

"This is such a strange
and obscure story that it
is difficult to recommend
any punitive term with
complete confidence."

Lord Bingham
Lord Chief Justice
January 1998

Derek Christian has
now spent a total of
4,070 days in prison

England
17 January, 2008

In a criminal trial the burden is upon the prosecution to prove the guilt of the accused beyond any reasonable doubt. Juries are directed that unless the evidence makes them satisfied so they are sure of guilt, their verdict must be one of not guilty.

Beyond Reasonable Doubt

At the end of a three-week trial a jury decided - on the basis of purely circumstantial evidence - that Derek Christian should serve a life sentence for a crime of which he is innocent. It decided beyond reasonable doubt. In a mere two hours and ten minutes.

Derek is now serving a mandatory life sentence at HMP Frankland. Convicted of murder not only on the strength of circumstantial evidence, but also in the face of conflicting - and in part very doubtful - prosecution evidence.

Derek Christian has always protested his innocence. He will continue to do so. This decision will, in all probability, cost him any hope of ever being granted parole. Of that there can be very little doubt.

We also firmly believe that Derek is innocent. We wish to see that justice is done. Rather than being seen to be done. In this regard, we can only echo the words of the Lord Chief Justice - *"This is such a strange and obscure story that it is difficult to recommend any punitive term with complete confidence."*

His leave to appeal having been refused, the only way forward for Derek Christian is through the Criminal Cases Review Commission. We are submitting an application to the CCRC, requesting that his conviction be examined and the case referred to the Court of Appeal.

Reversing a miscarriage of justice is a difficult and lengthy process. One which can take decades rather than years, as is demonstrated by the cases of Andrew Evans, Stefan Kiszko and James Hanratty, to name but three of countless others.

If, after reading this, you are left with any reasonable doubt as to Derek's conviction, we - and he - would greatly appreciate your support. Should you feel that you are able to help in any way whatsoever or should you wish to make known your feelings on the case, please do not hesitate to contact us.

Tracey Noble

Kevin Charles Christian

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The Case Against Derek Christian

A summary of the evidence presented in court

By K Christian and T Noble

The following considers several aspects of the case against Derek Christian, and in particular the majority of the issues raised by the prosecution evidence as presented in court.

The background

Derek Christian was accused of the murder of 66-year-old Margaret Wilson as she was walking home on a country road at around 3.30 pm on 9th February 1995. Her throat was cut by an unidentified man near to her home in Burton Fleming, East Yorkshire.

It had been an unsolved, “motiveless” murder for just over a year when Derek Christian was arrested in connection with the offence in March 1996. He was released 36 hours later without being charged. Items were seized from his parental home, where he was living at the time, and he surrendered the clothes he had been wearing on the day of the murder. There was absolutely no evidence to link him to the crime at that time. There was no link between Derek Christian and the victim or any members of her family, nor has there ever been.

He was arrested again in November 1996 and held on remand, on the basis of fibre evidence linking him to the victim, until his trial commenced at Leeds Crown Court on 13th November 1997.

Derek, born in 1964, a married man with 3 sons, was in full-time employment when Mrs Wilson was murdered.

The prosecution case

The main planks of the prosecution case against Derek Christian were that:

- He, and his car, broadly fitted the description of the assailant and his vehicle.
- He did not have an alibi which could be substantiated, and had later changed his alibi.
- The murder weapon was the same make of knife used at McCains, Derek Christian’s place of work.

- A newspaper published on 7th February 1996 containing an article relating to the crime was found at Derek Christian’s parental home in March 1996, where he was living at the time.
- Forensic evidence revealed that some of the fibre types from the clothing he was wearing on the day of the murder “matched” fibres found on the victim’s clothing.

Identification

The majority of the eye-witnesses speak of a “clean-shaven man in a white estate car” as being the assailant. There were several eye-witnesses:

- The main eye-witness was a woman walking her dog in the village of Burton Fleming. The assailant pulled up opposite this woman in what she consistently described as a “large white” car. Frightened by the look on his face, she returned home immediately. She must have looked at him for 20 to 30 seconds or so. This man then went on to murder Mrs Wilson some 5 minutes later. Her description of the assailant states that he was “clean shaven”. This description was used as the basis for a photofit and an enhanced video image. She also stated she believed she would recognise the assailant if she were to see him again.
- A woman who drove past the assailant as he drove away. She described the man as looking like a sales rep and his car as being “white”.
- Another woman who saw the assailant from her car as he drove past her. She too describes the man as being “clean shaven”. This woman also helped police to complete a drawing of the man she had seen. She said that the photofit was a good likeness. She refers to a “dirty estate car, probably grey”.
- Two tractor drivers who were far too far away from the assailant to make a clear description of him. One tractor driver was adamant the car was a “white Montego”, the other said it was “white or silver”.

Three days after the murder two police officers visited Derek Christian's house in the course of a routine check on all owners of a Ford Montego in the area. As part of this visit they completed a form which included an "appearance" section. Derek Christian is described as having a "beard" and as being the owner of a "silver estate car". This beard was qualified in court by one of police officers as being a "pronounced goatee beard".

The same police officers also stated in court that the car looked white when they first saw it in the drive of Derek Christian's house on 12/2/1995. They both made similar entries in their pocket books to this effect on 28/2/1996 - one year after the event. In court one of the two officers then went on to state that he had not seen a silver car in the drive at all, let alone one that looked white.

Despite the prior existence of a photofit picture and an enhanced video image - both showing a clean-shaven man - created with the aid of the two eye-witnesses able to clearly see the assailant, no identity parade was ever held. No-one was asked in court if they recognised the defendant as being the assailant.

The alibi

With regard to Derek Christian's alibi, evidence was produced by the Crown that he left work at 15.01 and that he collected cash from an automatic cash dispenser in his home town - some 20 miles away - at 16.06.

The car journey between his place of work and his home takes ca. 35 minutes. The scene of the crime was approx. equidistant between his place of work and the town where he lived. So - in theory - Derek Christian, would have had time on his normal journey home from his place of work to take a small detour, drive around the village of Burton Fleming looking for his prey, drive past Mrs Wilson on a country road as she was out walking, pull up in his car, briskly walk ca. 100 yards towards his victim, slash her throat, sprint some 100 yards back to his car, speed off home, presumably wash the blood out of his clothes and his car, and then casually pop down to the cash dispenser.

In the course of the above-mentioned visit to his house three days after the murder Derek Christian was first asked about his whereabouts on the day in question. He stated

that he had been at work until 15.00, then driven home, arriving at around 15.45. At this time he had not remembered going to the cash dispenser.

Following Derek Christian's arrest in March 1996, the day of the murder (9/2/1995) was discussed with his parents-in-law. They told him that he had helped them move some furniture after he had left work on 9/2/1995. He then went to the police (with his solicitor) and made a fresh statement to this effect. His later accounts in court of why he had changed his alibi were, to say the least, damaging to his own case.

It transpired that this "new" alibi cannot have been correct. The police produced evidence that a telephone call was made from his in-laws' house at a time when Derek Christian, his mother-in-law and his father-in-law had claimed that they were moving furniture by car. This evidence was in the form of an itemised bill from BT, and was only located 4 weeks prior to the trial commencing, i.e. a year and a half after Derek Christian had made the statement changing his alibi. If this bill had not been located by the telephone company, Derek would have stood by this alibi. His parents-in-law would also have testified that he was not at the scene of the murder at or around the time the crime was committed.

The fact that he had changed his - perfectly plausible - alibi to one which was later shown to be flawed, allowed the prosecuting counsel to state in court that "you (the defendant) would have come into this witness box and lied, and lied and lied about your whereabouts on the day of the crime". Which, in the eyes of the jury, was nearly as good as the prosecution saying that he had in fact lied.

Even police officers have since stated that he did help his in-laws move furniture, but on the following day (10/2/1995), and that his in-laws had merely got their dates mixed up. A very understandable mistake over a year after the event.

The murder weapon

The murder weapon itself was recovered quite quickly at the scene of the crime. It had been in production for over 20 years. The same make of knife is supplied to Boots the Chemists, Walkers Crisps, McCains and Jacobs Bakery, to name but a few. Over 1,800

knives identical to the one used in the killing were supplied between January 1993 and March 1995 to the McCains' factory where Derek Christian worked. So - in theory - the murder weapon could have originated from the factory at which Derek Christian worked. Such knives are often taken home by staff for personal use, and are also used on the many farms in the area (and indeed throughout England).

In the course of the trial there was some debate as to whether Derek Christian had ever seen such a knife. Whilst being questioned by the police in March 1996 he had been shown a photograph of the murder weapon and asked if he had ever seen this knife. He said that he had not. The police then maintained that he must have seen this knife before as it is the same type used at McCains and all the other staff had immediately recognised the knife. He consistently denied having ever seen such a knife. His tasks at McCains did not require the use of such a knife. The prosecution did not call any witnesses who could testify to having seen Derek Christian with such a knife.

The Crown produced no evidence of any scientific link between McCains and the murder weapon, let alone between Derek Christian and the murder weapon.

The newspaper

A local newspaper published on 7th February 1996, one year after the murder, was seized from Derek Christian's parental home when he was first arrested in March 1996, and where he was then living. This newspaper contained an article relating to the crime. The prosecution maintained that he had kept this "anniversary" issue as a "trophy". Derek Christian strongly denies this claim. The newspaper dates from Derek Christian's birthday. He maintains that he was particularly interested in the "classified" adverts and this is why he had saved the newspaper.

