"I think ultimately it's the prosecutor's responsibility...Charles Sebesta handled this case in a way that would be best described as a criminal justice system's nightmare," Siegler told reporters.

"What are you saying about him?" Schlesinger asked.

"I'm sayin' that Charles Sebesta did everything he could...manipulating witnesses, fabricating evidence, using people, misrepresenting things to the judge and to the jury to make sure Anthony Graves got convicted of capital murder and put on death row," she said.

Graves' attorneys had filed a complaint against Sebesta, but the Texas State Bar dismissed it and Sebesta insists he did nothing wrong - that Siegler was just afraid of losing a big case.

"They didn't have an intention of trying this case," Sebesta told Schlesinger. "Basically they're looking for a way out."

"Sebesta says you didn't want to take the risk of losing at trial," Schlesinger told Siegler.

"Really? Well, I would say that he's gonna have a hard time findin' any single other person that... would agree that I'm afraid to go on trial on anything," she said.

Siegler said there was one thing she dreaded about this case - telling the victim's family that the man they believed was a murderer for so long... is not.

"Eighteen years they've believed that the two men responsible for killing their family, their babies, their mom, their sister, got what they deserved," she said. "Some of them are never gonna change their minds. They're always gonna think Anthony Graves is guilty, no matter what I say. How do you get upset with them? They're as much a victim of what happened as Anthony Graves is."

[Video: Davis family remembered](#)

[Photos: Somerville murders](#)

For his own troubles, Anthony Graves should have been paid \$1.4 million when he was released. That's what the state of Texas figures 18 years of wrongful imprisonment is worth. But there was a paperwork snafu. [His release documents never used the words "actual innocence."](#) So Texas refused to pay.

"Two words. Two words they're holding me hostage behind two words," said Graves.

Finally, after nine months of public pressure, the legislature passed, and the governor was quick to [sign a special measure awarding him the money](#). Graves credited "48 Hours Mystery" for drawing attention to what he was owed. But Graves had already won the biggest fight of his life -- for his life and for his freedom. "You could put your hands out and touch both walls where I was living at, you know," he said.

He can come and go as he pleases, as he tries to absorb how far he's come from a previous life he's still struggling to understand.

"They were trying to kill me," he said. "I still can't wrap my mind around how the hell did I go from my home to death row for a crime that happened in another town to people I don't even know. It's crazy...and I gave 18 years of my life. "

*Graves speaks all over the country raising money for legal assistance for people on death row.*

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[http://dallasmorningviewsblog.dallasnews.com/archives/2011/01/sebesta-statem.html#slcgm\\_comments\\_anchor](http://dallasmorningviewsblog.dallasnews.com/archives/2011/01/sebesta-statem.html#slcgm_comments_anchor)

## Sebesta's statement on Graves' exoneration is pathetic



By

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9:33 AM on Tue., Jan. 25, 2011 | [Permalink](#)

I've just finished reading former Burleson County district attorney [Charles Sebesta's website rant](#) from top to bottom. The site's title is, "What 'Really' Happened," and the most telling part of the title is Sebesta's penchant for putting quotation marks around every fifth word in his entire screed. The wild, absurd, incoherent use of quotation marks like that is, to me, a sign of someone who isn't thinking straight.

Further evidence, your honor, is the incoherence of his entire argument. I kept looking for the part where he would tell me what "really" happened, and I can't find it. I expected him to come up with some kind of real evidence -- something that all the liberal media, pro-exoneration, pro-crime, anti-justice, anti-death penalty freaks refused to tell you -- that pointed to the guilt of Anthony Graves. I was looking for something that would somehow vindicate Sebesta's unceasing effort to have Graves be executed for what Sebesta claims was Graves' role in the 1992 murders in Somerville.

But Sebesta never produces anything of substance, other than the on-again, off-again accusations of executed murderer Robert Carter that Graves was involved. No evidence places Graves at the scene. Sebesta cites no other witness statement putting Graves at the scene. All he relies upon is the statement by Carter and people who overheard conversations between Carter and Graves in their jail cells.

And here's what he recalls saying about Carter during a discussion with Graves' lawyer: "We joked on more than one occasion about the lack of 'credibility' of several of the witnesses (on both sides), including that of Carter." He notes that Carter repeatedly failed polygraph tests. He repeatedly notes Carter's lack of believability.

