

Arizona woman's murder conviction, death sentence overturned

By Greg Botelho, CNN

updated 9:23 PM EDT, Thu March 14, 2013

CNN.com



A federal judge on Thursday overturned Debra Milke's murder conviction and death sentence.

(CNN) -- After 22 years on death row, Debra Milke is close to freedom.

A jury convicted the Arizona woman, now 49, of murder, conspiracy to commit murder, child abuse and kidnapping on October 12, 1990, less than a year after her 4-year-old son was found dead.

A judge sentenced her to death a few months later.

But those convictions and the related sentence were tossed out Thursday by a federal appeals court judge. In explaining his decision, Chief Judge Alex Kozinski of the federal 9th Circuit Court of Appeals chided the prosecution for remaining "unconstitutionally silent" on the "history of misconduct" of its key witness, a Phoenix police detective.

"The Constitution requires a fair trial," Kozinski wrote. "This never happened in Milke's case."

A day after seeing Santa Claus at a mall, young Christopher Milke asked his mother if he could go again. That was the plan, she said, when the boy got into the car with Milke's roommate, James Styers.

Styers picked up a friend, "but instead of heading to the mall, the two men drove the boy out of town to a secluded ravine, where Styers shot Christopher three times in the head," according to Kozinski's summary of the case. Styers was convicted of first-degree murder in

the boy's killing and sentenced to death.

The detective, Armando Saldate, said the friend told him that Debra Milke was involved in a plot to kill her son. But neither the friend nor Styers testified to that assertion in court.

In fact, "no other witnesses or direct evidence (linked) Milke to the crime" other than Saldate's testimony. After pleading not guilty, Milke stood trial and tried to convince a jury that her account -- and not the detective's -- was the true one.

"The trial was, essentially, a swearing contest between Milke and ... Saldate," said Kozinski.

The detective testified he "didn't buy" Milke's reaction after he informed her that her son was dead. After that, Saldate said he placed Milke under arrest. In a subsequent interrogation, she confessed that her role in the murder conspiracy was a "bad judgment call," the detective said.

But Milke offered a vastly different view of the interrogation and denied that she had confessed to any role in a murder plot.

There was no recording of the interrogation, no one else was in the room or watching from a two-way mirror, and Saldate said he threw away his notes shortly after completing his report.

"The judge and jury believed Saldate," said Kozinski of the verdict and sentence. "But they didn't know about Saldate's long history of lying under oath and other misconduct."

Specifically, the judge noted that the detective had been suspended five days for taking "liberties" with a female motorist and lying about it to his supervisors; that judges had tossed out four confessions or indictments because Saldate had lied under oath; and that judges suppressed or vacated four confessions because Saldate had violated a person's constitutional rights.

"The state knew of the evidence in the personnel file and had an obligation to produce the documents," Kozinski said. "... There can be no doubt that the state failed in its constitutional obligation."

The judge ordered "the state" to turn over Saldate's personnel records to Milke's lawyers, after which "a police official" must state under oath that everything has been disclosed and nothing has been "omitted, lost or destroyed."

Once this is done, a district court must order Milke's release unless prosecutors tell the court within 30 days that they plan to retry her soon.

"In the balance hangs the life of Milke," Kozinski said, explaining the importance of his decision to overturn her convictions.



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March 15, 2013

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POST CRIME

Debra Jean Milke, Death Row Inmate, Has Convictions Overturned

By PAUL DAVENPORT 03/14/13 10:35 PM ET EDT [AP](#)

PHOENIX — A federal appeals court on Thursday threw out the convictions of a woman sentenced to death in the notorious 1989 killing of her 4-year-old son, ruling that the case was tainted by a detective with a history of lying under oath.

The ruling marked a surprising turn in a case that made national headlines with the brazen and gruesome nature of the crime. Prosecutors said Debra Jean Milke dressed up her son Christopher in his favorite outfit and told him he was going to see Santa Claus at a mall during the holidays.

Instead, he was taken into the desert by her boyfriend and another man and shot three times in the back of the head as part of what prosecutors said was a plot by Milke and the two other defendants to collect a \$50,000 life insurance policy.

Milke would have been the first woman executed in Arizona since the 1930s had her appeals run out. The Arizona Supreme Court had gone so far to issue a death warrant for Milke in 1997, but the execution was delayed because she had yet to exhaust federal appeals.

A three-judge panel of the 9th U.S. Circuit Court of Appeals ruled Thursday that the prosecution failed to disclose information about a history of misconduct by a detective who testified that Milke confessed to plotting her son's murder.

That record included multiple court rulings in other cases that former Detective Armando Saldate Jr. either lied under oath or violated suspects' Miranda rights during interrogations.

Prosecutors are required to provide a defendant's lawyers with material that might support a not guilty verdict, including material that could undermine the credibility of a prosecution witness.

There was no other witness or recording of the purported confession by Milke, who has proclaimed her innocence.

"No civilized system of justice should have to depend on such flimsy evidence, quite possibly tainted by dishonesty or overzealousness, to decide whether to take someone's life or liberty," Chief Justice Alex Kozinski wrote in the decision.

The trial amounted to "a swearing contest" in which the judge and jury ultimately believed the detective over Milke, but they didn't know of his record of dishonesty and misconduct, Kozinski wrote.

The ruling reversed a U.S. District Court judge's ruling and ordered the lower court to require Arizona authorities to turn over all relevant personnel records for the detective.

Once the material is produced and defense lawyers have time to review it, prosecutors will have 30 days to decide whether to retry her. If they don't, she will be released from prison.

Maricopa County prosecutors had yet to read the ruling and had no immediate comment on the decision, spokesman Jerry Cobb said.

But the Arizona Attorney General's Office said it was reviewing the case and will likely file an appeal.

Rick Romley, who was the county attorney from 1989-2004, said he remembers the fact were quite strong against Milke and there never was a question in his mind that she wasn't guilty.

"If she walks, it's a travesty of justice," Romley told KPHO-TV. "You just can't get around that."

Milke defense lawyer Michael Kimerer was in trial and not immediately available for comment Thursday.

In 2009, Kimerer said his client maintains her innocence and was a loving mother who still grieves her son's death.

"Our main concern is the fact that I have a client that never confessed and a police detective who said she gave a confession," Kimerer said then. "There was no tape recorder, no witnesses, nothing. Just his word."

Milke, 48, is one of three women on death row in Arizona. All three are imprisoned at the state prison for women in Goodyear.

The two men convicted in the Milke's case, Roger Scott and former Milke roommate James Styers, are both on death row at a prison in Florence.

Scott confessed during a police interrogation and led detectives to the boy's body.

But neither Scott or Styers would testify against Milke.

Associated Press writer Amanda Lee Myers contributed to this report.

Why Debra Milke Is Actually Innocent



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This website has shown and proven to many readers that **Debra Milke**, for long Arizona's lone female on death row, is actually innocent. It has also shown that the faulty police investigations ruthlessly culminated in fabricating a case against the young woman and that her trial was an unspeakable miscarriage of justice. Since this website has become a huge representation of her case and its inconsistencies, falsehoods and shameless manipulations, it may have become difficult for some readers to comprehend and overlook all the facts within a short time. For this purpose this page will link to the pertinent document and try to answer the main question: what is it exactly, that proves **Debra Milke's** actual innocence?



DEBRA in 1981

As the analysis of the very early proceedings in **Debra's** case has shown, the young mother was only implicated by one mentally retarded Phoenician named ROGER SCOTT. SCOTT - with certainty the true and only perpetrator of this crime - eventually admitted knowledge about the killing of 4-year-old CHRISTOPHER MILKE after being interrogated for twelve hours by Phoenix police. SCOTT initially tried to put all the blame on his buddy and former high school friend JIM STYERS, claiming JIM *'couldn't stand the little bastard anymore'*. STYERS, a Vietnam veteran on disability, had reported CHRISTOPHER MILKE missing from the Metro Center on the preceding day, December 2nd, 1989. He lived with his 2-year-old daughter WENDY in an apartment in the northern area of Phoenix, when **Debra** had called JIM in July 1989 as the result of an unpleasant incident with her former husband MARK MILKE. MARK, an alcohol and drug abuser, had harassed his young ex-wife and repeatedly threatened to kill her if she wouldn't change the supervised visitation regulations with his son and grant him joint custody over CHRIS. **Debra** declined. For that reason she turned to JIM for help, who offered her to rent one room inside his apartment, which **Debra** paid for. During the days, while she was at work, JIM made additional money by babysitting not only his daughter, but little CHRISTOPHER as well.