The forensic evidence

The evidence presented until now at the trial broadly fell into the "circumstantial" category. The forensic evidence which followed was then portrayed by the prosecution as being "solid". The only forensic evidence that could link Derek Christian to the crime is in the form of fibres.

The clothing which the victim was wearing when she was attacked was examined by the Crown's forensic expert in February 1995. Her coat and gloves in particular were extensively stained with blood. Foreign fibres were removed by rubbing Sellotape over the clothing until the Sellotape no longer had any adhesive properties; these "tapings" were then stored for later analysis.

The clothes Derek Christian was wearing on the day of the murder - he had the sort of job for which people wore the same clothes every day - including a "Regatta" fleece jacket, joggers, and a sweatshirt, were sent for forensic examination when he was arrested in March 1996. The results of this examination were available made on 13th September 1996.

Of the various fibres found on the victim's clothing, seven different fibre types were "microscopically indistinguishable" from some of the constituent fibres in the clothes Derek Christian had been wearing on the day of the murder. These fibre types were: purple polyester, green polyester and purple acrylic (Regatta jacket); green cotton and green polyester (sweatshirt); blue polyester and blue cotton (jogging bottoms). A total of 78 of these 7 fibre types were found on Mrs Wilson's clothing. A tiny piece of printed viscose material was found in a "pill", or bobble as they are commonly known, on Derek Christian's joggers. One fibre from this was microscopically indistinguishable from the fibres in the victim's skirt.

A person might be tempted to think that this sounds convincing, after all there were seventy-eight fibres from his clothes on the woman's clothes. And one fibre from her skirt was found on his clothes. And convincing it might be until one looks at some parts of the forensic expert's further testimony, in the course of which it becomes clear that "microscopically indistinguishable" does not mean "the same", and that there were many other fibres on the victim which had not come from Derek Christian's clothing.

- Asked about the source of foreign fibres on a person's clothing, the forensic expert replied: "The domestic environment is likely to account for the majority of fibres found on clothing. In an ideal world we need to check that fibres did not come from a domestic source." No such check was ever

conducted.

- Other fibres were found in the bodybag which had been used to transport the victim. Mr. Faulkner also examined these fibres: "None of these fibres match any of the constituent fibres in Derek Christian's clothes nor in Margaret Wilson's own clothing."
- "I was searching the fibres found on the victim for a highly distinctive population of fibres that may prove useful. No such population exists."
- There was a large number - the forensic expert thought probably hundreds - of other foreign fibres which could not be accounted for.
- The forensic expert reported that a number of other items were also examined for elimination purposes. A large number of these also shed the same microscopically indistinguishable fibres found on the victim. One item of clothing - purchased by the police solely for elimination purposes - shed 3 of the 7 different fibre types. And fibres in two totally different garments - a rugby shirt belonging to a police officer and a sweat-shirt belonging to Derek Christian - were found to be microscopically indistinguishable from one another.
- On the uniqueness of fibres: "No single fibre, or group of fibres, can be attributed to a garment to the exclusion of all others [garments]".
- On the uniqueness of clothing: "If all four [available instrumental] tests are used and two fibres matched, it does not necessarily mean that they came from the same garment. Garments are not unique."
- On the nature of fibre evidence: "Fibre testing is not an exact science, it is not comparable, in this regard, to DNA testing or bloodstains".
- His conclusion: "The findings cannot produce an unequivocal link between Derek Christian's clothing and those fibres found on the victim's clothing".

The defence case

The defence case during the presentation of the Crown's evidence - evidence which may not, in law, be ignored by the jury - had focused on the lack of identification pointing to Derek Christian being the assailant, and on the evidence clearly pointing away from the possibility of his being the murderer. The main plank of the defence's own case was that the

crime had been committed not by Derek Christian but by a man who had been "preying" on women in the area on the day in question.

The credibility of the defence case was severely undermined by a number of incidents in the presentation of its evidence:

- The poor "performance" by the defendant himself in the witness box.
- A key defence witness committing perjury.
- The prosecution recalling a defence witness.
- A defence witness being unable to give evidence.

The main defence witness in any murder trial is usually the defendant. This trial was no exception. Derek Christian had been instructed by his defence team to appear in court with a full beard and long hair, dressed in a suit. His appearance was appalling to those who knew him, and must have been all the more so to the jury. Furthermore, he was a hopeless witness, receiving what can only be described as a "mauling" from the prosecution barrister. Not the most articulate of individuals (and especially when confronted by a barrister), Derek Christian was often at a loss for words, inventing a response so as to avoid saying "I don't know" - which would have been the honest answer to many of the questions put to him. His explanations of why he had changed his alibi and why there was a newspaper in his bedroom, for instance, were marred by his clumsy attempts to prove his innocence. His statement that he had "been wasting police time" by not coming forward as soon as he had realised that he had "given a false account of his movements" on the day of the murder was not only untrue but also extremely damning to his own case.

It was not an auspicious start to a defence case.

The next defence witness to take the stand was a woman who had long been a mainstay of the police investigation. Her evidence was that she had seen the later assailant driving around the village at times when Derek Christian was at work. This testimony was to support that of later defence witnesses who had also been confronted by a clean-shaven man driving around the area in a white car on the day of the murder - at times when Derek

Christian had an alibi which could be substantiated. The day after giving her - lengthy - testimony she returned to the witness box to retract all her previous evidence and statements. The judge was requested by the defence to discharge the jury and order a retrial as this incident could and would reflect negatively on the defence. The jury was not discharged.

The credibility of the defence case had by now been severely eroded.

A further - very credible - witness to have been confronted by a "lurking man" in the area on the day of the murder contacted the police in response to an appeal in a local newspaper asking her to come forward. The police only informed the defence of this woman's statement a matter of weeks prior to the trial. She had given her statement over two years previously, on 28/2/95. In her testimony she reported of a clean-shaven man in a white car "stalking" her while she was out riding her horse at a time when Derek Christian was at work.

The day after this woman had given evidence, the prosecuting counsel requested that she be recalled so he could ask a couple of questions which he had omitted to put to her the previous day. The defence objected. The judge ruled that she may be recalled if she could appear quickly. The prosecution stated that she was in the court building. Which was hardly surprising as the police had contacted her the previous evening requesting her to return to court again the next day. Recalling the witness was a clear manoeuvre on the part of the prosecution to undermine her credibility.

A witness confronted by a "lurking man" in the area two days prior to the murder - at a time when Derek Christian had an alibi which could be substantiated - was unable to give evidence. Due to take to the stand she suffered an asthma attack. A doctor certified that she was fit to give evidence. As the trial judge said, this was plainly not the case. She had to be brought into court in a wheelchair. This incident was the cause of mirth for several members of the jury and a number of persons in the public gallery. She proved unable to give evidence, not even getting beyond taking the oath. The judge ruled that her statement made to the police in 1995 may be read out to the jury.

She also tells of being followed by a clean-shaven man while out walking her dog in the country and having seen a white family-sized car parked nearby. She believes the man was frightened off by her dog. She then went home and returned with her husband to look for the man again.

Crown admissions

It was stated in a Crown admission that the vehicle owned and driven by Derek Christian was tested by forensics experts on 14th March 1995 (just over a month after the murder) and also a year later, on 20th February 1996. Their findings reveal that Derek Christian's vehicle contained no fibres from the victim's clothing. And the Crown's own sophisticated tests reveal - despite the bloody nature of the crime - that no blood from the victim was found on Derek Christian's clothing nor in his car.

Another Crown admission regarded two footprints found close to the victim's body. These footprints were not attributable to Derek Christian, nor to any of the persons known to have been present at the scene of the crime. None of the footprints at the scene of the crime were attributable to Derek Christian.

Further Crown admissions concerned the various items of clothing central to the prosecution case. These reveal that the majority of items had been manufactured - and sold - in tens of thousands.

Crown admissions are statements with which neither the prosecution nor defence disagrees. They are merely read out by the defence after it has presented its case, as it wishes to put such evidence to the jury. Such admissions are not the subject of any further elaboration in front of the jury. And as such, the significance of these admissions is often underplayed.

The verdict

The jury deliberated for two hours and ten minutes before returning a unanimous verdict of guilty. Derek Christian is now serving a mandatory life sentence at HMP Frankland, Durham.

Beyond reasonable doubt?

As the prosecuting counsel stated in his summing-up, the fibres are used as "corroborative evidence". So, just what do they corroborate?

- Certainly not the hundreds of unidentified fibres on the victim's clothing.
- Certainly not the two unidentified footprints at the scene of the crime.
- Certainly not the complete and utter absence of bloodstains on Derek Christian's clothing.
- Certainly not a pronounced goatee beard.
- Certainly not a silver car.
- Certainly not a knife with no proven scientific link to the defendant nor his place of work.
- Certainly not the significance of a - recently published - newspaper in the defendant's bedroom.

The prosecution asked the jury to disregard the evidence which spoke in Derek Christian's favour and to focus on the fibre evidence. As may be seen here, not only does such fibre evidence require corroboration in the form of other - solid - evidence, it is also anything but reliable. Nevertheless, the prosecution then used the various sets of circumstances (change of alibi, newspaper, may perhaps have lied about ever seeing a knife similar to the murder weapon) to corroborate the very evidence which itself can only be used for the purpose of corroboration.

Evidence

There was very little to connect Derek Christian to this crime, and nothing whatsoever to link him to the victim. The prosecution case largely hinged on fibre evidence, Derek's general description and the colour of his car. Each of these has serious shortcomings.