And yet Charles Sebesta was perfectly comfortable winning a death sentence for Anthony Graves based on what Sebesta himself acknowledges was a flimsy, unbelievable story by Carter. This is absolutely a case of prosecutorial misconduct, and Sebesta's website provides the most damning case imaginable for any disciplinary action against him. Keep writing, Sebesta!



<http://www.charlessebesta.net/48-hours-grave-injustice>

## CBS–48 Hours Mystery: “Grave Injustice” Misleading and Dishonest

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The centerpiece of the State’s case against Anthony Graves was the testimony of five witnesses who overheard very incriminating conversations between Robert Carter and Graves while they were in cells across from each other in the ‘old’ Burleson County Jail. There were utterances like: “We’ve got to protect Cookie (Carter’s wife) at all cost” and “I did it for you, so keep your ‘d—’ mouth shut!”

And just who were the five individuals who overheard those conversations? They included a deputy sheriff, a dispatcher, a jailer, an EMS employee and a visitor (non-law enforcement), who was there to see one of the dispatchers.

But if you listened to CBS *48 Hours* on April 23rd, you would have never known that Richard Schlesinger didn’t want his viewers to know who these five witnesses actually were. Why, because that would have given credibility to the State’s case.

In a deliberate effort to mislead the audience into believing that the five who testified for the State in the Graves trial were ‘jail birds,’ he very cleverly said that four or five people **down at the jail** testified regarding these conversations. It was neatly orchestrated to leave an impression that they were all inmates.

Otto Hanak, the chief investigator for District Attorney Bill Parham, even carried the charade a bit further when he said that he had talked to all of them (but never said who), and in so many words, said none was credible. (Two of those witnesses are dead, but their sworn testimony could have been introduced in subsequent trial.)

Then Hanak, in an attempt to further ‘muddy the water,’ said that speakers in some of the cells weren’t working at the time. My response is simple: if a deputy sheriff, a dispatcher, a jailer and an EMS employee all overheard those utterances, then obviously something had to be working!

It didn’t stop there, though. Schlesinger said that Graves failed a lie detector test, which is true. But what he didn’t tell his nationwide audience was that he actually failed two of them. In 2008, Graves decided that he could pass if given a chance to take another one, so his attorneys asked Pat Batchlor, the special prosecutor at the time, if he would dismiss the case if Graves passed a second lie detector test.

Batchlor consented and the test was administered by a polygraph operator in Dallas that both the State and Defense agreed on. **He failed!** Schlesinger and his staff at *48 Hours* were aware of this because I personally provided them with that information during my interview. It is also in one of the articles posted on my website.

And apparently the staff at CBS didn’t want their audience to know that Graves had a prior criminal record and was on ten years probation for Delivery of a Controlled Substance when the murders occurred. Again the staff at CBS knew this because I told them, but I also realize that this would have destroyed the “Mr. Clean” image they were trying to project for Anthony Graves. So it’s a tidbit of information that they obviously didn’t want to be included in their ‘sitcom.’

Schlesinger also managed to mention that Graves said he never owned a knife (now acknowledged). But what he didn't tell his CBS audience was that Graves was under oath when he said that while testifying before the Burleson County Grand Jury. ***That is "perjury!"*** Both Schlesinger and his staff were aware of that too, because once again, it's something that I told them!

In addition, Schlesinger failed to mention that Graves was arrested in Chappell Hill, Texas three weeks before the murders by a Texas Department of Public Safety Trooper and charged with Possession of Marijuana and Driving while Intoxicated. Because of Graves' indictment for Capital Murder, his probation was never revoked and the charges were later dismissed. But Schlesinger's most 'devious' maneuver occurred when he told his audience that Graves' Attorney, Calvin Garvie said that Sebesta never told him about Carter's statement that he committed the murders all by himself. Ironically, Garvie who refused to appear on the program never said that; and there is a very significant reason for his refusal to appear and be interviewed on camera. When asked that very same question while under oath during a hearing before a Federal Magistrate, ***Garvie said that he couldn't recall if Sebesta told him. Had Garvie appeared and responded to that same question as Schlesinger said he did, he would have committed perjury.***

Then there is the motive issue. While the producers at CBS *48 Hours* went to great lengths to lead its viewers to believe that there was absolutely no motive for Graves to be involved in this crime, they left out one thing.