Only one to one-and-a-half hours after his initial statement SCOTT extended his incrimination, alleging that not only he and STYERS were responsible for the crime, but that the boy's mother purportedly wanted little CHRISTOPHER killed. Clearly, SCOTT had realized how much his first claim had damaged STYERS' position. Therefore, he attempted to save JIM STYERS from further blame. SCOTT made this additional incrimination inside a police car and en route to the murder-scene. The officer talking to SCOTT, former Phoenix **DETECTIVE ARMANDO SALDATE** - upon learning that a young grief-stricken mother was involved in SCOTT'S story - now rushed to a decision and ordered the arrest of both individuals, JIM STYERS and **Debra Milke**. Incredibly, the pertinent police report of **SALDATE'S** fellow DET. ROBERT MILLS - who was also present inside the police car - doesn't even mention the added incrimination of SCOTT. The techniques used to further invent a case and achieve a foundation for the claim of a conspiracy will be described hereafter.

From DET. MILLS' supplemental report:

"After DET. SALDATE and I escorted ROGER to my vehicle I drove to the area of 99 Avenue and Union Hills. On ROGER'S instruction I turned north through the northern outskirts of Sun City and continued north to just north of Happy Valley Road when ROGER indicated that we had just passed through the wash where CHRISTOPHER had been shot."

What followed next was completely unknown to **Debra Milke's** government-paid defender KENNETH RAY when **Debra's** trial commenced. Not only had three Phoenix detectives gone to and arrived at Florence, where **Debra Milke** was staying with her family but according to trial testimony, these officers were told via radio not to talk to the young woman, that other arrangements had been made and that **DETECTIVE SALDATE** from Phoenix was now on the way to Florence. They were told to have **Debra** wait for the detective at the Pinal County Sheriff's Office, where **Debra** arrived with her accompanying acquaintance JANET FROEBE at 6.35 p.m. Incidentally, the accurate reconstruction of the timeline proves that **SALDATE'S** decision to go to Florence himself arose around the time when both detectives along with ROGER SCOTT returned to the police main station, and MILLS attempted to interview JIM STYERS (6.41 p.m.). STYERS, upon learning that he would be charged with the murder of CHRISTOPHER, requested an attorney and stated that he wouldn't say anything further. Consequently, **SALDATE** was the only Phoenix officer who arrived in Florence via helicopter. At trial he later hid all these circumstances and claimed that using a helicopter was *"solely a means of transportation."* He eventually entered the dispensary room of the Pinal County Jail where **Debra Milke** was waiting together with her accompanying acquaintance, JANET. **SALDATE** next sent JANET out of the room and closed the door behind him (7.53 p.m.). He was now alone with **Debra** inside that room. There is a dispute about some details pertaining to the following conversation, but both individuals largely agree on the main issues that were brought up during the conversation. Meanwhile, in the corridor, JANET was interviewed by another detective who related to her that **Debra Milke** *"was going to be charged as one of the*

three people involved in the death of CHRISTOPHER." (7.55 p.m.) **Debra Milke's** purported guilt was clear before any officer had ever talked to her. Thirty-five minutes later **SALDATE** emerged from the dispensary room and took **Debra** to a police car. She wasn't handcuffed and she was supposed to not speak to anyone. Another detective who briefly conversed with **SALDATE** was informed that he had arrested the young woman for murder, but the report of the pertinent officer makes no mention of a statement by **DETECTIVE SALDATE** about a voluntary confession of the young woman!

From DET. DiMODICA'S supplemental report:

"Upon completing our interviews, DET. HAMRICK and I returned to the Pinal County Jail and re-contacted DET. SALDATE who stated that he had placed DEBRA under arrest for the homicide of her son, CHRISTOPHER. DET. HAMRICK and I then returned to Phoenix."

Newspaper articles published on the following two days reported the crime and the arrest of the three individuals. In an article headlined *'Mother, 2 others arrested in murder'* on the 4th *The Phoenix Gazette* solely stated about **Debra** that *"Christopher's mother, Debbie, age unavailable, was, picked up between 8 and 9 p.m. in Florence, where she had gone Sunday morning to be with her parents."* One day later, on the 5th, *The Mesa Tribune* covered the murder in greater detail and reproduced statements of **STYERS** and **Debra's** neighbors. The entire account didn't mention a voluntary confession, and one neighbor, **SUZANNE MURPHY**, even stated pertaining to **Debra** *"If she had anything to do with (the murder), she's the best actress in the world."* This article also disclosed that *"Little information has been released on what led police to arrest the trio. ANDERSON has said there is evidence pointing to a definite motive but declined to reveal the motive."* Well, as we will see, the case was only in the final stages of being invented.

Three days after the arrest, on December 6th, 1989, **SALDATE** wrote a police report including purported statements of **Debra** in narrated form. This report claims that she knew that **STYERS** was going to kill **CHRISTOPHER** when the two left the apartment that Saturday morning and that she wanted the little boy killed because she feared **CHRISTOPHER** would *'grow up and be like his father'*. This *'confession'* was never signed, witnessed by anyone nor tape-recorded. And in fact, it's contradictory to statements of two individuals, **STYERS'** former girlfriend **GAIL LIPSHULZ** and neighbor **JOHN CIULLA**, who consistently and independently confirmed that **STYERS** had it in mind to pick up his daughter **WENDY** from **GAIL'S** place on that fateful Saturday. These coherences contradict the claim of **SALDATE'S** report that *"JIM told her that they were planning to do it today and that he was going to pick up ROGER."* Yet, the so-called *'confession'* was allowed into evidence at trial. **Debra** on the other hand steadfastly disputed this confession and stated for thirteen years that she never confessed to anything and that she didn't have anything to do with the crime.

From the interview of **GAIL LIPSHULTZ**:

(...)

Tom Buckner: The weekend that Christopher was murdered out in the desert, where was Wendy?

Gail Lipshultz: She was here with me.

Tom Buckner: When had Jim brought her home? Do you remember what day?

Like you say, it was from the day before?

Gail Lipshultz: Oh, you mean when he brought her here?

Tom Buckner: Right.

Gail Lipshultz: Yeah, the day before, in the evening. He said he was going to pick -- he wanted to pick her up like early the next day. I told him, wait 'til like later in the afternoon because I wanted to take her somewhere.

Tom Buckner: So he never picked her up that weekend at all?

Gail Lipshultz: No.

(...)

On December 8th, 1989, county prosecutor **NOEL LEVY** sought the indictment of the three individuals, **ROGER SCOTT**, **JIM STYERS** and **Debra Milke**. His only

witness : Phoenix police **DETECTIVE ARMANDO SALDATE**. The *'ping-pong rhetoric'* used to paint in their story not only reveals the carefully pre-arranged details between the prosecutor and the cop, but - comparing the transcript of the Grand Jury Hearing to the actual reports - how facts were embellished and, in some parts, bold-faced inventions. **SALDATE** claimed that SCOTT *"indicated that it should not be too far away because they had wanted the child found within two or three days."* LEVY, wide-awake and highly alerted, embarked on a salvage operation by asking *"They or Styers?"*, to which **SALDATE** responded *"Styers wanted - I'm sorry, that's correct. Styers wanted the body found within two or three days so he could collect the \$ 5,000 life insurance policy."* Incredibly, one police report of DET. HOUSE exists which clearly states that *"A cluster of tree branches covered the wash bed at 98 feet west. This made visibility westward in the wash difficult."* And MILLS' report equally speaks of *"going through some underbrush"* in order to get to the dead body of CHRISTOPHER MILKE. Everyone who had ever been to the murder-scene confirms that the little boy would've hardly been found within days, the way the corpse was hidden by all the trees and bushes. But consequently, the indictment was granted by the jury.

At trial - but also before that and through the media - the authorities alleged that **Debra Milke** was the *'evil mastermind'* who ruthlessly manipulated her roommate JIM STYERS in order to have the little boy killed [*by the way, criminal evaluations prove that 98% of all mothers who wish their babies dead do the killing themselves*]. The prosecution continued with this claim, whereas there is no evidence to assume that. In his closing argument, prosecutor NOEL LEVY argued that JIM and CHRISTOPHER had left the apartment at 11.00 a.m., picked up ROGER SCOTT and subsequently ran some errands. Then, at 12.13 p.m., the two men took the boy to a pizza parlor where they had pizza. This activity was depicted as CHRIS' *'last meal'* by the sensationalizing prosecutor. After that - according to the State - CHRISTOPHER was taken to the desert and killed as allegedly pre-arranged between the three individuals. Judge CHERYL K. HENDRIX - who received a serious reprimand pertaining to a previous incident, that she performed *"... at best, a series of thoughtless acts by a judge who had apparently forgotten the position she held and consequences of her actions"* - displayed obvious bias toward **Debra Milke** and her defense, including disallowing to address the fact that **SALDATE** had falsified his living address in order to run for constable.