The identification of Derek as the assailant is seriously flawed by the Crown's contradictory evidence, as may be seen from the "Personal Descriptive Form" (Exhibit 81), the statements of eye-witnesses, and the photofit images of the attacker. Bearded men are not clean-shaven. And vice versa.

Also seriously flawed is the prosecution's contention that Derek Christian's silver car looked white, and the preposterous claim on the part of Andrew Campbell QC that silver actually is white. Silver is not white. And vice versa.

The forensic evidence is tenuous to say the least. As an illustration of this, let us look at just one of the seven "matching" fibre types. The green cotton in Derek Christian's sweatshirt. Does "microscopically indistinguishable" mean that fibres definitely come from a specific item of clothing, which can only have been worn by one person? The green cotton in Derek Christian's sweatshirt was microscopically indistinguishable from the green cotton in the following garments:

- PC Lee's sweatshirt
- A "polo" shirt
- DC Marsden's green, white & blue rugby shirt
- A partly grey sweatshirt
- A green/yellow rugby shirt

This green cotton accounts for 14 of the 78 "matching" fibre types. Nearly a fifth of the sum total.

Forensic testing also revealed that a Regatta jacket bought by the police also shed the same three "microscopically indistinguishable" fibre types as Derek Christian's fleecy jacket. These fibres types account for a further 22 fibres.

As well as the evidence and testimony presented at length to the jury, the prosecution made several admissions - facts which are not in dispute. These include:

- The fact that there were unidentified footprints at the scene of the crime.
- The fact that there were no fibres in Derek Christian's car which provide a forensic link to the incident.
- The fact that no blood was found in Derek Christian's car nor on his clothes.

As may be seen, the evidence is purely circumstantial, with the weakness of the evidence against Derek Christian being more than matched by the strength of the evidence which clearly points away from him having committed this heinous crime.

Fibres - A summary of fibre findings

		Coat		Cardigan		Blouse		L. Glove		R. Glove		Skirt		Totals	
		OSF	OSB	OSF	OSB	OSF	OSB	Palm	Back	Palm	Back	OSF	OSB		
Regatta jacket (fleecy)	Purple polyester	3	2	0	0	0	0	0	1	0	0	0	0	6	22
	Green polyester	3	2	1	0	0	0	1	1	1	0	0	0	9	
	Purple acrylic	4	2	0	0	0	0	0	0	1	0	0	0	7	
Green Carlsberg sweatshirt	Green polyester	13	7	0	0	0	0	5	5	0	2	1	0	33	47
	Green cotton	-	10	-	-	2	-	-	-	1	-	-	1	14	
Pale blue/grey joggers	Blue polyester	-	8	-	-	-	-	-	-	-	-	-	-	8	9
	Blue cotton	-	1 in pill	-	-	-	-	-	-	-	-	-	-	1	
Totals		23	32	1	0	2	0	6	7	3	2	1	1	78	
		55		1		2		13		5		2			

OSF = Outside front / OSB = Outside back
 - = not searched for / 0 = none recovered

A total of 78 fibres of 7 different fibre types

Silver vs. White

Of the many sightings by eye-witnesses and others, only 3 people speak of not seeing a white car. Indeed, one eye-witness, Martin Hornsey, was "adamant" that the attacker's car was white. The two women "stalked" by a man in the area - on the day of the murder and two days previously, respectively - speak of a white car as being involved. The following table lists some of these sightings:

White:

- Martin Hornsey
- Karen Holloway
- Marie Cundall
- Linda Rounding*
- Delia and John Pudsey
- Shaun Collins
- Debbie Gilson
- David Robinson
- Lisa Jane Moor
- Ann Matson
- Wendy Price

Not white:

- Nigel Houseman - white or silver
- Louise Grey - dirty, probably grey
- Martin Bowes - light-coloured

* Committed perjury

Identification

Exhibit 81 - Personal Descriptive Form (Derek Christian, 12/2/95)

Exhibit No. 81

Personal Descriptive Form

APN/16 Dist. Men, made Y1/94

P. 24

Surname: CHRISTIAN N. 97 Maiden Name: _____ Title: Mr.
Forenames: Derek Leonard Sex: M E.O.: 1
Date of birth: 7/2/64 Birthplace: BIRMINGHAM Height: 5'11"
Address: 20 NEW WALK BINGFIELD Post Code: YO6 1AA
Home Tel. No: 0177 240572 Business Tel. No: 01775 58441 Occupation: PROV. WINE
Employer/School details and address: K-CARDS BIRKBEACH

Any other name

Surname: NO Forenames: _____ Name type: _____

* Build: Fat/Stocky / Medium / Slender / Thin / Heavy / Other _____
* Hair Colour: Light Brown / Lt Brown / Fair / Blond / Grey / White / Black / Ginger / Aged / Other _____
Hair Type: Bald / Thinning / Receding / Straight / Curly / Wavy / Dyed / Short / Curly Length
Shoulder Length / Very Long / Wig / Other _____
* Eyes: Blue / Brown / Green / Grey / Cast / Staring / Other _____
* Complexion: Fair / Pale / Ruddy / Tanned / Fair / Spotted / Other _____
* Facial hair: Beard / Moustache / Bushy Eyebrows / Long Sideburns / Other _____
* Glasses Worn: Yes / No / Use _____ Acorn: E. YORKS.
* Recent injury: Tattoo / Other visible Marks / Peculiarities / Noticeable Jewellery.
give details: THORNTON COAST 7 both arms 7 both shoulders 7 hands
STOMACH

Vehicles (Owned or Use. Tick box if vehicle owned)

<input checked="" type="checkbox"/>	Reg. No. <u>E676 XBT</u>	Make/Model <u>HONDA</u>	Colour <u>SILVER</u>	Type <u>EST</u>	Seen <u>Yes</u>
<input checked="" type="checkbox"/>	Reg. No. <u>J200 KH01</u>	Make/Model <u>FAW</u>	Colour <u>SILVER</u>	Type <u>SA</u>	Seen <u>Yes</u>
<input type="checkbox"/>	Reg. No. _____	Make/Model _____	Colour _____	Type _____	Seen _____

Knows victim Yes / No Nature of relationship: _____
Clothing worn at time of arrest: Trouser Cotton (blue)
Shorts

Visited victim during _____

<input checked="" type="checkbox"/>	Reg. No. <u>E676 XBT</u>	Make/Model <u>HONDA</u>	Colour <u>SILVER</u>	Type <u>EST</u>	Seen <u>Yes</u>
<input checked="" type="checkbox"/>	Reg. No. <u>J200 KH01</u>	Make/Model <u>FAW</u>	Colour <u>SILVER</u>	Type <u>SA</u>	Seen <u>Yes</u>
<input type="checkbox"/>	Reg. No. _____	Make/Model _____	Colour _____	Type _____	Seen _____

N.I.D. No. _____
Calculator check Yes / No
List type of convictions: _____

Any other information: Royal Engineer

Name, rank & number of officer completing form: DC GORD MURPHY
Date and time completed: 12/2/95 1120

ANY OBSERVATIONS ABOUT THIS PERSON IN RELATION TO THE INVESTIGATION MUST BE INCLUDED EITHER ON THE RESULT OF ACTION OR IN AN OFFICER'S REPORT

Name, rank & number of officer completing form: DC GORD MURPHY
Date and time completed: 12/2/95 1120

ANY OBSERVATIONS ABOUT THIS PERSON IN RELATION TO THE INVESTIGATION MUST BE INCLUDED EITHER ON THE RESULT OF ACTION OR IN AN OFFICER'S REPORT

Indexed _____

Exhibit D 1
Photofit by Marie Cundall



Exhibit D 3
Photofit by Louise Grey



Excerpt from Marie Cundall's statement

* The driver I would describe as white male and he appeared to me to be a large man, quite well up in the seat, his head near the roof. He had large dark staring eyes with a rounded face with a proportionate nose. I know he did not have thick lips and he was clean shaven and did not wear glasses. I would say he was aged in his late thirties or early forties.

Crown admissions

(Nos. 1 and 3)

The Crown makes the following admissions in this case:-

1) The 'blue/grey' jogging bottoms seized from the bedroom of the defendant at his parents' house on 25th March 1996 by DC Kynaston were probably manufactured in Dubai six or seven years ago in tens of thousands. They were distributed to discount stores and market stalls;

3) The foot impressions found at the scene of the murder by John Frederick Fox - a Scenes of Crime officer - and examined by a Forensic Scientist, Gordon Charles McKinlay and the tapings taken from the car that the defendant owned by Paul Smith provide no forensic link to this incident. No blood was found in the defendant's vehicle when it was searched by Colin Parker, a Scenes of Crime Officer, either;

“BEYOND REASONABLE DOUBT?”

The Rather Doubtful Case of Derek Gordon Christian

By Simon Regan

On the face of it, it seemed like a classic piece of detective work by Humberside police. And, after the guilty verdict, Detective Chief Inspector Martin Midgley, in charge of the murder investigation, felt free to bask in the limelight of victory. In fact, it was a glorious swan-song for him because he retired from a long and distinguished career on the following day.

When the police began their investigation of a brutal and senseless murder, they had only the scantiest of clues to go on, and not even a shadow of a motive. It took a full thirty-three months of painstaking detective work before they were able to produce enough interwoven, but completely circumstantial, evidence to convince a jury “Beyond Reasonable Doubt” that ex-soldier Derek Christian had brutally murdered loving and popular great-grandmother Margaret Wilson, aged 66, in a country lane near the East Yorkshire village of Burton Fleming.

