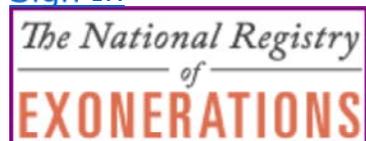


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Tim Brown

In November 1990, a police officer was shot point blank while sitting in his patrol car outside a convenience store in Broward County, Florida. Prosecutors were under intense pressure to file charges. Timothy Brown, a boy of 14 at the time of the crime, was already known to police and had accumulated nine prior convictions. Brown, who reportedly has an IQ of 56, was beaten and threatened during interrogation until he confessed to the murder. He later recanted and said that this confession was false. His alleged accomplice was also subject to intense interrogation and he too confessed and implicated Brown. Brown's confession was the only evidence the prosecution presented at trial. Brown was convicted of first-degree murder by a jury in 1993 and sentenced to life in prison. In 2002, another inmate credibly confessed to committing the crime. In 2003, a federal district court judge granted Brown a new trial, and threw out his confession after finding that detectives failed to properly read him his Miranda rights. He was released on bail on May 14, 2003, and on June 5, 2003, after further investigation revealed no additional evidence against Brown, the prosecution dropped the charges against him.

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State:	Florida
County:	Broward
Most Serious Crime:	Murder
Additional Convictions:	
Reported Crime Date:	1990
Convicted:	1993
Exonerated:	2003
Sentence:	Life
Race:	Black
Sex:	Male
Age:	14
Contributing Factors:	False Confession, Perjury or False Accusation, Official Misconduct
Did DNA evidence contribute to the exoneration?:	No

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http://articles.sun-sentinel.com/2004-09-23/news/0409230164_1_murder-conviction-othalean-brown-s-lawyers

Brown Gets 6-year Term For Dealing Crack Cocaine

September 23, 2004|By Ann W. O'Neill Staff writer

Saying he squandered the break of a lifetime, a federal judge Wednesday sent Timothy Brown back to prison for nearly six years for dealing crack cocaine almost as soon as he hit the streets after being exonerated of murder.

U.S. District Judge Cecilia M. Altonaga found that Brown turned to crime last year after serving 12 years of a life sentence for a murder conviction that was based on a false confession.

"You were certainly the victim of justice gone awry," Altonaga told Brown, 28, as she sentenced him to 70 months in prison. "When our legal system righted that wrong, you threw away your chance at life and liberty."

Shackled and soft-spoken, Brown stood up and apologized in court:

"Today I realize how much pain I have caused my [legal] team and also my family. The pain I caused, I can't change it. The 12 years I did don't make up for this crime. What I ask this court to do is help me get my life back on track."

But the judge found that he had run out of chances. "Mr. Brown, frankly blew it," she said.

Supporters cheered last year when Brown, who has an IQ of 56 and the intellect of an 8-year-old, walked free when U.S. District Court Judge Donald Graham found him "actually innocent" of gunning down Broward Sheriff's Deputy Patrick Behan in 1990.

Brown's lawyers, Brenda Bryn and Tim Day, argued that Brown should get a break because he served a dozen years in state prison for a wrongful conviction. The sentence stole his childhood, and his "mentors" during his formative years included hardened criminals, they argued.

Assistant U.S. Attorneys Joanne Thaler and Roger Powell argued that Brown already received a break because his slate was wiped clean when the murder conviction was tossed out. As a result, he would be treated as a first-time federal drug offender. The charge carried a maximum of 10 years.

"Within a few weeks of gaining his freedom, he chose to throw it all away," Altonaga said. She added that "such outright stupidity, brazenness and total disregard for our laws" did not entitle Brown to any more breaks, even though he served a dozen years in state prison for a murder he did not commit.

Brown's arrest last year in a Drug Enforcement Administration sting dealt a crushing blow to the people who stood by him -- his defense lawyers and the Hollywood woman who championed his case, Othalean Brown.

"Brenda and I aren't going to give up on Tim, because our lives are intertwined with his," said Day, who with Bryn has represented Brown for the past six years.

Othalean Brown, who had a maternal relationship with Timothy Brown, said she found it painfully necessary to walk away after the young man she supported during his long legal fight involved her teenage grandson in drug dealing.

"I'm through with him," she said. "When he got out, he went right back to the streets. He just picked up where he left off. He could have taken the right road or he could have taken the wrong road. He chose the wrong road. He just threw his life away."

Brown recently sent her a letter of apology, saying he would understand if she did not come to court for his sentencing.

Othalean Brown came to court on Wednesday, but not for Brown. She shed no tears for him, barely acknowledging him in the courtroom.

"I'm here for my grandson," she said, referring to Brown's 19-year-old nephew and co-defendant, Antonio Bowers. She wept as Bowers received a 41-month sentence for driving Brown to two of the drug deals.