The truth - indeed - is a whole lot different. At trial a fellow worker of **Debra** [CARMEN SANTANA] testified that she talked to **Debra** at 9.00 a.m. that morning and that JIM and CHRIS had already left the apartment. At his own trial SCOTT claimed he was picked up by JIM at 10.30 a.m. [*whereas the distance from JIM'S to ROGER'S apartment was no less than a 30-minute car drive*]. Two local witnesses of the murder [JEAN PUGH and CAROL GRIFFIN] stated at **Debra's** trial that they heard five to seven shots fired on that December 2nd, 1989 and that this happened at approximately 11.00 a.m. *No one heard any other shots on the weekend.* Additionally, KEN RAY re-examined the State's witness, DR. BOLDUC, and achieved a statement of the examiner that he was actually unable to confirm that pizza was indeed the stomach and bowel content of CHRISTOPHER. Also, since 11.00 a.m. of that December 2nd, no reliable witness could testify that CHRIS was seen either in the *'Walgreens'* store or at the *'Peter Piper Pizza'* place. On top of that the police file contains a report including statements of three witnesses who clearly stated that ROGER SCOTT had been seen in close proximity of his apartment between 1.00 and 2.00 p.m. on that day, which confirms that the murder cannot have taken place subsequent to JIM and ROGER having had pizza. None of these facts were ever told to the jury, nor were they known to public defender KEN RAY.

If not three, but five to seven shots were fired, this incident shows that it would be unreasonable to assume that a pre-planned murder had taken place. STYERS and SCOTT have both independently admitted that CHRIS has never been at the Metro Center, and in following the timeline of their motions we can reconstruct that STYERS went along with SCOTT solely in order to find an excuse not only towards police, but also towards **Debra**, who he had promised not to use any weapons in CHRIS' presence. Other than that no comprehensible motive or indication exists that JIM STYERS indeed wanted CHRIS killed. SCOTT was to pop up later at the Metro Center and confirm the story STYERS told when he reported CHRIS missing from the mall. This is corroborated by the fact that STYERS

voluntarily mentioned to police that he had met his old high-school friend ROGER SCOTT that Saturday. Only upon this revelation police contacted SCOTT and subsequently took him to the police main station, where he was interviewed for more than twelve hours. When **SALDATE** ultimately threatened to ransack the apartment where SCOTT lived together with his frail and elderly mother, he feared that could kill her and eventually confessed to know where the dead body of CHRISTOPHER was.

In the judicial department we can clearly see the pattern which eventually landed **Debra Milke** on death row. Not only was the so-called confession as typed by **SALDATE** a mere fabrication, but prosecutor NOEL LEVY made every attempt possible to undermine her credibility and to accomplish the picture of an evil, selfish woman. LEVY pursued to plea bargain with ROGER SCOTT against **Debra** several times, but SCOTT would refuse to repeat his incrimination during **Debra Milke's** trial. JIM STYERS repeatedly claimed that **Debra Milke** was indeed innocent and had nothing to do with the killing. Ambush witnesses - pre-informed by the media and **SALDATE**, and therefore well-manipulated - testified at trial to **Debra's** abusing nature towards her son. But those statements largely conflict with forensic evidence even ascertained by the State, other testimonies of doctors and people who dealt with her shortly prior to the tragedy. These individuals spoke of a loving bond between the young mother and her son. **Debra Milke** herself displayed a weak performance on the stand, but it was never addressed to any of the jury members that she was under the influence of an anti-anxiety drug named 'Buspar'. In order not to 'lose it' in public this medication helped her to maintain her posture, but her personality appeared to be flat and made her seem as if she lacked emotions. Clearly, the young woman was literally scared to death and couldn't grasp what was happening to her. Her defense team later stated that **Debra** began to cry uncontrollably as soon as she was taken into the holding room.

Also, no one had ever informed the jury that **Debra** had undergone a polygraph test, which she passed. But the result of this test - taken at the Durango Jail - was declared inconclusive because of the environment.

When local witness JEAN PUGH made her first telephone contact with public defender KEN RAY she related information to the defense attorney which was not closely examined nor fully disclosed by MRS. PUGH, and therefore also not used at trial to exonerate **Debra**. During the conversation she stated that she had made several telephone calls and summarized her findings in regard to ROGER SCOTT : *"He is the one that's giving them all the information and all this hell-or-blue about getting money from her to kill the kid and then the two men went together to kill, but he never got out of the car"* and KEN RAY confirmed that this is what the State's theory was. But she continued *"He actually told them there was (...) seven shots fired. (...) But they couldn't find the shells, so he was to keep his mouth shut and there was only three shots fired and that was the story he was to tell. (...) Now he's covering his butt by implicating the other two. And then they got a quick-shut and dry conviction."* Naturally, MR. RAY was obviously shocked about these news and inquired *"Without disclosing those sources, are they in any nature, ah, government officers ?"* whereto MRS. PUGH responded *"One is --."* This shocking incident fully matches with all the invented facts, fabrications and manipulations used to try **Debra Milke**. It means that governmental powers knowingly and intentionally invented a case against the young woman only in order to satisfy the public outcry for retaliation about the death of a 4-year old boy, CHRISTOPHER MILKE.

All the contradictions and coherencies depicted above were unknown and hadn't come to the attention of the government-paid public defender, and so his last-minute subpoena of MS. PUGH and MS. GRIFFIN didn't convince the jury. There was not enough time for the public defender to follow-up on his suspicions and thoroughly investigate all the records. On top of that the deliberations were in jeopardy to end in a mistrial, and so the entire process led to a rushed and weak defense. **SALDATE**, who was unable to provide the handwritten notes he allegedly took during the interrogation of **Debra** stated in a pre-trial interview on June 26th, 1990 - only two-and-a-half months prior to the trial - *"I read that later on and I checked it with my notes, and that's exactly what I said."* But who defended the alleged destruction of these handwritten notes after the police report was typed? Who boasted to reporters that it was usual for officers to throw notes away? NOEL LEVY! In fact, the story and details told on this website weren't even remotely known at that time.

In a 1998 telephone interview the jury foreman ERIC C. JOHNSON stated *"it just didn't seem right that a woman who just had her son killed by this man supposedly, ah, would be writing letters to him, asking what's going on. Ahm, we didn't think it was right, ah, ... you know, it just didn't make any sense ..."* True, it didn't make any sense in light of the claim that a conspiracy existed. **Debra Milke** never *'had her son killed.'* This statement proves that the pre-trial manipulation had worked very well. Reciprocally, the correspondence going on between JIM STYERS and **Debra** shortly after their arrest made a great deal of sense, presuming that no conspiracy existed. The letters available and displayed on this website prove nothing else but that. But in order to manipulate **Debra's** sister SANDY **SALDATE** told her *"And in one of the letters - I say she's probably - one of the letters we don't have she's telling him a couple of things like (inaudible) - when we get out of here - when I get out here we could be together (inaudible)."* Go figure! *"In one of the letters we don't have ..."* This means **SALDATE** suggested something to SANDY that **Debra** probably said in one letter police didn't have. Outstanding police investigation! It's as funny as it's ridiculous. Additionally, **Debra** had inquired of her defense team about what to do when STYERS' first letter arrived at her place. Investigator for the defense, KIRK FOWLER, confirmed that they encouraged **Debra** to respond to JIM and try to find out what happened when the murder took place.

Reading LEVY'S closing argument at **Debra Milke's** trial we are strongly reminded of the unspeakable and overzealous accusations used in the old times of the Catholic inquisition.

The judge, or inquisitor, could bring suit against anyone. The accused had to testify against himself/herself and not have the right to face and question his/her accuser. It was acceptable to take testimony from criminals, persons of bad reputation, excommunicated people, and heretics.

Not only did LEVY tell the jury a story of how the murder of CHRISTOPHER supposedly took place, but he can be proven knowingly suppressing facts and details of what really happened. He not only misrepresented the true course of how the tragic murder happened, but used a lot of character assassination in order to taint the jury members in against the young woman. A social security benefits booklet became an insurance policy, the actual time that JIM and CHRISTOPHER left the apartment was diligently covered, and the fact that **Debra** had dated men was used and twisted in order to make her appear reckless about her maternal duties.

Later at his own trial, ROGER SCOTT repeated his initial claims during the direct examination by his own attorney, ROLAND J. STEINLE III., but he confused many details which were conflicting with his initial confession and other evidence. Then, upon cross-examination of County prosecutor NOEL LEVY, ROGER attempted to recant his accusations, which yielded some stunning answers:

From ROGER SCOTT'S testimony at his own trial [01/30/1991]

(...)

Noel Levy: Did Styers approach you and basically make it known to you that he wanted to get rid of Christopher?

Roger Scott: No.

(...)