For all that time the picturesque village had run on high emotions. It was the unique purposelessness and savagery of the murder which had frightened and frustrated the whole community. In court, people wanted to see a conviction.

“Beyond Reasonable Doubt” is as fundamental a principle of British law as the “Man on the Clapham Omnibus.” As it is in most of the western democracies.

What would an ordinary man going about his ordinary business make of the evidence? If that man had absolutely no doubt concerning the facts, then a guilty verdict must be found. But a trial judge is duty-bound in any summing up in a contested trial to warn the jury that if any one of them feels that the facts are in dispute or that the evidence could have a perfectly plausible alternative explanation, they must find for the defendant. That seems simple and straightforward enough, and so it should be.

In fact, as any good lawyer knows, it is a

flawed concept. It can go astray, for example, if one forensic expert is better or more informed, or even more persuasive than another. It can go astray if, through negligence, defence lawyers simply don't spot an alternative explanation of the “facts” which could put a completely different light on matters.

The fate of a defendant can also sometimes rely on the gifts of a barrister, especially if, as in all murder trials, it is a Queen's Counsel. Naturally, a QC will be conversant with the law. He is paid for his expertise. But cases can be won or lost on oratory, guile, bullying, and presence. It can also depend hugely on a judge's summing up. If he has made his own mind up, he may gloss over things that may be doubtful. To a large extent, a contested trial is a lottery depending on many elements which are not finite.

Unfortunately, it is a fact of life that common human fallibility throughout the entire judicial system - from lawyers, and judges, to the jury itself - is often all too prominent. The law itself may be finite - but the way it is explained is often a matter of intense human flexibility.

Sometimes, (many people think too rarely), the Court of Appeal will recognise this if it is blatant enough. As recently as 15th February 1999, for example, the Court quashed a guilty verdict on a woman who had been accused of an arson attack which had resulted in multiple deaths.

Lord Justice Kennedy ruled: “In reality there was not sufficient evidence to prove the case against her.” And: “The cross-examination had distorted the conduct of the case. A wholly unacceptable cross-examination technique [had been used].”

So, how did the defence lawyers allow this to happen? How did the trial judge condone it? How were twelve ordinary citizens led to believe, “Beyond Reasonable Doubt”, that the woman was guilty? Unfortunately, this kind of miscarriage is not so uncommon.

Can there be anything more tragic than to be incarcerated for life by a flawed system for a crime you did not commit? The files of the *Citizen's Commission on Scandals in Justice* are a sorry catalogue of legal misfortunes.

One of the anomalies of British law is that those who are found guilty are very rarely given Leave to Appeal merely on a basis of "Beyond Reasonable Doubt" without fresh evidence. But, surely, if a case is built almost entirely around "circumstantial evidence" in which alternative explanations are available, there *must* be "reasonable" doubt to any ordinary citizen.

In the case of Derek Christian, there was eventually some convincing circumstantial evidence as to his guilt - all of which, however, could have been argued by the defence. There was, in every case, a reasonable, alternative set of explanations.

In the end, it all hung on two words: "microscopically indistinguishable". How that was explained to the jury meant the difference between Christian leaving court a free man or, in his case, facing two decades as a guest of Her Majesty.

The nub of the matter rested on some 78 examples of seven different fibre types found on the victim's clothing which "matched" clothes worn by Christian. The prosecution argued convincingly that as the fibres came from three different items of clothing worn by Christian on that fateful day, "it must have been him". On Christian's clothing there was also a single fibre which "matched" the skirt the victim wore.

One clothing item could well have been a coincidence - but three, the prosecution argued, was a clincher. Yet the circumstantial evidence - which we will examine later - may very well not have been the clincher they claimed.

One particular fibre alone was argued by the prosecution, as conclusive proof that it *had* to be Christian.

A millimetre of cloth was hailed by the prosecution as "proof absolute" of Christian's guilt. What the jury did not appreciate, perhaps because the defence did not properly explain it, is that the very same fibres could have

come from a multitude of clothes, including a skirt worn by Derek's mother. This had been washed with Derek's clothes in the same washing machine many times between the murder and his arrest. The police eventually eliminated it, but it serves to indicate the tenuous nature of the forensic fibre evidence.

"Even if you have doubts about all of the other testimony," intoned prosecuting counsel Andrew Campbell QC, (tacitly accepting that all the other evidence could well be doubtful), "the forensic evidence of the fibres is irrefutable." The jury apparently agreed with him, and, amid much whooping from the victim's family, Derek Christian was sent down for life, with a recommendation to serve a minimum of twenty years.

Derek Christian's family and those campaigning on his behalf, on the other hand, are convinced that he was wrongly convicted because of an unpersuasive defence which did not properly hammer home the alternatives to a jury which had struggled with the evidence for more than three weeks. The fight to prove a wrongful conviction - particularly in a murder case - is an uphill struggle.

Let us consider the facts, and their two alternative interpretations, for if the defence had been thorough, then the jury simply must have had reasonable doubt.

The Murder

At almost exactly three-thirty, on 9th February 1995, two tractor drivers in a field adjacent to the lane where Mrs Wilson was enjoying a walk to her home in the village saw a white estate car stop and a large white man walk about 100 yards towards Mrs Wilson. The two disappeared from view behind a hedge for a few moments then the man ran back to the car and drove away at speeds reaching 80 mph. The murderer, it was discovered when the labourers ran to her aid, had slashed the defenceless victim twice around the throat, killing her instantly. It was all over in seconds.

The two men had unfortunately been too far away to give a proper description of the assailant. Unfortunate for the prosecution, certainly, but also for the defence. For the two men knew Christian and could have given a cast-iron identification either way, i.e. that it was or wasn't him. (It also begs the question

of whether a man known in the locality, as Christian was, would have exposed himself to identification in broad daylight, especially as Christian knew that his mother was also in the immediate area that day).

Pathologist Dr John Clark testified that Mrs Wilson had been killed “instantly by two slashes, one from ear to ear which severed the carotid artery and jugular vein. Probably by a right-handed person from behind with the victim kneeling at the time of the attack. She would have lost several pints of blood.”

It was the kind of ritualistic slaying that could only have been perpetuated by a sadistic and unbalanced man, almost certainly a psychotic and/or disturbed psychopath. It was a random, insane, vicious, completely motiveless slaughter.

At the scene of the crime there were two footprints on the verge next to the body, and some tyre marks in the road where the car had been seen to speed away from. At that time the police only had the testimony of the two men that it was a large white man driving a Montego estate car.

The following day, the police found a J. Adams industrial vegetable knife at the scene of the crime. It had been discarded and was covered in blood. It was quickly established as the murder weapon.

As a huge murder inquiry got underway, the police quickly made casts of the footprints, noted the tyre-marks, and put a description out, such as it was, for other eye-witnesses to come forward if they had seen such a man driving such a car in the area during that fateful hour. Eventually several did. Subsequently it was revealed that the ‘scene of crime’ logbook was seriously flawed and incomplete. It was not properly recorded, for example, just who had handled the body when it was eventually put in a body-bag and transported to the mortuary. Later, this would have some significance. While the ‘scene of crime’ officers had seen the tyre marks, they did not subject them to any kind of forensic tests. There was no subsequent feasible explanation as to why they did not. As this was a quiet country lane, and the car had been seen roaring away and quickly gaining a speed of some 80 mph, it would seem logical that the marks came from the murderer’s car.

Yet a police witness said on cross-examination that he had not made casts nor taken photographs, having taken the view that the marks were “useless from an evidential point of view”.

Curiously, the footprints were never offered in evidence by the prosecution simply because they could find no shoes belonging to Christian which fitted the footprints, i.e. if the footprints were, as the police were at first convinced, those of the murderer, Derek Christian quite clearly could not have done it.

It turned into a manhunt par excellence. According to the *Hull Daily Mail* more than 6,000 people were interviewed. There were 2,600 different lines of inquiry and 3,000 vehicles were checked, including both of Christian’s. Five hundred separate statements were made and pored over by an army of detectives.

Then there was a *Crimewatch* BBC programme appealing for more witnesses. More than a thousand phone calls were received. An amateur forensic scientist came forward and asked if he could examine the knife.

Derek Christian was interviewed at an early stage of the inquiry - after only three days - as part of the police’s check on all Montego owners. He gave a statement along with hundreds of other people as a matter of police routine. For various reasons, the police at first felt it very unlikely that Christian was the murderer, but he remained “on the books”. In March 1996, more than a year later and armed with further (completely circumstantial) evidence, the police arrested Derek Gordon Christian.

They had initially been put off him as a suspect because all the eye-witnesses had described the assailant as a clean-shaven man, while Christian, when interviewed by police a mere three days after the event, had clearly sported a mature goatee beard, and because the Montego car he drove on the day of the incident had been silver, not white.

On the day of the murder, it soon emerged, Christian had clocked off from his work at McCains - a large frozen chip manufacturing plant at Scarborough some 21 miles from his home in Driffield - at exactly 15.01, and at

16.06 a cash dispenser had recorded him taking out £30. Theoretically, as the place of work, the murder scene and the bank were all equidistant (about 30 miles in total), Christian could have reached the point of the murder and then the bank all within the fateful hour. That evening he drove his wife to work and they stopped off to do some shopping at a local Kwik Save. Not, you might agree, the normal behaviour of a man who had just savagely slashed a woman to death in a gruesome carnage of blood.

In fact the murderer would have had to have been a psychopath indeed to have been completely normal at work, go to a bank, take the wife shopping, and go home to look after the kids, when he had just, quite irrationally, carried out such a dreadful and macabre act. Yet, when Christian was eventually examined by a police psychologist, the doctor could find “nothing wrong with him [psychologically]”.