Both Bobbie Davis (one of the murder victims) and Graves' mother worked together at the State School in Brenham. During the investigation, law enforcement learned that Bobbie Davis received a promotion that Graves' mother thought she should have received. Members of the Currie/Graves family thought that the promotion occurred because Davis was having an (alleged) affair with the supervisor that made the selection—and that obviously created a bit of bad blood between the two families. The CBS *48 Hour* staff was also aware of this, but chose not to make any mention of it on their program.

At the very end of the program, Kelly Seigler launched a 'viscous' personal attack directed toward me. Space doesn't permit me to fully address the reason here, but if you will go to my website noted below and read *"Trapped in a Web of Lies,"* you will understand the motive behind that verbal attack.

I urge you to go to [www.charlessebesta.net](http://www.charlessebesta.net) and get the facts. You'll be shocked, dismayed and disappointed at how dishonest the media has been about this case.

<http://www.chron.com/news/houston-texas/article/Texas-sets-man-free-from-death-row-1619337.php>

Texas sets man free from death row  
Prisoner ordered free from Texas' death row  
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Houston and Texas

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After 18 years of incarceration and countless protestations of innocence, Anthony Graves finally got a nod of approval from the one person who mattered Wednesday and at last returned home — free from charges that he participated in the butchery of a family in Somerville he did not know and free of the possibility that he would have to answer for them with his life.

The district attorney for Washington and Burleson counties, Bill Parham, gave Graves his release. The prosecutor filed a motion to dismiss charges that had sent Graves to Texas' death row for most of his adult life. Graves returned to his mother's home in Brenham no longer the "cold-blooded killer," so characterized by the prosecutor who first tried him, but as another exonerated inmate who even in the joy of redemption will face the daunting prospect of reassembling the pieces of a shattered life.

"He's an innocent man," Parham said, noting that his office investigated the case for five months. "There is nothing that connects Anthony Graves to this crime. I did what I did because that's the right thing to do."

An attorney for Graves, Jimmy Phillips Jr., said his client was released from Burleson County Jail, where he had been awaiting a retrial, at about 5:30 p.m.

Graves immediately went to see his mother in Brenham and reportedly spent the night near Austin. "The first place he wanted to go is to go hug his mama," Phillips said. "He is a free man, and he's home."

Graves called his mother to tell her he was coming home. Doris Curry left the house to pick up her youngest son, and by the time she returned home, Graves was already there, surrounded by family and friends.

"I hugged him and I hugged him and I cried and we both cried and we hugged and we



cried," Curry said. "He said: 'Mama, it's over. Mama, 18 years we've fought this fight a long time. It's over. Justice has been done for me.' "

The 62-year-old woman said she never doubted the innocence of Graves, the eldest of her five children.

"A mother knows her child," she said. "I know what kind of person he was. He wasn't that person they built him up to be."

'He's lost a lot'

Curry said there is no way to ever fill the void of Graves' 18 years in prison, close to half his life. It is time gone that cannot be retrieved, she said.

"But he can build his life on what he has and move on," she said. "He's lost a lot. He was 26 years old when they took him. Now he's 45. He's got grandchildren he's never touched."

Graves' youngest brother, Arthur Curry, testified in vain at his 1994 trial, telling jurors that Graves had been at home sleeping at the time when the murders occurred. Jurors did not believe him, so his brother's return home carried a deep, personal significance.

"The sun couldn't shine any brighter," Curry, now 37, said. "It's just like celebrating a resurrection, almost, because it was almost like a death in our family. But it was a slow death, continuously, just waiting for that demise."

'I lied on him in court'

Graves was convicted of assisting Robert Earl Carter in the slaying of Bobbie Davis, 45; her 16-year-old daughter, Nicole; and Davis' four grandchildren, ages 4 to 9, on Aug. 18, 1992. Carter was executed in 2000. Two weeks before his death, he provided a sworn statement saying that his naming of Graves as an accomplice was a lie.

He repeated the statement while strapped to the gurney minutes before his death:

"Anthony Graves had nothing to do with it. ... I lied on him in court."

Charles Sebesta, then the district attorney, did not believe Carter. Even after he no longer held the post, Sebesta held to his beliefs, calling Graves "cold-blooded" and taking out an ad in two Burleson County newspapers in 2009 to dispute media reports criticizing the conduct of prosecutors.

The evidence against Graves was never overwhelming, depending mostly on Carter's earlier accusation and jailhouse statements purportedly overheard by law enforcement officers. Even Sebesta acknowledged it was not his strongest case.

