

SENATE JUDICIARY  
EXHIBIT NO. 36  
DATE 2/8/11  
SB 185

<< MEMORANDUM >>

TO: Senate Judiciary Committee  
FROM: Jeffrey Renz  
RE: SB 185  
DATE: February 7, 2011

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I have testified before this Committee on several occasions but my duties at the Law School will prevent me from appearing on February 8, 2011.

In addition to my past testimony, I think that it is now important to call to the Committee's attention the deleterious effect that the threat of the death penalty has in the criminal justice system.

In particular I refer to the cases of State of Virginia v. Derek Tice, Danial Williams, Joseph J. Dick Jr., Geoffrey A. Farris, John E. Danser, Richard D. Pauley, Jr., and Eric C. Wilson. These are also referred to as the Norfolk Seven.

Their story is frightening. In 1997, Michelle Moore-Bosko was raped and murdered in her apartment in a garden apartment complex in Norfolk. There were no witnesses. The evidence of rape included a substantial amount of biological material for which DNA analysis could be done. A resident of the apartment mentioned to police that she thought Williams was unusually interested in Bosko.

Police, who had no other leads, brought Williams in for questioning. They questioned him for a number of hours. They told him that they had evidence that tied him to the crime. Worst, they told him that if he did not cooperate that he would be executed; if he confessed, he would live.

Eventually Williams gave a statement in which he admitted raping and killing Bosko. The statement, however, was inconsistent with the crime-scene evidence. The police re-interrogated him, threatened him with death again, and led him through the evidence until the statement fit.

Then they tested the crime-scene DNA.

It excluded Williams.

The police now had a problem and a solution. Their solution was to assume that

Williams had an accomplice. His roommate, Dick.

Dick's interrogation followed the same pattern. Long questioning, threats of the death penalty, Dick's statement that did not fit the facts of the crime, Dick's revision of his statement to fit the facts (provided by police.)

Then they compared Dick's DNA with the crime-scene DNA.

Dick was excluded. The log of the USS Saipan, where Dick served, showed that he was on duty at the time of the murder.

But too often police don't let facts interfere with a confession. If you have the same problem, use the same solution. Dick was a weak personality and the police recognized this. They leaned on Dick and threatened him with death again. Dick told them that Wilson had joined him and Williams. The police arrested Wilson.

The interrogation and confession followed the same pattern. Threat of death – unreliable confession.

The DNA excluded Wilson.

The police returned to Dick, who now named Tice. Same pattern, same DNA result.

Eventually Dick would name 6 sailors. None matched the DNA. No one, without police coaching, was able to give a statement that matched the crime. Two of those named had documentable alibis and, fortunately, did not confess.

A few years later, a woman comes to the Norfolk police with a threatening letter from one Omar Ballard. In his letter he threatens to do to her what he did to Bosko. Ballard is a convicted felon. He assaults women. His DNA matches the crime scene DNA. He gives a statement that is corroborated by the physical evidence. He tells them that he was alone. The physical evidence at the crime scene fits Ballard and no one else.

Four of the seven remain convicted of Bosko's murder and rape.

Fifteen per cent (15%) of innocent people who confess do so after they are threatened with the death penalty.