

Advocates 4 Wrongfully Convicted

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RE: Story Proposal – “Sins of the Son” The Wrongful Conviction of Jason Payne

To Whom It May Concern:

Imagine waking up in the morning on a normal weekday in *Quitman, TX*, taking your children to school and returning home to find your wife and stepson shot in the head. You immediately call 911 telling them you need help desperately.

Now imagine that after the police arrive and conduct their crime scene investigation, they suggest you go to the police station with them for a “friendly chat.” You agree because you want to help them get to the bottom of these shootings and find out what happened to your wife, Nichole and stepson, Taylor on that fateful day of *December 11, 2007*. It never crosses your mind that the police may be looking at you as a suspect in this terrible tragedy. The so-called “friendly chat” turns into an interrogation and at the end of it you are considered the principle suspect in a double homicide. Then imagine the police asking you to sign a form and in your state of mind of shock, grief and confusion you sign the form. You do not realize you have just given up custody of your two children, who you love more than life itself.

Think this can't happen? Think again, just ask Jason Payne because this is exactly what happened to him. Today he is sitting in a Texas maximum security prison, serving a life sentence without parole, for being wrongfully convicted of a double homicide when all the evidence pointed to a murder suicide.

How could this happen? An overly zealous Sheriff's Deputy, Lt. Miles Tucker of the *Wood County Texas Sheriff's Department*, the lead investigator in the case, in a rush to judgment decided things “just didn't look right.” He pursued his theory of a double homicide, *despite receiving a detailed report from the forensic expert Noel Martin. The report quite clearly described his findings of murder/suicide in the tragic deaths.* It was apparent, based on the evidence at the scene, that Taylor shot his mother and then went into his room and shot himself.

Tucker chose to disregard the findings of the report and brought in another “expert”, Tom Bevel. Mr. Bevel was NEVER at the crime scene, he didn't review Noel Martin's report that was offered to him, and never had the autopsy report. Instead, he used Lt. Tucker's case report, full of false circumstantial evidence, to form an opinion that fit Tucker's theory - that the crime was a double homicide.

Mr. Martin was so confident in his findings that when asked at trial if the circumstantial evidence presented would have changed his conclusion, he said NO because a forensic expert's role is to

examine the physical evidence and formulate a conclusion, and clearly the physical evidence indicated murder/suicide, without question. Martin went one step further before the trial and had his report peer reviewed and everyone agreed with his conclusions.

So how was Jason Payne convicted when the forensic evidence clearly indicated murder/suicide? Like many of the recent cases overturned by Innocence Projects throughout the United States, Payne's case had many of the factors that contribute to wrongful convictions and all are indisputable based on the Discovery, reports and the trial transcripts. He was convicted because of the following:

1. **Prosecutorial Misconduct** – Prosecutor Jim Wheeler, *Wood County, Texas District Attorney* allowed two of his key witnesses, Lt. Tucker the lead investigator and Tom Bevel prosecution's forensic expert, to testify falsely regarding key evidence knowing it wasn't true; thus perpetrating a fraud on the court and intentionally misleading the jury.
2. **Ineffective assistance of counsel** – Jason's defense team put on a credible defense on the forensic side of the case, but did little or nothing to refute the prosecution's circumstantial side of the case which is what led to Jason's wrongful conviction. And much of this "evidence" was completely unfounded but left an impression on the jurors.
3. **Evidence Tampering/police misconduct** – Crime scene photos show the weapon used to commit the crime was moved and relocated to make it look like the suicide was staged by Jason. Crime scene photos also show that the only people that could have wiped the murder weapon clean was the police, not Jason as they stated.
4. **Perjury** – Lead investigator Lt. Tucker lied on the witness stand when he stated Jason wiped the murder weapon clean. Despite knowing Jason couldn't have possibly wiped that weapon clean. Tucker also lied when he testified that Noel Martin didn't tell him his reasons for reaching the conclusion of murder/suicide, and that Martin never told him he found blood on the carpet at Taylor's feet. This lack of blood evidence on the carpet was a key reason the prosecution stated Taylor did not commit suicide.
5. **Flawed DNA** – Prosecution expert witnesses stated it would have been impossible for Taylor to fire the murder weapon at a distance of under 12". Noel Martin and Ed Hueske, another defense forensic expert demonstrated at trial that it was most certainly possible. Much was made at trial of blood spatter evidence. However, the key piece of evidence, a thin layer of soot on Taylor's lip, showed the weapon could have been fired less than 12".
6. **Hearsay testimony** – Sara Hawthorne, sister-in-law of Nichole Payne, weaved a story of lies and deceit that could not be verified by anyone and it should have never been allowed at trial. The Texas appellate court stated it was hearsay evidence but was harmless. It was this hearsay testimony by Hawthorne that led to Jason's conviction and was far from harmless as the appellate court stated.
7. **Circumstantial case filled with lies and full of holes** – The circumstantial case put on by the prosecution was full of holes and inferences that the defense did nothing to refute. When we got the case and thoroughly studied it we were able to refute every single instance of the circumstantial case.

I encourage you to visit Jason Payne's web site at www.wcojp.org to learn all of the details of this case that led to a wrongful conviction and sent a man to prison for the rest of his life. This wrongful conviction robbed him of the opportunity to be a loving, caring father to his two young children; as he had always been. After reading this tragic story we hope you will consider doing an investigative report on this case. Please contact me with any questions you may have.

Respectfully yours,
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