The Alibi

When first arrested in March 1996, Christian repeated the alibi he had given to the police three days after the murder, namely that he had driven home, but there was no one to corroborate this. He was hazy about the details. It was, after all, some 13 months later. After his release on unconditional bail, Christian and his parents-in-law, Jean and George Green, discussed the matter and came to the conclusion that they had moved some boxes during the afternoon of the murder. He gave the police, in a further statement, minute-by-minute details of this family expedition. (Christian at that time was still with his wife Diane, and his in-laws lived within easy driving distance).

With Christian being able to establish a copper-bottomed alibi the police case against him began to falter. DCI Midgley, however, still had uncertainties. He began to check out the alibi. The police first hit upon the idea of a timed run in a car, and established that Christian couldn't get to the cash dispenser in time. By the simple expedient of checking the British Telecom files for the Green household on that day they eventually ascertained that calls had been made from the Green's house at 16.15 and, on being confronted with the record, (only three weeks before the trial was to commence), the Greens agreed they must have made the calls and have been at home

at the time. The moving of the boxes, they then recalled - blowing Christian's alibi to smithereens - was on the following day, the afternoon of 10th February. It was also the police who ascertained that he had visited the bank, something which Christian had forgotten. It was a thorough piece of detective work.

At trial this became hugely significant because the prosecution was able to play heavily on the fact that Christian had consistently “lied” to the police - notwithstanding that two other people had also got it wrong. Anyone who has witnessed a murder trial will know that if the accused “admits” to a lie, even if it is an insignificant one in a police statement where he is not on oath, then all his testimony can be brought into disrepute.

An alibi that can be substantiated and cannot be disproved is a cast-iron defence. Not having an alibi is merely circumstantial. He could prove where he was at both 3 pm and 4 pm, but could not prove where he was at exactly 3.30 pm - the time of the murder. If, however, it was a simple mistake of timing, (the police did not argue that the moving of the boxes had happened) then why did the defence not bring Mr and Mrs Green (who were in court) into the witness box to testify that it was all three of them that had simply got the dates confused?

Derek Christian

Derek Christian was 31 at the time of the murder. To his family and to the police, he was the first to admit his shortcomings. Despite thirteen years of marriage, most of it very happy, he had from time to time been a bit of a tearaway, a womaniser and a heavy drinker. In the army where he was a sapper with the Royal Engineers, he had on several occasions seen the inside of a guardhouse. Despite this, when he left the army after 15 years in the ranks, he took voluntary redundancy with an “exemplary record.” That meant, despite his occasional drunken outbursts, in the eyes of the army he had done nothing to seriously damage his good character. Is it conceivable that a man serving in the British army could have hidden deep pathological tendencies for a full fifteen years?

Like many men who had spent a large part of their formative years in the forces, he found it

difficult to adjust to civvy life. He missed the camaraderie the army enjoys among soldiers working and training together. Christian had never seen active service and had never been given any specific combat training. Engineers build bridges and tunnels, unlike, say, the Royal Marines, who are specifically trained to survive and to kill.

Despite his admitted womanising, most of his marriage was harmonious and he had an adoring relationship with his three sons. On most Saturdays, they all went to the football together. It was only after the murder - but before his arrest - that his wife and he separated and he went to live with his parents. Even then, his relationship with his children was sustained.

At work he was not known as a particularly sociable man. He was a labourer earning "good money" and he kept himself very much to himself. His workmates found him "aloof". He did have the odd pint, but he had few drinking acquaintances in local pubs. In Civvy Street he was never a socialite. When he and his wife parted this had led at one stage to him becoming depressed. His doctor had prescribed some anti-depressant tablets, but he didn't like the side effects and gave them up after only three days. There is no other medical history.

He often visited his parents, got on fairly well with his in-laws, and always had the companionship of the children. He had a rather mundane job where he was not particularly happy. But it paid the mortgage. His over-riding passion was football, and in particular, Sheffield Wednesday, where he and his sons rarely missed a match, despite an 80-odd mile journey there and back. He spent most of his available leisure hours glued to Sky Sports, especially if there was a match on. As a mark of his fanaticism for his home team, he never left the house without his black woolly Sheffield Wednesday supporter's hat.

Christian was an "ordinary" man who had probably not made the very best of his life but was generally content. He was described by those who knew him as being "home-loving".

Even though the police trawled through his half a dozen girlfriends, army records, interviewed all his work mates, and did an intimate profile of him, and even though they

tried to make great play of his shortcomings, they were unable to produce a single shred of evidence that he had any kind of psychotic or psychopathic tendencies. There was just nothing there to ever indicate a man insane enough to have spontaneously jumped out of a car between his work and his home and ritualistically murder an innocent grandmother for no reason at all. Had he ever shown any kind of pathological tendency you can bet your life that the intrepid DCI Martin Midgley would have ferreted it out and pounced on it. He had been looking for a man capable of a "ferocious and frenzied attack." He stated clearly on the eve of the manhunt that he was looking for someone who was "pathological".

Indeed, the first place he went to look was criminal records, and he started with psychopaths who may be at liberty.

Interviewed by the *Hull Daily Mail* just after the verdict, crime-expert Professor Keith Bottomley told the paper it was very rare for someone like Christian to murder anyone without a reason and especially if he did not know the victim. No research evidence has ever been produced to explain such extreme motiveless violent behaviour. "A no-motive killing," he went on, "suggests the murderer has some form of mental history. It is an established fact that most murder victims are killed by someone known to them. The case is as difficult to understand for (crime) experts as it is for the man in the street. There is no research evidence into motiveless murders. I am at a loss to explain Christian's behaviour, but it seems to suggest that there is some mental history."

Armed with such expert testimony and coupled with a proper psychiatric report, the defence could well have put up an argument that the murder was done by a clear psychotic or psychopath and Derek Christian was clearly not one. Midgley later told the *Hull Daily Mail* that throughout the investigation Christian had appeared at all times to be "as cool as a cucumber". In another curious aside, Midgley told a newspaper, "he didn't protest his innocence enough".

Despite the fact that he did not seem particularly close to his siblings (he has two brothers and two sisters) they are waging a massive campaign to clear his name. Along with the rest of his family. Even his wife,

Diane, who knew him intimately for thirteen years, is convinced that he was incapable of murder. She still allows the children access to their father.

The army had taught Derek Christian to live by routine and at home he was generally habitual. He liked regular meals, and had his favourite "football-watching" chair.

On the day of the murder he got up, as he always did on a workday, at 5.30. He got dressed in the bedroom in the dark so as not to disturb Diane. Every morning he made a cup of tea but did not eat breakfast. He would have made a cup of coffee to take with him as he drove to work. He can remember the morning of 9th February very distinctly because on the evening before Sheffield Wednesday got beaten 4-3 on penalties. He left the house around 6 am, never woke the family and arrived at work to clock on at 7 am.

He worked all day on fairly mundane labouring tasks, lunching in the canteen, and clocking off at 15.00 hours. He nearly always - as he maintains to this day - drove straight home to welcome the kids when they got back from school. On this day he did so, and then - remembering he had promised to take Diane shopping - he went to the bank.

In the days before, during and after 9th February the police could find no one who had met Christian in any capacity who could recall that he behaved strangely in any way at all. Andrew Campbell even turned this into a crime. In a brilliant piece of oratory, which was basically claptrap and had absolutely no bearing on the evidence before the jury, he whipped up some fever in the court by saying: "Don't be misled by his behaviour. Pathological killers don't wear a sign on their heads or have five ears. They are as, in appearance, just like you and me. Don't be misled that because Christian did not attract suspicion in the days afterwards the killer can't be him."

Campbell, in his summing-up, said: "It seems that no one had a motive for ending her life. She was loved and loving. It is without doubt that her killer struck in bizarre and, you may think, chilling circumstances. What is going on in his mind? Only he knows. That the killer was clearly oblivious to the risks he was taking. His mind was solely concentrating on

his target. The defendant has found it necessary to lie and lie and lie. He has clearly been shown to be the murderer of Margaret Wilson."

No facts presented at the trial indicated in any way at all, that Derek Christian had ever demonstrated pathological tendencies. It was absurd to suggest, as Campbell did, that because he had never shown pathological tendencies it only went to prove he just had to be the murderer.

After the collapse of his alibi, there were two main factors used in evidence which the prosecution claimed led to "Beyond Reasonable Doubt": The murder weapon and the fibres.

The Knife

The bloodstained murder weapon found at the scene of the crime was a vicious looking, short, stubby, tough and very sharp industrial knife in general use by food producing factories, farmers, fishermen and professional cooks. Thousands are made and sold by the Sheffield firm of J. Adams. Other northern firms to use the knives extensively were Walkers Crisps and Jacob's Bakery. They are also sold by Boots nationally. At McCains 1,800 knives were supplied to the factory over a two-year period spanning the murder. They were used almost exclusively for cutting up potatoes and other vegetables. Many were regularly stolen from the factories where they were used.