Noel Levy: And you talked face to face about doing away with Christopher within the last week at least twice with her; is that correct?

Roger Scott: She ---

Noel Levy: Yes or no, Mr. Scott?

Roger Scott: I believe it does say that on the tape.

(...)

Noel Levy: And they offered you money, too; is that correct?

Roger Scott: They had.

Noel Levy: Yes or no?

Roger Scott: Well, I'll have to say no.

(...)

Noel Levy: Now, you testified on direct that you never went out with Mr. Styers to attempt to kill Christopher at any location; is that correct?

Roger Scott: No, sir.

Noel Levy: Never did?

Roger Scott: I never did.

(...)

Noel Levy: And you talked about taking care of Christopher, didn't you?

Roger Scott: No, it was just -- I know it says that on the tape.

(...)

Noel Levy: Well, you just testified on direct that he came to you and asked you to help him kill the child; didn't you testify to that on direct, Mr. Scott; yes or no?

Roger Scott: I would have to say no.

Noel Levy: You didn't testify?

Roger Scott: If I cannot explain it, no.

(...)

LEVY had a knack of forcefully turning SCOTT'S attempted change of song down rhetorically, continuously confronting him with his initial tape-recorded confession in which he had put all the blame for the killing of CHRIS on STYERS and **Debra Milke**. ROGER was cut off repeatedly and not given the chance to elaborate on these stunning answers. But the death sentences against JIM STYERS and **Debra** had already been given, and no one really desired to listen closely to these disconnected ramblings anymore. However, the question remains: Why would SCOTT ultimately try to dissent with the prosecutor when he was the only witness the State could rely on?

In a most recent evaluation of **SALDATE'S** reports by a highly acclaimed California criminal expert the result was that *"The combination of all these risk factors - the coercive interrogation, Mr. SCOTT'S psychological disabilities, and a disputed confession that was neither documented nor signed nor corroborated - strongly raise the possibility that the ultimate miscarriage of justice may have occurred here: the wrongful conviction of a factually innocent person who awaits execution."*

Still, some visitors to this internet presence wish to believe in the 'story' they were fed back in 1989/90 and believe that **Debra Milke** was indeed the manipulative puppeteer behind the tragic murder. We'd additionally like to inform these doubters that the testimony of a fellow prisoner of ROGER SCOTT at the Maricopa County Jail exists, in which that inmate [ROBERT E. JOHNSON] told county attorney investigator TOM BUCKNER that SCOTT had confessed the actual killing to him. Prosecutor NOEL LEVY never considered MR. JOHNSON'S statements and carefully hid this knowledge. Reporters have tried to interview former **DET. SALDATE** about his role in **Debra Milke's** case, but the arrogant ex-cop refused any statement, immediately ended the interview and threw the TV-team out of his home. What does he have to hide? A most recent court order disclosed that **SALDATE'S** personnel file consisted of only four (!) sheets of paper. Hardly what one expects with an officer who was on the force for more than 21 years. But the personnel file contained a separation notice including a reprimand for continued lying to his superior. As a result the author concluded: *"(...) ... your image of honesty, competency, and overall reliability must be questioned. Therefore, so must your value to the department be questioned."* Prosecutor NOEL LEVY not only sent **Debra Milke** innocently to death row, but demonstrably also RAY KRONE [*exonerated by DNA evidence*], probably DAVID HEYDE and presumably also JIM STYERS. Or, as a former Arizona appellate judge told us privately: *'NOEL LEVY, CHERYL. K. HENDRIX, ARMANDO SALDATE and KENNETH RAY working on one case ... that's as bad as it can get'*. Those who believe that the death penalty system in Arizona is *just* should consider this thought: in almost every case where provable police misconduct can be unearthed and landed an innocent person on death row, the actual killer still walks free on the streets. That's not how it's supposed to be in order to prevent further crime. In every case where provable police misconduct can be unearthed and landed an innocent person on death row, it imposes unspeakable tragic not only on the individual in question, but also on its entire family and friends. Our local and state government needs to live up to their obligations and avoid a win at any cost policy in lieu of justice being served. This should be avoided at all cost.

ADC ADC ADC ADC ADC ADC ADC ADC ADC

The following text was initially taken from the Arizona Department of Correction's website at <http://www.adc.state.az.us/DeathRow/DRowM.htm#MILKE>.



DEBRA JEAN MILKE
Date of Birth: March 10, 1964
Defendant: Caucasian
Victim: Caucasian

On December 2, 1989, James Lynn Styers filed a missing child report, advising police that his roommate's son, Christopher Milke (age 4), had disappeared during their visit to Metrocenter mall. Roger Mark Scott was present with Styers. On December 3, 1989, Scott admitted during a police interview that he had accompanied Styers the previous day to a desert wash in the area of 99th Avenue and Jomax Road where Styers shot and killed Christopher Milke. Styers agreed to provide Scott with \$250 to file a social security claim. Styers believed he would receive some of Christopher's \$5,000 life insurance policy. At the conclusion of the interview, Mr. Scott led police to the desert area where they found Christopher Milke's body. During a police interview, Debra Jean Milke, Christopher Milke's mother, conceded that she had conspired with Styers to have her son killed. She indicated that it would be better to have her son die than grow up like her husband.

PROCEEDINGS

Presiding Judge: Cheryl K. Hendrix

Prosecutor: Noel Levy

Start of Trial: December 7, 1990

Verdict: October 12, 1990

Sentencing: January 18, 1991

Aggravating Circumstances

Especially heinous/cruel/depraved

Age of victim (4)

Mitigating Circumstances

No prior record Prior employment

Good conduct while in jail

PUBLISHED OPINIONS

State v. Milke, 177 Ariz. 118, 865 P.2d 779 (1993).

This page was last modified :

Thursday, 21-Feb-2013 13:12:22 CET



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<http://www.debbiemilke.com/> [Renate Janka]

<http://www.justicedenied.org/debramilke.htm>

Justice:Denied -- The Magazine for the Wrongly Convicted
Death in the Desert (the Debra Milke Story)

By Ingo Hasselbach
(Published in Justice:Denied, Volume 1, Issue 5)

"Welcome to the Canyon State," reads the sign as we drive over the California state line into Arizona. The West is at its wildest here, the landscape at its most inhospitable. Arizona is the state of the Grand Canyon, bare cacti, cliffs of red rock, rattlesnakes and heavy smokers (or at least for the cigarette ad makers) ... and for fans of the death penalty.

Traveling to Arizona on business is not always pleasant, especially if your business is journalism and your assignment is to do a piece on the death penalty. Right away we notice the green interstate signs, an indication that a prison is near: "Don't stop for hitchhikers." There are lots of prisons in Arizona and lots of signs like these, but never any hitchhikers.

There is a prison in Goodyear, too, a dusty town west of Phoenix. We reach it via Interstate 10. The facilities, visible from a distance, are doused in pale floodlight -- the Arizona State Prison in Perryville. "Keep on Rockin' in the Free World" by Neil Young is playing on the radio, but Perryville marks the end of the free world. Here you're either guarding the complex or locked up inside.

Take Debra ("Debbie") Jean Milke. Her life can be summed up in a few lines that might go something like this: born in Berlin in 1963, raised in Phoenix, Arizona, died in Florence, Arizona in 1999. Cause of death: lethal injection. Debbie Milke, 34, has been on death row for nine years -- on a highway that now only has one exit: the execution chamber.

Debbie Milke is something of an exotic creature in Arizona. She is the only female inmate on death row in Perryville and the only woman now awaiting execution in Arizona. She will be the second woman ever to be killed in the history of the state. She is also the prestige project of former district attorney Grant Woods and, if one is to believe the "Arizona Republic," the state's largest daily, she is the most hideous monster in the country: a cold-blooded child killer who had her four-year-old son "executed" for a measly 5,000 dollars from an insurance policy. In Arizona, people want to see this woman strapped to the execution table -- so say the gas station attendant and the sheriff. So say the politicians too -- and many wouldn't mind administering the injection themselves.

Not that child killers are rare in Arizona. Just about every month the media report on some "valley woman" who has gone wild, murdering and cutting up her children. None end up on death row. But that's a whole different story.

One's first impulse when driving by Perryville Prison is to accelerate. A lot of locals would like to do the same and speed right out of town. The cheapest motel here is a Best Western with inflated rates. Late in the evening, in the bar, the friendly waitress wants to

know what we're doing in Goodyear.

"Writing a story about Debbie Milke," we answer. The atmosphere suddenly becomes frosty despite the sweltering heat. "But the weather sure is nice, isn't it?" she remarks before leaving us to our drinks.