"I've had some slam-dunk cases," he said in 2001. "It was not a slam-dunk case."

Graves' appellate attorneys, Jay Burnett and Roy Greenwood, knew it was far less. They soon were convinced their client had no knowledge of or participation in the crime, just as he had claimed since the moment of his arrest.

Over the years, there was increasing evidence raised to doubt the validity of the conviction. Students in a University of St. Thomas journalism class worked with The Innocence Project at the University of Houston to review the Graves case in detail. Nicole Casarez, the journalism professor who taught the class, and one of her students interviewed Carter's brother, whose affidavit along with other evidence they gathered helped persuade the 5th Circuit Court of Appeals to order a hearing, which eventually led to the new trial.

"I think the dismissal motion filed this morning says it best: There is no credible evidence to inculcate this defendant," Casarez said Wednesday night. "I'm just thrilled that it has finally come to this. I think it was a lot of people working very hard, perhaps even divine

intervention, so that it all worked out today."

Siegler was to prosecute

The 5th U.S. Circuit Court of Appeals overturned Graves' conviction in 2006. A three-judge panel said he deserved a new trial after ruling that prosecutors elicited false statements from two witnesses and withheld two statements that could have changed the minds of jurors.

Graves eventually was returned to county jail with a bond set at \$1 million, and Parham began to reassemble the case and review the evidence. He hired former Harris County assistant district attorney Kelly Siegler as a special prosecutor. Siegler soon saw that making a case against Graves was all but impossible.

"After months of investigation and talking to every witness who's ever been involved in this case, and people who've never been talked to before, after looking under every rock we could find, we found not one piece of credible evidence that links Anthony Graves to the commission of this capital murder," Siegler said Wednesday.

It was not that the case had gone moldy over the years, she said, but that it never really existed in the first place.

"This is not a case where the evidence went south with time or witnesses passed away or we just couldn't make the case anymore," Siegler said. "He is an innocent man."

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<http://abcnews.go.com/blogs/politics/2011/09/exonerated-texas-inmate-how-can-you-applaud-death/>

Sep 9, 2011 9:16am

# Exonerated Texas Inmate: “How Can You Applaud Death?”

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Anthony Graves read in the newspaper about the crowd at the Republican presidential debate applauding the fact that Gov. Rick Perry had authorized 234 executions during his tenure.

“How can you applaud death?” Graves asked.

Graves is one of 12 death row inmates who have been exonerated in Texas since 1973. Five of those exonerations occurred while Rick Perry was governor, according to the Death Penalty Information Center, a group that opposes capital punishment.

“The state of Texas has a very thoughtful, a very clear process in place in which when someone commits the most heinous of crimes against our citizens they get a fair hearing, they go through an appellate process, they go up to the Supreme Court if that’s required,” Perry said during the debate Wednesday.

Perry defended the use of the death penalty in his state and told the audience, “I think Americans understand justice.”

But Graves said his mother would not be one of those Americans. Graves spent 18 years in prison and 12 years on death row as a convicted murder. In 2010 his conviction was overturned and he was released.

“He should ask my mother about that,” he says. “She lost her son for 18 years.”

Graves says he was stunned at the governor’s comments because he was exonerated less than a year ago. “I was exonerated from the very same system that he is boasting about. He’s a politician, but I’m an exoneree and I think I know more about the subject.”

In fact Perry was quick to admit in 2010 that Graves’ murder conviction had been a miscarriage of justice. The governor worked to pass a bill that led to Graves being awarded \$1 million for his incarceration. But Perry also said last year that Graves case proves that the system worked.

In 2010 the governor said of the case, “I think we have a justice system that is working, and he’s a good example of—you continue to find errors that were made and clear them up,” according to an account in the Lubbock Avalanche-Journal.

Graves had been convicted of assisting in multiple murders in 1992. In 2006, the US Court of Appeals for the 5th Circuit overturned his conviction citing that prosecutors had made false statements. A special prosecutor hired for the second trial realized after months of investigation that Graves was innocent.

Former Harris County Assistant District Attorney Kelly Siegler told the Houston Chronicle, "This is not a case where the evidence went south with time or witnesses passed away or we just couldn't make the case anymore. He is an innocent man."

Graves says he appreciates the work that Perry did to work for his compensation. "He passed a bill that lead to my compensation, but he knows there is a problem with the criminal justice system."