Christian claimed he had never seen such a knife. For his own work he sometimes used an 18-inch-long pin for cutting twine. But he had no reason in the work he did to use such a knife. The police established that during November 1994 he and several others cleared out some 200 lockers. During this clear-out, 50-60 knives were found. The prosecution claimed that Christian must be lying if he said he had never seen such a blade. But the police could not produce a single witness to testify that they had ever seen Christian with a J. Adams knife. They alleged that during the locker clear out Christian could have secreted one of them away for his own use. It would not, they suggested, be missed. But so could any of the other six men who helped in the garbage disposal. Indeed, so could any of the approximate 1,000 factory workers at McCains

who did use such a knife on a daily basis. The plain fact is that while the knife is distinctive, it could have been shown that thousands of them were in use in East Yorkshire at any given time. The knife had no traces of fingerprints. The murderer, then, must have been using gloves, which have never been traced.

After the BBC *Crimewatch* programme a metallurgist at Sheffield University, Allan Wirth, came forward and offered the police his expertise. Obviously, with Sheffield being the centre of the British steel industry, the local university would be well primed up on metallurgy. It was considered a coup for the police because Wirth, after forensic analysis, claimed that a dark stain on the knife almost certainly came from cutting up potatoes. The only large local users of the knife who produced chips were Walkers Crisps and McCains. So Christian's name popped up again in police files.

However, Midgley was astute enough to accept that this was still only circumstantial evidence. The knife *could* have come from McCains, and Christian *could* have acquired it. But it was a long way from being proof positive.

Other Evidence

Much had been made of the imploding alibi, and the knife but it was inconclusive. On the first arrest, they visited Christian's home (he was by now living with his parents in Bridlington) and they came across an old newspaper in a cupboard. It was, says Christian, one of several that had accumulated in the course of time. Why he had kept this particular one was because 7th February, two days before the first anniversary of the murder, was his birthday. Having separated from his wife, he had decided, on his 32nd birthday, to "treat" himself to a visit to a massage parlour, and that edition of the *Hull Daily Mail* listed massage parlours. Unfortunately, it also splashed a prominent story on the anniversary of the murder hunt. This, the police argued, indicated a macabre interest in the murder. They conveniently could not recall that there were other publications with no connection to the murder.

This find was "circumstantial evidence" of the scantiest kind. An item, you may feel, where

the police were clutching at straws. But after 13 months of frustration, Midgley and Co., were relieved to have made an arrest.

The "silver/white" car still bugged them. All the witnesses, except one of the farm labourers and a woman who had driven past the assailant in his car, had claimed it was white. But the police put this down to the fact that a silver car "could look white" in strong sunshine. On a cold February afternoon when the sun would have been almost at its lowest at 3.30 pm this was rather dubious. So was the whole claim. One eyewitness, Marie Cundall, had looked at the assailant and his car close up for twenty to thirty seconds only five minutes prior to the murder. In her statement she clearly described him sitting "upright in a white estate car". Even accepting the fact that a silver car flashing by in sunlight could look whitish, silver is simply not white. While this discrepancy existed, it was again only "circumstantial evidence".

Identification

There was the testimony of the two farm labourers. But as they were so far off at the time, they could give no further ID than that the man was large and white. Marie Cundall had been walking her dog near the murder scene five minutes before the murder. She described how a large man with "frenzied eyes" in a white car had pulled up alongside her. It was on the basis of her vivid description that police produced an "Identikit" picture of the murderer. It was used extensively to try and find other witnesses. While there was a resemblance between the Identikit picture and Derek Christian, it had one fatal flaw. Her picture had no beard and the police did not dispute that the kind of goatee beard which Christian had sported three days after the event simply could not have been full grown in three days. Also, there was the oddity of the Sheffield Wednesday hat. The suspect was hatless. The police had ascertained that Christian rarely ventured forth without it. While the police could not establish exact timings for these sightings, it appears that the murder suspect had spent some time in the area, driving around looking for someone to kill. It would have been virtually impossible for Derek Christian to have got from work to the bank, via home, and also be seen driving around during most of the 'missing hour'.

Another witness was Karen Holloway who saw a white car and a man sitting in it as it was parked on a nearby verge. She did not see the man's face. Louise Grey came forward after the police appeal and later helped with the Identikit. Both she and Cundall were satisfied that the photo was a "real likeness" to the murderer. Karen Holloway's description matched the others. But there was a curious anomaly. On oath she denied ever knowing Derek Christian, yet they had grown up in the same area, gone to the same school and worked together only months before the murder. Christian certainly knew her. If she had indeed seen the murderer, which she claims, surely he must have at least looked familiar?

If the police claim they had eyewitnesses, why then, in a most odd inconsistency, did they not mount a proper ID parade, so that the women could pick out Christian? It was never explained and the defence never exploited this in any meaningful way. Karen Holloway stated that the man she saw "in the white car looked very like a sales rep". Is it conceivable that Christian, in his quite distinctive and bulky army-style working clothes, could look anything like a sales rep?

The Fibres

The identification of the fibres on the clothes of both the victim and Christian, described by Andrew Campbell as "total proof", was indeed the point at which the police were convinced they had got their man. They had been homing in on him for some months by then, but they accepted everything they had until then was circumstantial.

In one of the many bizarre aspects of this case, Christian inadvertently helped the police in his own destruction. When they felt strong enough to haul him in for the main interrogation some 13 months after the murder, the police naturally questioned him for many hours during several interviews. Meanwhile, they searched his home and returned with bags full of exhibits, including many of his clothes which they intended to subject to scientific examination.

Prior to this, they had ascertained that his car did not have a single trace of blood, or any other kind of forensic evidence, including fibres, to link it to the murder. The car was

manifestly "clean". As there was a pool of blood at the scene of the crime, and as it was alleged that Christian had deposited 78 fibres of seven different types from his clothes onto the clothes of Mrs Wilson, was it conceivable that his car did not show even a micro dot of a blood stain? If, in fact, Christian had come into contact with Mrs Wilson enough to have picked up a fibre, why was there not a micro dot of blood on any of the clothes they claim he was wearing?

Christian saw the clothes the police had seized and volunteered the information that the jogging bottoms they produced were not the ones he was wearing on that day. Being the complete man of habit that he was, he knew exactly where the actual clothes were. His "town" clothes went in one place. His working clothes another. And so on. The police quickly sped back to the house and found the joggers. It was these joggers that, after forensic analysis, revealed some of the fateful fibres.

One may ask, under the circumstances, if this was the act of a murderer who knew he had done it? If he had done it, surely he would have been cock-a-hoop that they had discovered an item of clothing which could not possibly link him to the crime. Would even the most insane and negligent murderer have actually led police to the item of clothing that only he knew at the time could show he was the murderer? This was most certainly not properly pointed out by the defence which by now appear to have been mesmerised by the "three clothing items" prosecution claim. It also begs the question of why Christian should have kept the clothes in the first place. If he had presumably disposed of the gloves, why not all the other clothes which could have incriminated him. Certainly, at least after the police had first visited him to examine his car.

Anyway, after the forensic examination, Midgley was frantically excited by the fact that he now believed they had finally "clinched it" - "Beyond Reasonable Doubt". This is the very point that the phrase "microscopically indistinguishable" came onto the horizon and was used dramatically and successfully by the prosecution.

But it quickly emerged that even the fibres constituted nothing more than "circumstantial evidence." They were by no means

conclusively “Beyond Reasonable Doubt.”

In order to allay meaningless court time in petty argument the Crown made several important admissions at the end of the trial.

They admitted that:

- The blue-grey jogging bottoms which Christian wore on the day of the murder were manufactured in Dubai six or seven years before in their tens of thousands and had been distributed largely through discount stores and market stalls.
- Mrs Wilson’s skirt removed by the pathologist had come from cloth woven in Germany in 1991 and that, apart from wide distribution elsewhere, at least three thousand metres were bought by a skirt manufacturer in Manchester who had bought them from an agent in London.
- A “Regatta” jacket which had figured in the police inquiries was one of 250,000 sold each year, of which about 50,000 are green.

The Crown Prosecution Service seemed completely undaunted by this, relying on the fact that fibres similar to those from three items of clothing worn by Christian were found on Mrs Wilson and that *three* amounted to irrefutable proof. Only someone wearing identical clothing could have possibly done it. It was a convincing argument which held much sway at the trial. Indeed, it was the only real evidence which apparently could not be disputed. Or could it? Was it really “Beyond Reasonable Doubt”?

Curiously, the defence decided not to bring in their own forensic expert, even though he was in court - relying instead on a vital cross-examination of the Crown’s expert, Robin Falconer, a widely acknowledged expert. Led first by the Crown, Falconer left no doubt in the minds of the court that the evidence was irrefutable.

But when Roger Keen QC cross-examined, Mr Falconer was much less certain. As this is the nub of the conviction, and we are discussing the real meaning of “Beyond Reasonable Doubt,” it is worth going into his further evidence in some summary detail.

Falconer had found seven different fibre types taken from Derek Christian’s clothing which

were “microscopically indistinguishable” to fibres found on the victim’s clothing. But, under cross-examination, Mr Falconer accepted that:

- He had searched for a “highly distinctive population of fibres that may prove useful.” No such population existed.
- No single fibre or group of fibres can be attributed to a garment to the exclusion of all other garments.
- Fibre testing is not an exact science and is not comparable, in this regard, to DNA testing or blood samples.
- In forensic fibre tests 20% of the microscopically indistinguishable fibres are put through further, more rigorous tests. Even after this, it does not necessarily mean they came from the same garment. “Garments are not unique,” he averred.
- Most fibres found on clothing come from the wearer’s own environment, especially their home. (For reasons that are not clear, Mrs Wilson’s other clothing was given to charity before the police had an opportunity to check them for fibre evidence.)
- In the body-bag used to transport Mrs Wilson from the scene of the crime to the mortuary, Mr Falconer subsequently discovered several other fibres which did not match either Christian’s or the victim’s own fibres.
- Under cross-examination Mr Falconer said, quite emphatically: “The findings cannot produce an unequivocal link between Derek Christian’s clothing and those found on the victim’s clothing.”