Altonaga said the real tragedy occurred when Brown was released and led Bowers into crime. Bowers, she added, "didn't look for trouble, but trouble came knocking at the door. I can't help but think what a shame."

Bowers offered a brief apology.

"I'd like to say that I know what I did was wrong and I'm sorry for doing it."

Brown was accused in an indictment of selling increasing amounts of crack to a DEA informant, and later an undercover agent, on six occasions last September and October.

Brown pleaded guilty, admitting he joined a crack ring and made the sales, the largest for \$1,500.

Two other co-defendants, Samuel Carswell, 55, and Whitsell Williams, 51, also pleaded guilty to drug charges on Wednesday.

Ann W. O'Neill can be reached at awoneill@sun-sentinel.com or 954-356-4531.



Posted on Thu, May. 15, 2003

'I'm finally going home'

Judge frees man convicted in murder of deputy

BY WANDA J. DeMARZO AND DANIEL de VISE
ddevis@herald.com



Timothy Brown walked out of the Broward County Jail at 4:40 p.m. Wednesday, possibly never to return, after prosecutors acknowledged there is little chance of retrying him for the murder of Broward Sheriff's Deputy Patrick Behan 13 years ago.

Brown, 27, started the day as a state prisoner serving life without parole. He ended it in his mother's Hollywood home, a dinner of ham and collard greens on the table, an electronic monitoring bracelet on his ankle.

"I'm finally going home with my family," Brown said Wednesday, grinning broadly as he emerged from jail. "I never doubted this day would come. I've had faith in my God above."

Arrested in 1991 and convicted by a jury two years later, Brown spent 11 years, nine months and 29 days in custody as a cop-killer. But Wednesday, with the case in tatters, Broward Circuit Judge Ana Gardiner allowed him to go home on a minimal \$5,000 bond. A bondsman fronted the required \$500 himself.

"Proof is not evident," a somber Charles Morton, the prosecutor, told the judge. "Presumption is not great."

On hearing the decision, mother Othalean Brown stomped softly on the floor, murmuring "Thank God, thank God," as tears rolled down her cheeks. Next to her sat Shonteri Smith, 21, of Fort Lauderdale, a pen-pal girlfriend who has corresponded with Brown in prison for eight months.

Six hours later, after a Teletype from the Department of Correction authorized his release, a grinning Brown emerged from the Fort Lauderdale jail. He wore a blue Nautica shirt and black FUBU pants, items brought by his mother -- actually his stepmother, though she has raised him since his birth -- in a brown paper bag.

Brown hugged his mother and his new girlfriend, meeting her face to face for the first time. Then, the entourage returned to Othalean Brown's Hollywood home for "Christmas dinner," an epic feast to make up for all the holiday meals her son missed in prison.

U.S. District Judge Donald Graham overturned Brown's murder conviction in March, concluding that the mentally retarded suspect never fully grasped his legal rights when he gave police a garbled confession to the Behan slaying.

Graham earlier ruled that a reasonable jury would not convict Brown based on the evidence available today.

The Herald revisited the Brown conviction in early 2001 with a series of investigative articles that questioned the seemingly flimsy case.

Around the same time, a South Florida woman, Gwenda Johnson, provided a new lead in the dormant case. Her estranged husband, a disgruntled former sheriff's employee named Andrew Hughray Johnson, claimed he was Behan's killer, she said. Johnson later gave a detailed account of the Nov. 13, 1990, crime in a series of boastful taped conversations with undercover agents posing as drug dealers.

Both later recanted their statements, and Broward Sheriff Ken Jenne concluded last year he had insufficient evidence to arrest Johnson.

Wednesday's events, however, marked the first public concession by prosecutors that they may have insufficient evidence to attempt further prosecution of Brown.

"There is no evidence. There is no evidence that I know of. They haven't articulated any," said Timothy Day, one of Brown's federal public defenders.

The federal judge gave prosecutors 90 days to retry Brown or release him. Facing a June 25 deadline, Morton asked Gardiner to set a tentative trial date of June 23 on the remote possibility that investigators will yet find new evidence.

But retrial, at this point, seems unlikely. Three separate reinvestigations of the Behan case have found no new evidence of any weight to tie Brown to the killing. Prospects are dimming that the one remaining inquiry, by the Florida Department of Law Enforcement and BSO, will unearth anything new by the June deadline.

"We're before the court on a case where there is no case, where there are no facts," Day told the judge.

Brown's conviction hinged on his confession to BSO detectives James Carr and Eli Thomasevich. Graham, the federal judge, threw out the confession and questioned the cursory review of Brown's Miranda rights that preceded it. Both detectives

recently retired, with Carr saying he was forced out over his handling of the case.

