

PSYCHO

Prosecutors accused Rowlett homemaker of being a psychopath

Routier Revisited



Was Darlie unjustly convicted?

A camera was rolling as Dallas prosecutor Greg Davis told a TV news reporter that Darlie Routier was "a psychopath" – a claim unsubstantiated and not supported by a state-commissioned forensic psychiatrist who was never put on the stand in her capital murder trial. Could questionable ethics and possible Brady violations lead to a repeat of the Michael Morton case?

BY KATHY CRUZ
TEXAS CENTER FOR COMMUNITY JOURNALISM

GATESVILLE - Every morning at 4 a.m., a cacophony of noise emanating from cell blocks inside the bowels of Mountain View make the prison unit sound like a mental asylum. Female inmates – some suicidal -- scream and sob. Some manage to find something with which to cut themselves. Others deliberately wreak bedlam by clogging toilets to cause flooding.

"Where we're living, there's no peace," said Lisa Coleman, one of 10 women on Texas' death row.

But from the midst of the chaos comes a calmer, softer noise radiating from a run of cells that house Coleman and four other death row inmates, including Darlie Routier. Before the break of dawn, the women, separated by bars, start the day with Scripture reading and prayer.

Almost 16 years have passed since Routier, a Rowlett homemaker, was sentenced to die for the stabbing deaths of her children, but there has still been no sign of the psychopathy claimed by then-Dallas County Assistant District Attorney Greg Davis. Routier has always maintained her innocence.

"She has been evaluated, and no one has said that," Dallas attorney Stephen Cooper said, referring to Davis' label of his client. Cooper and other attorneys have been fighting to save Routier since her conviction in February 1997.

Making such inflammatory, unsubstantiated claims about someone who was not a public figure like Routier – especially in front of television cameras – would likely bring a lawsuit.

For Davis, it brought job security.

CROSSING A LINE?

Legal ethics expert Ellen Yaroshesky said that Davis referring to Routier as a psychopath with no factual basis to back it up is "outrageous." Yaroshesky is a professor at the Cardozo Law School in New York, and director of the Jacob Burns Center for Ethics in the Practice of Law. She has assisted the Innocence Project, of which her Cardozo colleague, Barry Scheck, is co-director.

"Particularly, a public servant who is a minister of justice should not be characterizing defendants in this manner. It is unethical to do so," Yaroshesky said.

The claims against Routier were made one year after South Carolina mother Susan Smith was sentenced to life in prison after she drove her car into the dark waters of a lake with her two sons strapped in their car seats in the backseat. Routier, too, had little boys, but she says they were stabbed to death by an unknown intruder. Routier herself sustained significant slash wounds, but the Rowlett Police Department and Dallas County District Attorney's office claimed she inflicted the injuries on herself.

Cooper said there was no prior history with Routier to indicate the presence of mental or emotional disorders, and there has been no indication since. There are "specific DSM criteria" for psychopathy, he said, referring to the Diagnostic and Statistical Manual of Mental



SITE OF PSYCHOTIC BREAK? Rowlett police officials can be seen in the doorway as they investigate the stabbing deaths of young Devon and Damon Routier at the family's Rowlett

home on June 6, 1996. Prosecutors claimed the boys' mother, Darlie Routier, committed the crime and that she is "a psychopath."



WHAT LIES AHEAD: Darlie Peck smiles for the camera at her high school prom, unaware of what fate would bring her way in the coming years. Her Dallas attorney, and others who know her, say the Dallas District Attorney's office had no cause to label her a psychopath.

HCN UNDERWRITING STATEWIDE SERIES

"Routier Revisited: Was Darlie unjustly convicted?" is a series underwritten by the Hood County News and offered to newspapers across the state through the Texas Center for Community Journalism.

'Psychopaths don't just turn over one day, and they're all better now.'

--Dallas attorney Stephen Cooper

Disorders. To fit the state's claims, Routier would have had to have experienced a brief, unprecedented psychotic break that left her children butchered.

"Psychopaths don't just turn over one day, and they're all better now," Cooper said.