Mr Falconer’s evidence and cross-examination was lengthy and extremely detailed. Despite the efforts of counsel to try and make difficult expert scientific opinions understandable to the layman, it is an area notorious for a jury to get lost on the sheer amount of detail. Every judge knows this and in his summing up it is customary for him to give a legal resume of the expert opinion. Indeed, while Mr Falconer was under cross-examination the judge said, almost as an aside, that in his summing up he would instruct the jury that the identification of the single fibre from Mrs Wilson’s skirt, should not be “over-emphasised”. In the event he did not do this. As the prosecution claimed that this single fibre was “the clincher”, surely this was a serious oversight?

At one stage, Christian’s family looked on in horror as one juror, during the cross-

examination, nodded off. This alone should be grounds for an appeal.

It was also put to the court that an item purchased independently, for elimination purposes and therefore with no connection to the accused, shed three of the seven fibres found on the victim's clothing. They, and fibres found on other clothes, were "microscopically indistinguishable" to the seven known fibre types.

In the event, what Mr Campbell had claimed was "conclusive" was nothing of the kind. It could all be argued. As such, how was the jury led to believe that there were no doubts?

Aftermath

The situation at present is that Derek Christian's brother Kevin and his sister Tracey are leading the fight to have the whole case re-examined and Derek's name cleared. Leave to appeal on the grounds that one witness called Linda Rounding had admitted to committing perjury (she was subsequently jailed) was turned down by the Lord Chief Justice. Unless fresh evidence can be found, it is unlikely that the case of Derek Christian can go back before the courts.

Lord Bingham, however, on reviewing the trial notes, stated that "... it is difficult to recommend ANY punitive sentence with complete confidence." He suggested that the case was so bizarre and held so many strange elements that he would recommend a minimum sentence of 16-17 years, not the 20 suggested by the trial judge. Under the circumstances, it was rather an odd opinion, which has never been fully explained. Meanwhile, still vehemently protesting his innocence, Derek Gordon Christian languishes in HMP Frankland.

The place to start would be a proper transcript of the trial, but the family have found out that this is not as easy as it may sound. Despite an Act of Parliament that prohibits any trial judge altering transcripts in criminal cases, in reality he may do so when the shorthand writer submits the transcription for 'corrections'. If the police order a transcription of the shorthand writer's notes - and pay for it - and the original notes are destroyed - that 'official' transcript becomes the only documentation of the trial. These procedures have, on previous

occasions known to the *Citizen's Commission on Scandals in Justice*, led to the production of heavily edited and thoroughly sanitised 'official' transcripts.

In fact, the Christian family have, over the past year, learned an awful lot about the frailty of English law. It is a minefield, which does not lean towards a convicted killer.

Serial Killer?

In a rather macabre twist to this story, whilst Derek Christian has been held in prison two murders chillingly similar to that of Mrs Wilson have been committed in the West Country. They both involved women who were slashed to death with a knife while walking on lonely country roads. The case of Kate Bushell, aged only 14, took place two days after the commencement of Christian's trial on 13th November 1997. The almost identical case of Linda Bryant took place in October 1998, only a few days after *Crimewatch* had featured Christian's trial and conviction. The most bizarre aspect of the Bryant murder was that, months later, the murderer returned to the scene of the crime to replace her missing glasses at the spot where she was murdered. It was a wholly grotesque act which has completely baffled the police. They report that it is as if the murderer is taunting them. A scarf Mrs Wilson was known to be wearing at the time is also missing. No trace of it has ever been found.

If it is ever returned to the scene of the crime, will the British judiciary accept "Reasonable Doubt"?

Simon Regan

A veteran campaigner against corruption and injustice, the late Simon Regan was a leading investigative journalist with various national newspapers on Fleet Street and overseas for thirty-five years and has written countless articles on miscarriages of justice.

A number of these articles are to be found at the *Scandals In Justice* Web site:
<http://www.scandals.org>

Appendix

Timeline

10.30	07/02/95	Mrs Matson followed/stalked by unknown man
07.00	09/02/95	Derek Christian arrives at work
13.30	09/02/95	Mrs Price followed/stalked by unknown man
15.01	09/02/95	Derek Christian leaves work
15.30	09/02/95	Margaret Wilson murdered
16.06	09/02/95	Derek Christian withdraws cash from ATM
11.00	12/02/95	Derek Christian - as owner of a Ford Montego - visited at home by police, "Personal Description Form" completed
15.00	12/02/95	Derek Christian makes routine statement to police at home
14/03/95		Derek Christian's car examined by police forensic expert, no evidence found linking Derek to the incident
01/06/95		Derek Christian interviewed about the murder weapon
12/09/95		Derek Christian completes knife project questionnaire
20/02/96		Derek Christian's car examined by police forensic expert, again no evidence found linking Derek to the incident
28/02/96		First put in writing by the police that Derek Christian's silver Montego could look white in the sun (follow on from police visit of 12/02/95)
24/03/96		Derek Christian arrested
26/03/96		Derek Christian unconditionally bailed
10/04/96		Derek Christian voluntarily makes fresh statement altering his alibi
13/09/96		Fibre evidence report published
25/11/96		Derek Christian arrested and charged with murder
13/11/97		Derek Christian's trial begins
15/11/97		Kate Bushell murdered
02/12/97		Derek Christian convicted
Jan '98		Lord Chief Justice comments on tariff
March '98		Application for leave to appeal against conviction refused
June '98		Pro-bono hearing at the Royal Court of Justice, further application for leave to appeal against conviction refused
13/10/98		Broadcast of BBC1's <i>Crimewatch File</i> dealing with the conviction of Derek Christian
20/10/98		Lynda Bryant murdered
22/02/99		Derek Christian's tariff set at 17 years by Home Secretary Jack Straw

Who's who

Marie Cundall	Eye-witness, saw assailant minutes before the murder, it is firmly believed the man might well have attacked this woman; describes a clean-shaven man in a white car
Martin Hornsey	Eye-witness, farm-worker; adamant that car was white
Nigel Houseman	Eye-witness, farm-worker; states that car was white or silver
Louise Grey	Eye-witness, saw assailant, assisted with creation of a photofit; describes a clean-shaven man
Karen Holloway	Eye-witness, saw assailant; states that car was white
Lynda Rounding	Claimed to have seen a man driving around the village in a white car between 13.00 and 15.00 on day of murder; committed perjury in mid-trial
Wendy Price	Stalked by unknown man between 13.00 and 13.30 ca. 10 miles from the murder scene on day of murder
Ann Matson	Stalked by unknown man at around 10.30 ca. 11 miles from the murder scene two days prior to murder
DCI Midgley	Police officer; in charge of murder investigation
DC Marsden	Police officer; claimed Derek Christian's silver Montego looked white on 2/2/95, first put this in writing on 28/2/96
DC Stevens	Police officer; stated in court that DC Marsden had seen Derek Christian's two cars on the driveway and was asked by DC Marsden to supply a statement (28/2/96), also stated that he had an "idea" that DC Marsden was making a similar statement at the same time
Roger Keen QC	Defence counsel
Andrew Campbell QC	Prosecuting counsel
Andrew Falconer	Prosecution forensic expert (fibres)
Mr. Justice Bell	Trial judge
Lord Bingham	Lord Chief Justice in January 1998

Derek Christian's tariff

The tariff is the period of time that a convicted murderer must serve in custody so as to satisfy the requirements of retribution and deterrence.

The trial judge, Mr Justice Bell, recommended a punitive term of 20 years for the crime. The Lord Chief Justice, stating that "this is such a strange and obscure story", was "inclined", on the other hand, "to recommend a somewhat shorter term, of 16-17 years".

After considering the circumstances of the offence, the recommendations of the trial judge and the Lord Chief Justice, as well as the written representations made on Derek Christian's behalf, the Home Secretary did indeed set Derek's tariff at 17 years. What may have been a "concession" on his part is, however, nothing of the sort.

As "confessing" to a crime and showing remorse forms a part of parole requirements, these three years will have very little effect on Derek Christian. Whilst he continues to protest his innocence he is unlikely to - ever - be released.

3. A copy of those sections of the trial judge's report to the Home Secretary relevant to tariff is attached. Specifically on tariff the trial judge wrote (in full) in his report: "In my view, this cruel, efficient killing with intent to kill warrants a punitive term of twenty years". The Lord Chief Justice's comment on tariff (added at the end of the trial judge's report) was (in full) : " This is such a strange and obscure story that it is difficult to recommend any punitive term with complete confidence. I would incline to recommend a somewhat shorter term, of 16-17 years".

Taken from "Disclosure of tariff information to a mandatory life-sentence prisoner" - Derek Christian

Correspondence with Mr John Townend MP (Con.)

In February of 1999 Kevin Christian wrote to Mr John Townend, the sitting MP for the constituency in which Derek Christian had last resided. The letter requested that Mr. Townend also take up the matter on Derek's behalf. We feel that this letter and Mr Townend's reply will be of interest to the readers of this document.

Enclosed with the letter was "The Case Against Derek Christian" (cf. page 5), a summary of the case by Tracey Noble and Kevin Christian based almost entirely on the evidence presented in court.

Letter to Mr John Townend MP (Con.)