Debbie Milke's story is that of a young woman caught in a spiral of love, disappointment, hatred and drug abuse. It started out harmoniously enough in the "GI" district of Zehlendorf in Berlin. Debbie's German mother, Renate, fell in love with the American soldier, Richard "Sam" Sadeik. They married and had a daughter who spent her childhood in the divided city, sheltered by the occupying forces.

In her letters from prison, Debbie recalls her German grandparents in Tempelhof, the forests around Krumme Lanke Lake as well as strolls down the Ku'damm and visits to the Berlin Zoo. If she's ever allowed to lead a normal life again, it'll be in Berlin ... "please!"

Next, Sam Sadeik is transferred back to the USA, to Phoenix, Arizona. Here, Debbie's sister is born. Both parents work as ground personnel at Luke Air Force Base in Goodyear, located directly behind Perryville Prison. Renate looks after German star-fighter pilots who are stationed at the base for training. The world is still intact.

Today, as we drive along Lichtfield Road to visit Debbie's mother, Renate Janka, Air Force jets still thunder over the prison complex. Renate has been back in Goodyear for more than a year now, living just a few hundred yards from the cell where her daughter awaits execution. Debbie doesn't like having visitors -- she has to sit in a cage and undergo a strip search in front of the male guards. So mother and daughter talk on the phone for about five minutes each week. Renate Janka spends the rest of her time fighting to have her daughter's case reopened, writing letters, briefing lawyers, preparing interviews and keeping the international community of supporters up-to-date via internet. She's in touch with "Spiegel" magazine, ZDF (German Television 2), Amnesty International and donations committees. Perhaps it is her uneasy conscience that drives Mrs. Janka to continue the almost futile battle with Arizona's legal system, for she left her daughter alone in the United States many years ago...The Sadeik's marriage is over. The dream GI is now an alcoholic, a cynic and a family tyrant. "No one leaves Sam Sadeik," he tells his wife when she files for divorce. "One day you'll pay for this." Renate doesn't take him seriously. Years later she'll find out just what she will pay.

First she moves to a new apartment with her two nearly grown up daughters. The girls have never had much in common. Debbie is good at school, her sister isn't. Debbie is attached to her mother, Sandy favors their father. As a result, there are many family fights. When Sandy steals and forges her mother's checks, Renate Janka, at the end of her tether, sends Sandy back to Sam Sadeik. In the meantime he's gotten a job as a prison guard in Florence, one of the toughest prisons in Arizona. It is in Florence that the desert state's executions take place.

Renate Janka then meets a new man, a German, and returns to Europe with him. Debbie stays in Phoenix. She is 19, single and has no contact with her family. A love-hate relationship connects her with her sister, grief with her mother: "I never understood why she left me. Sure, I was old enough to take care of myself. But in my gut there was a feeling of loss and emptiness." It is about this time that Debbie Milke falls in with a fateful circle of friends, a circle of drug addicts and dangerous psychopaths.

It's December 2, 1989. A man is in a shopping mall, trying to explain to the police that he's lost a young boy -- Christopher Milke, aged four, dressed in jeans and a yellow

sweatshirt with a green triceratops embroidered on the front.

James Lynn Styers is the man's name. He explains that he's come shopping with a friend and the boy to get some pictures of Santa Claus. Christopher was excited. He wanted to shake Santa's hand. Then, suddenly, he disappeared. The officer is suspicious. Styers seems unfocused and nervous. There are contradictions in what he says about times and places, so the officer takes him in to be questioned. A little later the police also question his friend, Roger Scott.

The detective in charge is Armando Saldate, an ambitious Hispanic-American with a brutal demeanor and bullish face. Shortly before his retirement, Saldate senses a spectacular case. Drug addict Roger Scott is the first to break down after two hours of questioning. He admits that, instead of going to see Santa, he and Styers drove out to the desert with little Christopher to 99th Street, north of Happy Valley Road, to a place where you'd sooner stumble over rattlesnakes than St. Nick. What followed was a true execution.

Scott states that Styers took the child to a dried-out river bed. Shortly afterward Scott heard three shots. Styers returned, saying, "That small bastard won't be getting on my nerves any longer."

In confused words, Scott tells the detective one other detail: Debbie Milke, Styers' roommate, put them up to the crime. "What did she say, as far as you can remember?" asks Saldate. "That she wanted to get rid of him, that she wasn't born for motherhood and that we should take care of it," answers Scott.

Next, Scott leads the policemen to the spot in the desert he described. There the police make a gruesome find. Saldate tells his superiors of the murder and says he wants to question an additional suspect, Debbie Milke. He is told to use a tape recorder because of the importance of Debbie's statement. Saldate ignores these instructions and flies to Florence just as the media are jumping on the story. There, Debbie has been waiting with her father, Sam Sadeik, for word of Christopher.

Earlier, she was at home sitting by the phone, her mood swinging from hysterical worry to dull agony, but her stepmother persuaded her to drive to Florence. When Saldate arrives at the police department, he storms into the medicine room where Debbie is being kept. He sends everybody out and pulls a chair within inches of his suspect. He begins the questioning with the words: "Your son was found in the desert, shot to death. And you're charged with murder." "What, what?!" screams Debbie Milke -- though without a single tear, according to Saldate's later testimony. "I won't put up with your hysterics," says Saldate. "I'm here to find out the truth."

Debbie is subjected to a half-hour round of questioning that according to Saldate leads to a full confession and to this day is the sole piece of evidence supporting the murder charge. Yet the confession is not recorded on tape, there are no witnesses and Debbie Milke has signed nothing. Somehow, Saldate did not forget to tape Scott, have him sign the confession, and it was witnessed. All three pieces of evidence Saldate had no problem producing from his questioning of Scott are ominously missing for Debbie. The notes Saldate claims he made when he interrogated Debbie don't exist either. Later he will explain to the court that he threw them away. Instead, he presents ten pages of notes dated December 6, 1989, made from memory. According to these, Debbie confessed to getting the two men to murder her son and described in detail her relationship with her

family, the child's father, Mark, her stepparents, her mother and God. She also explained her motive for the crime: "I didn't want Christopher to grow up like his father." All this in thirty minutes, punctuated by bouts of hysterical crying! Impossible, claim Renate Janka's lawyers.

After questioning, Debbie Milke is taken to jail. She is not allowed to make phone calls or receive visitors. Debbie is despondent but clueless. She still believes she is only there because she neglected her parental duties. Only after a few days does her court-assigned lawyer inform her that she has been charged with killing her son. Only then does she learn of her alleged "confession." Arizona is up in arms. The district attorney and politicians call for the death penalty. The media are rubbing their hands over "the crime of the 1980s" and dissecting the "Santa Claus Case."

Later the entire Sadeik clan will form a unified front against Debbie in court -- sister Sandy, father Sam and his second wife, Maureen, as well as Debbie's stepsister, Karen Smith, ex-husband Mark Milke and her former best friend, Dorothy Markwell. They will portray Debbie Milke in separate testimony as a monster mother who beat her son, a hedonist and alcoholic, a resentful wife who begrudged her husband his role as father, the devil incarnate. "If she were pregnant again, she would kill the child again," says Sam Sadeik.

And then they will unanimously demand the death penalty for Debra. It is the complete moral bankruptcy of a family, of her family, that makes Renate Janka's blood run cold. She used to believe in the Arizona legal system and in her daughter's "confession." Maybe shame kept her in Germany, or perhaps the fear of having to see her daughter alone in the dock, the fear of having to look her daughter in the eye. A cry for help wakes Renate. From prison, Debbie sends a desperate letter to the only person she still trusts: "Grandma and Grandpa," she writes in broken German on the cover, "is not true. For my mother and Alex. Please, Grandma!! Please!!"

By then she has already been sentenced to death. Renate flies to Arizona and fights to have the case reopened with new lawyers and new evidence. But first she must grasp what has happened in her absence. After her mother leaves, Debbie tries out her newfound independence and her life soon becomes a walk on the wild side. She meets carpet-layer Mark Milke in a biker bar. He is an unstable character, a good-looking but unpredictable drug addict. Debbie falls in love with him, they marry and she becomes pregnant. "I thought that if I had a child, I wouldn't feel so lonely and empty. And I thought that it would give Mark the strength that we all needed so badly." She is wrong. During her pregnancy Mark is thrown into prison for drug possession. Once released, he spends his time in bars or shooting rattlesnakes out in the desert. Debbie works, sometimes holding down two jobs to make ends meet.

Little Christopher is often with Sandy, who, as a homemaker, has time to care for the boy. She asks Debbie to let her adopt him, but Debbie refuses, hoping Mark Milke will eventually become a responsible father. With these hopes dashed, she finally files for divorce in 1988. Mark turns out to be like Sam Sadeik. He can't accept the divorce. He beats up Debbie and threatens to kidnap the child. One day he steals her car keys and shouts, "Take your lousy brat and get the hell out of my life."