The state attorney's new outlook on Brown became clear last week when homicide chief Morton announced he would not object to releasing Brown on a "reasonable" bond. On Wednesday, he did not oppose the \$5,000 amount proposed by defense attorneys.

Morton offered this caveat: The fact that prosecutors have no case now "does not mean that the state will not have sufficient evidence to go to trial" later.

Brown's attorneys, for their part, agreed to a long list of restrictions tailored to prevent Brown from flight.

He must wear an ankle bracelet at all times. He may not leave the county. He may not set foot in an airport, seaport, bus or train station. He may not change address without permission. He may not break a law or carry a firearm. He mustn't contact any witness in his own case. He's not to leave his mother's home without permission.

"The simplest way I can explain this to you is, you need to be inside your home," Gardiner told Brown.

Brown will be allowed daily visits to Koinonia Worship Center and Village, a neighborhood church, to pray, mow lawns and perform community service under the tutelage of church leaders. A family friend has offered him a job detailing cars.

Brown's relatives filled a row in the Fort Lauderdale courtroom Wednesday and erupted in sobs, cries and stomping feet when it became clear his release would not be opposed. The inmate, expressionless until the very end, finally turned to relatives and mouthed "I love you" before guards led him away.

"We did it," said Othalean Brown, as she rose to leave. "I am a very happy mother today. Thank God, thank God, thank God. I'm going home and I'm going to cook my baby dinner."

Federal public defenders Day and Brenda Bryn paced and fidgeted through most of the afternoon alongside Brown's mother, waiting for bureaucratic gates to open.

Brown owes his freedom in part to Roschell J. Franklin of Franklin Bail Bonds, who posted the \$500 to free him.

"I didn't know how much money the family could afford, so I just thought it would be the right thing to do," he said.

No one was celebrating Wednesday among the relatives of Patrick Behan, who remain convinced Timothy Brown is the real killer.

"While we understand that some people may be mired in ambiguity and confused in this case," the family said in a statement, "it is a certainty one person not returning home tonight is Patrick Behan; he is in a Hollywood cemetery."

Brown sent an emotional plea to the Behan family: ``I'm sorry for your loss, but I did not kill Deputy Behan. I hope one day the killer is found and pays for what he did."`

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UPDATE: "Only" 15 Months Later, Timothy Brown is Finally Released

New confession in old murder

Two teenagers were convicted in '90 death of deputy

BY [DANIEL de VISE](#) AND WANDA DE MARZO

Fri, Feb. 08, 2002

Nearly a decade after two teenagers were convicted of murdering Broward sheriff's Deputy Patrick Behan, a 32-year-old Miami-Dade County man has admitted committing the crime, according to sources close to the case.

If the man's statement holds up, it would be the third time in the past two years that a Broward Sheriff's Office murder conviction has fallen apart because of a false confession. One man went to Death Row, where he died of cancer before DNA tests exonerated him. Another served 22 years before being freed.

The two men convicted in the Behan killing, Timothy Brown and Keith King, told The Herald that they were coerced and threatened, and King said he was punched by detectives.

Tim Day, Brown's longtime attorney, was given the news of the new development by a Herald reporter.

"Wow! Wow! Wow!," Day replied. "This is unbelievable."

Added Larry Davis, who represented Brown at the 1993 trial: "It is a day of vindication for Tim Brown and a day of infamy for the Broward County criminal justice system."

Investigators Friday obtained an incriminating statement from the man, a would-be police officer who showed up thinking he was there for a job interview, the sources said.

At a hastily assembled news conference, Sheriff Ken Jenne acknowledged the case is under fresh investigation. But Jenne said that no one is in custody and they had no confession as of Friday evening.

"It is premature for me to comment on this," Jenne said. "Do I believe we have enough information to pursue this? The answer is: Absolutely yes."

SYSTEM SHAKEN

The prospect that the wrong men went to prison for the Behan murder -- a case that prompted an eight-month investigation involving 80 officers -- shook the Broward criminal justice system to its foundations.

Brown, 26, is serving a life sentence in Avon Park for the Behan murder. Keith King, 28, served a reduced sentence on a plea bargain and is now free.

Brown and King went to prison on contradictory confessions that didn't jibe with some of the known facts of the crime. Today, both men claim detectives shackled them to their chairs and extracted false confessions in a blur of violence and abuse.

The Herald revisited the Behan case in a series of investigative articles last year, highlighting some of the lingering questions. Sheriff's officials and Broward state attorney prosecutors consistently defended their methods and claimed they got the right men.

Behan, 29, died in the early hours of Nov. 13, 1990, of a single shot fired into his head point-blank. The young patrolman was sitting in his parked patrol car outside a Circle K convenience store on Hallandale Beach Boulevard in Pembroke Park.