Kevin Charles Christian
Rotlintstrasse 17
D-60316 Frankfurt am Main
Germany
22nd February 1999

Mr. John Townend MP
House of Commons
Westminster
London
SW1A 0AA

Dear Mr. Townend,

I am writing to you today, sir, in your capacity as the Member of Parliament for East Yorkshire. I write on behalf of my brother, Derek Christian, who last resided in Driffield, within your constituency. I do so because Derek, having been wrongly convicted of murder, is now unjustly serving a mandatory life sentence.

As you may already be aware, Derek Christian was convicted in December 1997 of the murder of Mrs. Margaret Wilson in Burton Fleming in February 1995. As shown by the enclosed broad outline of the case, he was found guilty on the basis of purely circumstantial evidence, and in the face of evidence clearly indicating that he was not - and could not have been - the murderer.

I, along with many other people, am firmly convinced that Derek is innocent, that the evidence produced in court did not prove the Crown's case beyond all reasonable doubt, and that the jury may have been misled by some of the evidence with which it was presented. I sincerely believe that this is an unsafe conviction. Indeed, the case prompted the Lord Chief Justice to comment as follows on Derek's tariff period: "This is such a strange and obscure story that it is difficult to recommend any punitive term with complete confidence." One can only echo his words.

Derek has always protested his innocence, and will always continue to do so. Despite the nature of the evidence brought against him, he has not been granted leave to appeal against his conviction. The only way forward at present is through the Criminal Cases Review

Commission. In the meantime, myself and others are preparing a case to present to the CCRC.

On Derek's behalf I would request you to consider the enclosed outline of the case against him. I feel sure that you will then share an opinion voiced by many other people.

Namely, that this conviction warrants further review.

To this end, myself and others have launched a campaign in support of Derek and his application. We wish to see that justice is done, and not merely seen to be done. We would be grateful for any possible support which you feel you could offer.

I would also request your support in another matter relating to Derek's case.

Derek's tariff period is due to be set by the Secretary of State in February of this year. In the "Disclosure of Tariff Information" Mr. Justice Bell, the trial judge, recommended a term of imprisonment of 20 years for this "cruel, efficient killing". The Lord Chief Justice said in his comment on this tariff that he would "incline to recommend a somewhat shorter term, of 16-17 years". I would request you - should you feel able to do so - to make representations to the Secretary of State in support of the stance taken by the Lord Chief Justice. This would offer Derek a "window of hope" in what will, for him, be a long struggle to resume his rightful place in society.

The murder of Mrs. Margaret Wilson was a heinous crime. Of that there can be no doubt. What is in doubt, however, is the safety of Derek Christian's conviction for this crime. I would respectfully ask you to undertake everything in your power to assist in reversing this miscarriage of justice.

Yours sincerely,

Kevin Christian

Enc:

- a) The case against Derek Christian
- b) Disclosure of tariff information

Reply from Mr John Townend MP (Con.)

L C Christian Esq (sic)
Rotlintstrasse 17
D-60316 Frankfurt am Main
Germany
4 March, 1999

Dear Mr Christian

Thank you for your letter of 22 February 1999. Whilst I appreciate your feelings, as the brother of Derek Christian it is very difficult for you to deal with this matter dispassionately. I very much believe in British justice and I am afraid that I cannot comment on the case other than to say that the jury, according to your papers, brought in a unanimous verdict. They sat through and heard all the evidence and therefore were in a much better position to come to a correct verdict, than reading papers which have been produced by friends of the defendant.

With regard to your second request about Derek Christian's prison sentence, my view is that if he is not guilty then, of course, he should not be in prison at all and clearly the judiciary thought the trial had been correct otherwise they would not have refused grounds for Appeal, but if he is guilty, it was, as you say, a heinous crime and I think a term of imprisonment for 20 years is not excessive. Indeed, speaking generally, for the worse crimes I have consistently voted to bring back the death penalty.

I know my letter will be a disappointment to you but I am sure you will appreciate the position I take.

With kind regards,

Yours sincerely





THE KILLING OF MARGARET WILSON

A conviction lacking in fibre

MMARGARET WILSON, a 66-year-old grandmother, was brutally murdered on a quiet country road in Yorkshire in February 1995, victim of an apparently motiveless and random attack. Two farm workers saw a man pursue Mrs Wilson, then disappear with her behind a hedge for an instant before making his getaway in an estate car. By the time they reached her, it was too late: her throat had been slit twice.

Two-and-a-half years later Derek Christian (pictured), a former Royal Engineer and father-of-three, was convicted of Mrs Wilson's murder and sentenced to life, with a recommendation he serve at least 17 years. The prosecution case was that Christian, then aged 33, left his job as a factory hand at McCain's chip factory in Scarborough at 3pm, detoured to the village of Burton Fleming, slaughtered Mrs Wilson and then went to his local cash-point machine in Drifffield, some 20 miles away. There, at 4.06pm, he withdrew cash for a planned shopping trip with his wife.



With a normal 35-minute drive home, the case was that he had some 30 minutes to cruise around looking for a random victim, pursue and kill her, wash off any incriminating blood or dirt, and then head for his bank. With no motive, the prosecution claimed that only Christian would know why he carried out such a senseless, grotesque crime.

"Ex-soldier murdered on a whim: How science cracked the case", was the headline following Christian's conviction at Leeds crown court in December 1997. For the only evidence directly linking him to the killing were 78 fibres found on Mrs Wilson's clothing and said to be "microscopically indistinguishable" from clothes Christian wore to work.

But as *Eye* readers are aware from a litany of judicial miscarriages, "science" can get things horribly wrong. Now new evidence has emerged that throws serious doubt on the fibre evidence in a case whose other aspects were already weak.

Christian came to police attention three days after the murder as part of a trawl of the owners of Ford Montego estate cars similar to that seen by eye-witnesses, including the two farm workers. It seems Christian was originally eliminated from inquiries because his car was silver and most witnesses described a white vehicle; a forensic examination of his car revealed no blood traces or anything to link him to the crime; and he had a goatee beard, when witnesses described the assailant as clean shaven.

Over a year later, however, an expert analysis of the murder weapon – a sharp bloodstained knife manufactured by J. Adams found at the scene – claimed the staining on it could have come from cutting potatoes. The knives were widely used in fisheries, fish and chip shops, and factories – including the McCain's factory where Christian worked. He was suddenly back in the frame, even though there was nothing to directly link the knife to him or his workplace. The knife carried no fingerprints and two starch grains on it could have come from gloves worn by the experts who examined it.

A forensic examination of his car again found nothing to link him to the crime. There was no match for the two distinct footprints at the murder

scene. There was no check to see if his tyres matched tracks found on the road near where the assailant's car had been seen. This time, however, police removed some of his clothing for examination. Christian actually called police back to tell them they had taken the "wrong" work trousers and gave them another pair thinking tests would clear him. But fibres from those jogging trousers, fleece jacket and sweatshirt were all said to have been found on Mrs Wilson's clothing.

Christian still hoped eyewitness evidence would clear him. But two witnesses who saw the assailant in his car before the murder, and who helped compile photo-fit pictures of him, were never asked to make a formal identification.

Two other women had reported to police being followed by a sinister looking man in a white estate car (one two days before the murder and one on the morning of the murder) at times when Christian was at work. Both incidents were some ten miles away. And a third witness actually claimed to have seen a man driving round Burton Fleming itself in a similar white car some three hours before the murder, again when Christian was at work. Bizarrely, after giving evidence she contacted the court to say she had made the entire story up.

His defence was hampered, however, by the fact that he had changed his account of his movements on the day of the murder. Initially he said he had gone straight home to meet his children from school as usual. But after talking to his parents-in-law, they both claimed he had been helping them move furniture and thus had an alibi. In fact that turned out to have been the following day – an easy mistake to make a year after the event – but it was portrayed as a sinister "lie".

At the end of the trial the prosecution summed up the complicated fibre evidence, saying the mix of fibres from all three of Christian's garments amounted to "proof positive". In fact expert analysis had found no unique identifying fibres and one item of clothing, bought separately for "elimination" purposes, held no fewer than three of the seven kinds of fibres said to link Christian to the crime. So rather than being "microscopically indistinguishable" they were actually commonplace.

Now, however, new material has cast further doubt on the fibre evidence and the Criminal Cases Review Commission is re-examining the Christian case. It has emerged that when Christian's clothes were taken for examination, on the same day Mrs Wilson's coat was examined again and a "pill" or tuft of matted material was extracted from it. This contained nine of the supposedly "incriminating" fibres and two of the seven identified types. Such tufts only appear on clothing after prolonged wear, so the fibres found in them are likely to have been there a long time and not deposited by recent contact. The "pill" thus points to Christian's innocence rather than his guilt. In addition, other fibres could have come from Mrs Wilson's daughter-in-law's clothing, which was also tested; a policeman's polo shirt shed the same fibre. The fleece and jogging pants Christian wore are sold everywhere.

Christian's family hope the new evidence, coupled with the fact that Christian has no mental disorder or illness that could explain him suddenly turning into a psychopathic killer, will finally clear his name. For while he has been in jail, in Devon and Cornwall another woman and teenager out walking in the country have both had their throats slashed in equally motiveless murders. No one has ever been caught for those crimes.

21 December 2007

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Further material and information is available at the Beyond Reasonable Doubt Web site:

<http://kevinffm.de/brd>

We would once again like to thank all those people who have provided us with invaluable support and encouragement, assistance and advice in the production of this documentation, and in the fight to overturn this miscarriage of justice.

Version 2.1
17.01.2008
Beyond Reasonable Doubt
<http://kevinffm.de/brd>