Debbie flees with Christopher to James Styers, one of Sandy's former boyfriends. At first glance, Styers is the exact opposite of Mark -- inconspicuous, reticent, almost shy. He attends church regularly, studies the bible and takes care of the neighbors' children as

well as a daughter from his first marriage. Slowly Debbie recognizes that her solicitous new roommate is a sick psychopath haunted by terrible ghosts.

As a Vietnam soldier, Styers took part in massacring civilians, including women and children. He once shot an eight-year-old, unarmed Vietnamese boy who was trying to climb onto the bed of his military truck. "Self-defense" was how he justified the killing before a military commission. These victims won't leave Styers alone. After his discharge from the army, he has nightmares. He incurs serious head injuries from a fall and must receive regular medical treatment. He is given lithium and navane. According to tests, he has an IQ of 84, well below average.

Debbie's living arrangement with Styers becomes a nightmare for her. She discovers weapons and ammunition under tables and in closets. She must put up with Styers' friend, Roger Scott, a sick junkie who suffers from paranoid delusions. Scott is as devoted to the Vietnam veteran as a loyal dog. He sees Styers as the great "Alpha Wolf." Sensing that Styers not only wants to share the apartment with her, but her bed as well, Debbie secretly rents a second apartment. Once she signs the lease, she tells Styers she is moving out. It's Thanksgiving.

For Styers, a world collapses. No one knows what this Vietnam vet, who conceals his demons behind a pious facade, really feels for Debbie. Is he a man like Sadeik or Mark Milke who cannot accept a separation? Is he hoping she will stay with him if he destroys the last tie to her ex-husband?

On death row, the child killer unburdens his heart. In a letter to Debbie at Perryville Prison, he confesses his love for her and quotes the Bible, Psalm 51: "Against thee, thee only, have I sinned, and done this evil in thy sight: that thou mightest be justified when thou speakest, and be clear when thou judgest."

A few days after Debbie talks with Styers about moving out, Christopher begs to go see Santa Claus, and Styers offers to take him to the mall. Debbie agrees, and Christopher puts on his favorite clothes. Styers picks up Scott and all three stop at Peter Piper Pizza, where the boy eats his last meal. Debbie is at home doing her chores, ironing, chatting with the neighbors. Styers and Scott take Christopher out to the desert. In their car is a snub-nosed 22 caliber revolver. The police never find out who fired the shots or what weapon was used. The bullets are too deformed to be traced. Thus, both Styers and Scott are sentenced to death and even Debbie finds herself on trial for murder, although there is not a single scrap of evidence for her complicity. There is only a single police officer's assertion and a confession that is not taped, not witnessed by a third party nor signed by the suspect. Saldate is still proud of this confession today.

The motive ascribed to Debbie is greed. The prosecutor claims she was after 5,000 dollars from a life insurance policy. But Debbie didn't sign the contract. Her employer, an insurance company, signed it as part of her usual social-welfare benefits. Monthly premium: two dollars. Judge Cheryl Hendricks later rejects all evidence in Debbie's favor: psychiatric reports, a lie-detector test, testimony by neighbors and coworkers who describe Debbie as a solicitous mother, the contradictions in Saldate's questioning of Roger Scott, and even Styers' assertions that Debbie had nothing to do with the murder. "It's very difficult to fool a group of observers twenty-four hours a day for fourteen months," says Dr. Bunuel, director of the prison psychiatric services. "As time passed, the whole team came to believe in Debbie's innocence, and it was a shock when she was convicted. "None of this interests the judge or the district attorney. When no substantial

evidence is found, they have the entire Sadeik clan testify in court. When even this proves ineffective and there is the risk of a hung jury, Judge Hendricks -- in violation of courtroom procedure -- sends a tape into the room where the jury is deliberating. It is evidence that was not used in the trial.

The tape is of the questioning of Debbie's sister, Sandy Pickinpaugh. Despite his usual forgetfulness, Saldate made a point of recording Sandy. On the tape, Sandy, a jealous, embittered woman, describes her sister as cold and unemotional. The district attorney regarded the tape as insufficient for use in court, but now it helps the jurors reach a verdict: "Guilty on all counts." The public breathes a sigh of relief and the New Times runs the headline: "Hi, my name is Debbie Milke. I'm on death row for killing my little boy." Welcome to the prison state of Arizona!

Nine years have now passed; six appeals have failed. They kept landing on the desk of the same judge, Cheryl Hendricks, until she was transferred due to other complaints. Renate Janka has collected mountains of files, including revelations about Saldate's previous life: in 25 (!) cases, the court found fault with his interrogation records, which had apparently been manipulated. In the case of Debbie Milke, no one raised any objections.

On the contrary, based on his newfound popularity, Saldate was elected to the office of county constable, a kind of justice of the peace. Even Sam Sadeik called Saldate a "liar," though that was later, when Sadeik, on his death bed, also expressed regret about his courtroom testimony. At the beginning of 1998, Debbie's time had come. An execution date was set for January 29. Debbie was allowed to choose between the gas chamber and lethal injection but, unlike the LaGrand brothers, she chose injection. She was given a so-called dry run: her veins were marked and her reaction was recorded on video. Shortly before the actual date, Debbie received another postponement so her case could be reviewed again. All opportunities for appeal have now been exhausted.

Debbie's lawyer, Anders Rosenquist, sees only one way to prevent her execution. A state court is now looking into the trial using the writ of habeas corpus. Facts don't count, nor pieces of evidence, only the question of whether or not Debbie's human rights were violated in the trial. If the court rules in her favor, the verdict will be overturned and a new trial will be scheduled. Judge Broomfield is regarded as a fair, level-headed man. But the country wants a lynching. "I have no scruples whatsoever about asking the state to proceed with the execution," Randall Howe, the assistant to the district attorney, recently said. "She killed her four-year-old son at Christmas time. A pardon would cause a public outcry. She has little sympathy here."

We drive to Florence, to Debbie's last home. A friendly police officer shows us the way to the execution building. We're only allowed to take pictures from a distance of 400 meters, but even here an FBI agent comes over and wants to confiscate our camera. In the prison outlet store we can buy souvenirs, prison clothes, metal bowls and T-shirts printed with "I survived the Arizona State Prison."

We talk to Debbie several times on the phone although prison spokesman Michael Arra warns us: "Debbie is very wishy-washy. She doesn't speak with everyone." We don't tell him we've been corresponding with Debbie for awhile now and have also exchanged tapes. Debbie's mood alternates between hope and despair. She talks about her daily routine, about the occasional visits to the courtyard in chains and in a cage, about small vices like smoking, the curses she must endure from her fellow inmates. A talk lasts ten

minutes, maybe half an hour if we're lucky.

The internet is the new battleground for the "Debbie wars." Renate Janka, with Berlin web-master "Frankie," has created a home-page with a guestbook, but in addition to the email left by supporters, people post the vilest curses. A former juror from the trial who uses the anonymous code name "Juror," has spearheaded a counter-movement by starting a Debbie Milke hate-page. Not only does it attract notorious advocates of the death penalty, but the usual suspects as well: Debbie's sister, Sandy, Mark Milke and a few scattered members of the Sadeik clan. Hackers keep trying to crack the page of their adversaries and Sandy once again is able to demand "just" punishment for her sister, this time on the internet.

A Harvard study, just published, has documented over 100 executions in which the alleged criminals were later proved to be innocent. A government study even goes so far as to assume that every sixth death-penalty case contains errors. A group of journalism students who recently took part in a practical law course, saved a man from the executioner with their investigative work. But in this vast country, public opinion still holds that it's better to execute three innocent people than to let ten guilty people go free. Fortunately, there are other voices. One of Arizona's largest magazines, the Phoenix, published a long article about half a year ago re-examining the case. Their thoughtful conclusion:

"Should we really execute a prisoner based on the unsubstantiated testimony of a single police officer? Are these the rules by which we judge life and death in Arizona? In such a confused case we need certainty. We need a signature, a witness and a tape recorder." How true -- but wouldn't it be a whole lot easier if in Arizona it wasn't a question of life or death?