Prosecutors claimed the two youths rode up to Behan on a bicycle and shot him on a dare.

DIFFERENT ACCOUNT

On Friday, sources say, the man who gave the statement to investigators offered a different account.

This is his story, according to law enforcement sources close to the investigation:

The Miami-Dade man, 20 at the time of the shooting, was a police wannabe, a man who drove around Hollywood with a police radio and a gun listening for action.

A feud erupted between him and a BSO deputy named Brian Montgomery. It started when Montgomery arrived at the man's home to sort out a domestic scuffle. Montgomery later spotted the man at crime scenes; the man would head out whenever he heard an officer radio for backup.

Montgomery didn't like the man and told him he'd never make a cop, not if Montgomery could help it.

"[The man] develops a massive hatred for Montgomery," one source said, speaking on condition of anonymity. "One night, he decides he is going to kill Montgomery."

He learned that Montgomery hung out at the Circle K. He drove there the night of Nov. 13 and came upon a parked patrol car. He walked up to the driver's window and raised a gun.

A DIFFERENT MAN

He met the eyes of a different man -- Behan, a youthful patrolman who looked a lot like Montgomery and was filling in for his colleague that night.

The gunman considered for a moment and decided it was too late to back down. He was already pointing a gun at a police officer. He fired. He fled.

The murder confounded investigators for months. Finally, a neighborhood kid gave

detectives the names of Brown and King, street hoods who were rumored to have committed the murder.

One key witness to the Behan murder gave police an account that matched the new statement much more closely than those of Brown and King. Edward Davis, who was walking near the Circle K that night, said he saw one man -- not two boys -- running from the scene. No witness saw a bicycle.

"If [the Miami man] is the shooter, and if he acted alone, that would be absolutely consistent with what Edward Davis said," said Day, the federal public defender representing Brown.

LIVED WITH SECRET

Sources close to the investigation say the Miami-Dade man lived with his secret for years, apparently telling only his wife. But four to six months ago, a friend of his wife found out and told a BSO informant.

Several agencies cooperated to reel the man in, the sources said. Their account:

Frustrated in his attempts to join the BSO as a patrolman, the Dade man turned to the drug trade. Alerted to this, law enforcement officers sent an undercover agent, posing as a drug dealer, to meet with him.

The undercover agent told him he could join the dealer's organization. But first, he'd have to talk.

The man was told: "If you're going to work with us, we need to know you have no problems, and you're going to need to come clean with us," a source said.

The man told of the cop killing, claiming responsibility. He later told the same story to another undercover agent, this one posing as the leader of the drug organization. Both statements were captured on tape.

A trap was set. BSO invited the man to its Central Broward headquarters Friday -- to interview for the police officer job he had always wanted.

Confronted with the taped statements, he confessed.

"He was confronted, and he cracked," a source said.

News of the confession spread -- slowly at first, then lightning-fast -- across South Florida.

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Polygrapher admits test was a ruse

August 17, 2002

MIAMI (AP) - A polygraph examiner has admitted he broke the rules of his profession during a February undercover investigation into the 1990 murder of a policeman.

Broward County sheriff's polygrapher Richard Hoffman testified he was ordered to perform the lie detector test as a ruse, didn't ask required control questions and wrote a misleading report on test subject Andrew Johnson. The report showed Johnson was being deceptive when he said he never shot a deputy.

Johnson had emerged as a suspect in the Nov. 13, 1990, slaying of Deputy Patrick Behan - a murder for which a 26-year-old retarded man is serving a life term in prison.

Testifying on the final day of hearing seeking a new hearing for convicted killer Timothy Brown, Hoffman admitted last week that he violated the standards of the Florida Polygraph Association.

"This test should not ever have been run," he said. "The test is worthless. The report is worthless."

Johnson had already told undercover officers in videotaped sessions that he killed Behan. He later retracted the statements.

Johnson was summoned to sheriff's headquarters on the pretense of a pre-employment interview but was asked about the killing in a six-hour session last February.

Attorneys for Brown claim Johnson was the real killer all along, and that he had stalked and discussed killing another deputy who got him fired as a jail guard. Behan was filling that deputy's shift the night he was killed.

Polygraph experts were appalled at Hoffman's admission.

"This is the kind of thing that happens frequently," said James Matte, the author of three textbooks on polygraphy. "The wrong examiner with the wrong test ends up in court and gives us a black eye."

Howard Temple, an Old Bridge, N.J., polygraph examiner for more than 30 years, rejected the conditions under which Johnson was tested.

"It was basically an interrogation while the guy was hooked up to a polygraph," Temple said.

U.S. District Judge Donald Graham is expected to rule this month on Brown's claim of innocence, and the state Department of Law Enforcement is looking into the

Behan case on orders from Gov. Jeb Bush.

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