WHY I BELIEVE DEBRA MILKE IS INNOCENT

by Ingo Hasselbach

"Monstrous -- Diabolical -- Evil" This was the July 1998 headline about the Debbie Milke case in Germany's leading weekly political magazine DER SPIEGEL. Photos of a happy-looking young woman with her son, Christopher, intrigued me to read this in-depth article carefully. Washington-based correspondent Clemens Hoeges researched this case on location for 4 weeks and the results of his findings shocked my nation as it did me. I needed to find out more. I started probing into all available records and documentation. I just knew there was more behind the scenes than met the eye of the general public in the State of Arizona. Last December, my magazine, TIP, commissioned me to cover this story. (TIP is a biweekly magazine published in Berlin with a distribution of more than 1/4 million)

After my initial studies and based on what the general media had published, I was prepared to expect little cooperation. I also realized I might be faced with a cold-blooded woman who allegedly had her son killed, for she was portrayed as a clever manipulator. Nearly eight months of interaction via more than 20 cassette tapes and hundreds of letters exchanged with Debra Jean Milke have now convinced me that a rush to judgment by the players involved had taken place. My game plan was to let her talk freely about her feelings about her son's death, her life and the events that led up to the hideous murder. I phrased and rephrased specific crucial questions and used various avenues to find the slightest discrepancy in her statements or recollections. I scrutinized these documents with the Arizona Republic archives, court transcripts, witness testimonies and, of course,

the police report. I talked to many people who intimately knew Debra Milke, as well as her attorneys, private investigator, and the professionals who covered Debra Milke's trial. In Debbie's extensive correspondence with me, all I could detect was an initial mistrust of anyone representing the media. Even so, after nine long years, she had a desperate need to get rid of some enormous burdens. Debra Milke appeared to be rather shy, but she wanted the public to know about the pain of losing her only child. She never had the chance to properly grieve. Debbie never could comprehend why she was deserted in her time of need. From day one Debbie adamantly denied she had any part of the crime for which she was convicted. There is no tangible evidence. The entire case against Debra Milke is based on one detective's paraphrased police report, written three days after an unwitnessed and unrecorded 30-minute interview with her. In court, this detective claimed he destroyed his notes, yet he somehow came up with 6½ typewritten pages of a so-called confession, which was judged admissible at her trial, despite the fact that Debra Milke had never seen nor signed this document. Furthermore, according to public court records, the prosecution resorted to an unsubstantiated character assassination from various sources, but thwarted any testimony by credible and professional witnesses. The atrociousness of this particular case resulting in a death sentence is that, according to my research, this is not a singular occurrence in the United States. There are more than 70 cases of "wrongfully convicted" people who were fortunate enough to be freed, but only after many years of agony. I cannot help but ask, "Where is the justified outcry of conscientious and free citizens?" and, "Why do people keep looking the other way when confronted with an obviously damaged justice system?"

My article and the coverage of other major media sources in Germany and neighboring countries have produced a tremendous outrage among millions of citizens. Letters of protest and signature collections keep pouring in daily for many months. It is not my intention or that of our readers to sit in judgment over the policies of the world's largest democracy. However, cherished privileges can only be of true value when the inherent responsibilities to preserve them, are adhered to. The state-ordered extinction of one innocent human life is one too many.

"Let doubt be in favor of the defendant"

CNN.com - How to Stop False Confessions Such As in the Central Park Jogger Case - Dec. 17, 2002



SHARE    ...

The following is an article taken from **CNN.com** in regards to the "*Central Park jogger case*", authored by Prof. Elaine Cassel. As in **Debra's** case the dirty and ruthless tactics of officials by coercing or inventing '*confessions*' are addressed. The author also deals with the question how to avoid such false confessions, and by adding our comments you will additionally see what went wrong for **Debra Milke**. In case you still think '*this can't be true*' you will see: indeed, it happened. And it still happens, just like in **The Debra Milke Case**.

By Elaine Cassel
FindLaw Columnist
Special to CNN.com

On December 5 of this year, the Manhattan district attorney's office made a rare move : It asked a judge to dismiss all charges against five men it had earlier prosecuted. As teenagers, the men had been convicted and incarcerated for raping a jogger in Central Park in 1989, and they had since served years of jail time for the crimes. Now, however, the actual perpetrator, an older man named Matias Reyes, has been linked to the victim with DNA evidence -- after confessing to the rape and assault earlier this year.

Comment: As we know DNA evidence can't be an issue in **Debra's** case at all, because the young woman had never been at the murder-scene. Yet, as in the '*Central Park jogger case*' the prosecution knew of mitigating evidence [such as [the interview of ROBERT JOHNSON](#)] which disclosed that the incrimination made by ROGER SCOTT wasn't true. However, in order to accomplish three death sentences county prosecutor NOEL LEVY dropped hints and indications that anything but his own scenario was the true one.

What went wrong, and why ? Why were the boys convicted in the first place ? There is plenty of blame to go around. But their false confessions played a large role, and the circumstances of how those confessions came about are worth a long, close look.

Comment: And in **Debra Milke's** case [her purported confession](#) as fabricated by DET. SALDATE was actually the only piece of evidence, other than a long string of unspeakable character assassinating testimonies.

The jogger case and its miscarriage of justice

In April 1989, in New York City, violent crime rates -- murders, rapes and robberies -- were out of control, and people were afraid to walk city streets. The Central Park jogger case set a record (and served as a symbol) for brutality : It was a violent rape in which the victim was also badly beaten, leading to a lengthy hospitalization. Five teenagers, ranging in age from 14 to 16 years, who had been implicated in a separate series of muggings, were questioned about the rape. The boys were African-American; the

victim was white. Some say that things began to go wrong right there, that the race factor trumped a search for the truth. The idea of a roving gang of black boys brutally beating and raping a white woman fit the schema of the public's fear of African-Americans and of teenage gangs.

All of the boys made statements to the police, though not one of them admitted to actually having intercourse with the victim. The search for the perpetrator stopped. Meanwhile, the real perpetrator, Reyes -- who had committed a rape a few days before the jogger's, and would go on to rape and kill -- remained out there. Even at the time, it was clear that his modus operandi matched the assault and rape of the jogger, but prosecutors did not follow leads relating to Reyes.

Comment: ... which certainly sounds very familiar in light of **Debra's** destiny. Instead of giving three witnesses some credit who had testified that not three shots, but five to seven shots had been fired on that fateful Saturday, December 2nd, 1989 the prosecutor made fun out of witnesses JEAN PUGH and CAROL GRIFFIN and claimed they were only after '*five minutes of fame*' and being in the newspapers. As our research and the reconstructed timeline have shown **MRS. PUGH and her neighbor** were obviously right with their observations. But the prosecution recklessly and knowingly led the jury into believing a different story which eventually landed **Debra** on death row.

Why, when no physical evidence linked the five boys to the crime and their confessions were implausible and mutually contradictory, were the boys convicted ?

In part, because a defendant's confession is considered by judges and juries to be compelling and unequivocal evidence. Indeed, the power of a confession is so strong, according to McCormick's treatise on evidence, as to make other aspects of the trial superfluous. As demonstrated in this case, a confession can even override strong physical evidence to the contrary.

Comment: ... which is why the biggest crime committed to **Debra Milke** was to allow DET. SALDATE'S unbelievable and troubling police report into evidence despite **Debra's** repeated and adamant denial of such a confession. And as we have shown, this report is also conflicting with witness testimonies and details which have not been addressed at trial.

Moreover, at the same time that confessions are viewed as virtually incontrovertible, police are allowed to use a number of wrongful tactics to get them. These tactics greatly increase the possibility of false confessions, and go a long way towards explaining why they occur.

Some current, psychologically coercive interrogation tactics should not be permitted

The Supreme Court limits the admissibility of confessions that are coerced or given without the requisite Miranda warnings. But what counts as coercion ?

Torture and beatings are obviously coercive, and were ruled to be so as early as 1936 in *Brown v. Mississippi*. Fortunately, they are largely a thing of the past. (However, in the past couple of years there has been a resurgence of reported violence perpetrated during interrogations in New York City, Los Angeles and Prince Georges' County, Maryland).

In contrast, psychological coercion, under current rules, does not automatically count as coercion; rather, psychological tactics must be proven to be coercive under a "*totality of circumstances*" test, as the Supreme Court held in *Haynes v. Washington*.

As a result, officers are indoctrinated into the psychological methods of interrogation designed to get a suspect to confess. Manuals tell investigators, for instance, to use the physical environment to law enforcement advantage, by creating small, starkly furnished and brightly lit interrogation rooms; they instruct in how to get in a defendant's face and invade his personal space. Officers learn how to conduct long interviews that may span three or four days, with little respect for a suspect's need for sleep, food or bathroom breaks.

The purpose of all these tactics, of course, to break down recalcitrant suspects. The problem is that they tend to break down vulnerable and innocent people as well as -- or perhaps even better than -- the hardened and guilty recidivist.

Deceptive tactics, in particular, often induce false confessions

Deceptive tactics are also encouraged. Investigators are taught to minimize the likely

results of suspects' confessions, and to suggest to suspects that they will get a better "deal" if they talk than if they remain silent. They pretend to identify with the suspects and to offer "rationalizations" for suspects' alleged crimes, suggesting the crimes were not so bad, and thus confessing them wouldn't be so bad, either.

Interrogators are allowed to tell suspects that if they take a polygraph and "pass," they will be released -- which is not always the case. Then, once the polygraph has been taken, investigators may lie about its results if they think that would be helpful -- telling a defendant falsely that he failed.

Comment: And on this note we'd like to remind the reader that **Debra Milke** also underwent a polygraph test which she passed, conducted by Dr. Fritz, but that this test was declared inconclusive because of the environment where it was taken [in the county jail].

Consider, for instance, the case of an Egyptian man who was wrongfully charged with lying to the FBI in post-September 11 investigations. He falsely confessed because he was told he had "*failed*" a polygraph, and that if he did not confess, the government would make life for his family in Egypt "*hell*". His conviction has been overturned, but not until he served 31 days in solitary confinement. ([More on that case](#))

Similarly, interrogators are encouraged to falsely tell suspects they believe them to be guilty, and that another suspect or physical evidence has implicated them. That was what happened in the Central Park jogger case: The boys were told that hairs linked them to the victim's body, which turned out not to be true.

Comment: **Debra Milke** served thirteen years of unjust solitary confinement.

These lies can be very harmful, since the suspect can, through repetition, be induced by the investigator to believe them. Studies show that some people who falsely confess do so because they internalize the repeated suggestions and scenarios of questioners.

Nevertheless, offering scenarios for the suspect to buy into, is still a common tactic of investigators.

Indeed, a popular text of investigative techniques explains how to offer alternative explanations for how and why a crime occurred, and encourage the subject to pick "a," "b," or "c." Once the subject makes his choice, the questioner is told to help the subject "*fill in the blanks*," often falsely.

A case in point is the infamous false confession of Paul Ingram, a highly suggestible person who confessed to totally incredible allegations of ritualistic sexual abuse against his daughters (subsequently proved to be totally false). Ingram is still serving out a 25-year sentence, because he confessed.

Accusation after accusation was thrown at Ingram, with the encouragement to "*think about it*," even "*pray over it*," and refresh his memory. He did even more, "confessing" to bizarre, baseless details.

Amazingly, as long as deceptive tactics such as these are not deemed by a court to be coercive under the totality of the circumstances, the confessions they induce remain admissible. This is true even though statistics show that false confessions are second only to false eyewitness identification in being responsible for wrongful convictions.

Other factors were at work in the Central Park jogger case interrogations

Manhattan District Attorney Robert Morgenthau's report supporting reversal of the convictions reveals other troubling aspect of the five suspects' confessions -- besides investigator's lies that physical evidence linked the boys to the victim's body.

First, none of the boys admitted actually raping (that is, penetrating) the victim. Second, their tales of time and location of the rape were inconsistent not only with each other, but with statements of reliable witnesses.

Comment: Just like **ROGER SCOTT'S statements** were also self-contradictory and hardly believable. Yet, as we have seen, that didn't hinder prosecutor NOEL LEVY to seek indictments of all three individuals by leading SALDATE **through a Grand Jury Hearing** full of invented details and repeatedly reminding the cop of an obviously pre-arranged story to tell.

Third, the suspects' conflicting and confusing statements, taken together, made no sense. It seemed, the report notes, as if the boys were talking about different crimes. It also

seemed that each expected that talking would enhance his chances of becoming a witness against others, not a defendant in his own case.

Thus, each of the suspects' statements minimized their own involvement, while placing more blame on one or more of their buddies. Together, however, the statements (though contradictory) were taken by prosecutors, at the time, to amount to a sort of group confession. They were seen that way even though some of the boys refused to admit any guilt on their own part. (Ironically, they served longer sentences as a result of insisting on their innocence).

Comment: This is similar to ROGER SCOTT'S hope to cover his own butt by claiming he was 'only' the driver.

Playing suspects off against one another, like the other psychologically coercive tactics noted above, is entirely legal, even though it also predictably leads to false confessions. Research shows that some people will say whatever a questioner wants to hear, in order to improve their status at the expense of their partner in crime.

Investigators take advantage of this psychological fact (known as "*The Prisoner's Dilemma*"); they split up and during breaks, caucus with each other and return to their suspects armed with information gained from the other. And they may begin plea-bargaining early -- suggesting suspects should confess to one crime in exchange for not having to face more serious charges.

Meanwhile, the fact that teens -- some of them young teens -- were involved heightened the coercive environment of the interrogation. The younger boys may not fully have understood the Miranda warnings. Behavioral science research has shown that teenagers (and many adults) generally don't; they may not understand what is meant by "waiver," and despite the warnings' language, most persist in thinking they will get to go home if they simply cooperate with the authorities.

Comment: In **Debra Milke's** case she '*waived*' her rights when she was brutally informed about the death of her 4-year-old son CHRISTOPHER. As we have seen with **SALDATE'S report of his interview of SANDRA PICKINPAUGH** the detective had developed a subtle technique in taking true statements, twisting them and putting them into his own, self-serving order.

In addition, teenagers -- especially antisocial kids such as these -- are also egocentric and like to put themselves into the stories they tell. At times, they lie; often, they exaggerate. A boy who ran away from the scene, for instance, might not admit it since his flight would not seem macho or manly.

Comment: Similar to SANDRA PICKINPAUGH'S statements to DET. SALDATE : she would often emphasize **in her interview** and later at trial how much she cared for her nephew CHRISTOPHER, while his natural mother was '*out, partying.*' **Debra**, who was popular and always hard-working at her jobs was always a subject for her younger sister's envy and jealousy.

In the Central Park jogger case, one of the teens also seemed to display borderline mental retardation and perhaps a psychotic mental disorder. In some of his statements, he referred to flying around the park in a blue bus. People with mental retardation are much more likely to tell any questioner what he or she wants to hear, and people who are delusional are too far out of touch with reality, of course, to make reliable statements. Despite all these problems, the prosecutors -- eager for a conviction -- still went forward.

How to stop it from happening again

How can we stop other cases like this from occurring ? A number of simple measures could prevent many false confessions such as these.

Comment: And in **Debra Milke's** case DET. SALDATE had secured to be alone with Debra, having sent her accompanying acquaintance JANET FROEBE out of the room.

First, children, teenagers, and people with mental deficiencies should not be questioned outside the presence of a competent guardian or legal representative. In this case, none of the boys' parents were present when their children made the most damaging statements against their interests.

Second, all interrogations ought to be videotaped. In this case, the taping did not begin until after the boys had been questioned for hours. As a result, the film shows only the statements, not the psychological and environmental pressures that preceded them. Jurors

could certainly get a false impression of the "confessions," viewing them outside the context of law enforcement tactics.

Third, all statements offered as confessions should not be admissible unless they are corroborated by credible and, when possible, physical evidence. Fortunately, most states do have laws that require corroboration of admissions. Unfortunately, the qualitative standard for how good the corroboration must be is quite low. Circumstantial evidence may suffice. Worse, even the statement of an accomplice, as in the Central Park jogger case, is deemed to be enough -- despite the accomplice's obvious incentive to escape responsibility by placing the lion's share of blame on someone else.

Fourth, there should be strict, carefully-enforced time limits on interrogations. Questioning that goes beyond three or four hours begins to be coercive; questioners intensify their techniques, and subjects become fatigued, confused, even disoriented. In the jogger case, the interrogations -- which ranged from fourteen to thirty hours -- clearly crossed the line from questioning into coercion.

Fifth, contrary to current Supreme Court standards, law enforcement lies to suspects should be forbidden. As noted above, the "confessions" such lies prompt are often highly unreliable.

Sixth, and finally, prosecutors should be held to their duty to do justice. Because they are immune from suit, they are unaccountable -- except to voters -- for negligence and fraud. Requiring them to vouch for the evidence produced by their investigators and law enforcement, might make them think twice about putting on any evidence and hoping it sticks.

Defense attorneys can lose their licenses for putting on false and misleading evidence, even though their duty is to defend zealously. Prosecutors, on the other hand, often do so with impunity, even though their duty is to serve justice, not to convict. That needs to stop. Prosecutors should be held as closely accountable for what they do as are defense attorneys.

The cost of false confessions

Some observers have expressed little sympathy for the falsely convicted boys, who seem to have been muggers, even if they were not rapists. But of course, a mugging is a world away from a rape, for which they were incarcerated. And more fundamentally, the Constitution guarantees that the punishment fit the crime -- not some other, worse crime one did not commit.

In any case, one need not have an excess of sympathy for the boys in order to condemn the injustice done here. One need only have sympathy for the next woman whom the real perpetrator, Reyes, went on to rape and murder, and for the jogger-victim, who did not get justice for 13 years.

They deserved much better. So did the boys, and so do we all.

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This page was last modified:

Wednesday, 30-Jan-2013 14:39:45 CET



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