Davis, now an assistant district attorney in Waco, McLennan County, has not responded to several attempts by the Texas Center for Community Journalism to get his response to criticisms of how he handled the Routier case. Co-prosecutor Toby Shook told TCCJ that he has no regrets about the case and no qualms regarding Routier's future execution.

Yaroshesky said that making such a claim against a defendant when there is "nothing in the record" is "prohibited by the disciplinary rules of every jurisdiction." She said the former Dallas prosecutor should have been brought before a disciplinary committee.

HIDE AND SEEK

Tactics used by prosecutors are a timely topic in the wake of a number of post-conviction DNA exonerations. In Texas, there have been several, but it is perhaps the exoneration of Michael Morton that has received the greatest media focus.

In February, Williamson County State District Judge Ken Anderson will face an unusual court of

inquiry to determine whether he intentionally failed to disclose exculpatory evidence that might have prevented Morton from unjustly serving 25 years in prison for the murder of his wife. Anderson could face contempt of court and evidence tampering charges. According to the Texas Tribune, he also has been sued over the Morton case by the State Bar of Texas and could possibly be disbarred.

Failure to reveal exculpatory evidence is considered a Brady violation. It comes from the 1963 case of Brady v. Maryland, in which the U.S. Supreme Court determined that the 5th and 14th amendments provide for the availability of all evidence in a case. To meet the criteria of a Brady violation, the following criteria must be met:

~evidence must have been favorable to the defense;

~the state must have withheld that information, even if unintentionally;

~and, because the evidence was not disclosed, the court was prejudiced against the accused.

Ironically, Anderson's lawyer Eric Nichols is arguing that he needs increased access to the files of the attorneys who represented Morton at trial.

Those familiar with Routier's case, including Cooper and Lloyd Harrell, a retired FBI agent and licensed private investigator who

was part of Routier's defense team, say that Dallas prosecutors commissioned forensic psychiatrist Kenneth Dekleva to determine whether Routier presented a future danger.

The likelihood of a defendant posing a future danger is part of the criteria used in Texas when a death sentence is on the table. Cooper, Harrell and others suspect that Dekleva, who believed that Routier posed no future danger, was instructed not to put his professional opinion in writing. Prosecutors did not call him to testify.

Dekleva now practices from an office in Washington, D.C. In late November, a staffer in that office told TCCJ that the doctor will be overseas for the next six months.

Dr. J. Douglas Crowder, an assistant professor of psychiatry at the University of Texas Southwestern Medical School, signed a sworn affidavit stating that in the summer of 2000, Dekleva told him over lunch that he had served as a psychiatric consultant in Routier's capital murder case and was prepared to testify that she was "not likely to constitute a future danger," but was never summoned to the stand at any point during the trial.

With no expert testimony – even during the punishment phase – about Routier being unlikely to pose a future danger, the jury that

convicted the young mother by-passed a life sentence and gave her death instead.

Harrell said he is concerned that deliberate attempts may have been made by prosecutors to circumvent Brady, and Dekleva is but one example. He said that the state's blood spatter expert, Tom Bevel – who has since been tied to several wrongful convictions – implied when meeting with the defense team just prior to the start of the trial that he had been asked to not write a report. Harrell said that FBI profiler Alan Brantley also stated that he did not write a report, an atypical occurrence for an FBI agent.

Harrell said that asking experts to withhold reports could be a way to defeat the required discovery process of releasing all reports of experts who are planned to testify. If a report is written and is exculpatory – in other words, points to the defendant's innocence – such reports would most assuredly fall under Brady, he said.

The former FBI agent stated that Dekleva's name had been on the witness list, but in the era before Google searches, no one on the defense team knew who he was. Brantley's name also was supplied, but with no affiliation. His name was very similar to one of the law

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NO SIGN: Was psychopath label an ethics violation?

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enforcement witnesses, he said. The FBI profiler's testimony, which supported the state's claim of a staged crime scene, came at a time, Harrell said, when the FBI was defending accusations that its profiling was "junk science."

Melissa Higgins of New Hampshire, creator of the Justice4Juvies blog and an advocate who worked to free the wrongfully convicted West Memphis 3, said she quickly became concerned for Routier after she started reading trial transcripts at the request of a colleague.

"It was the trial transcripts that really convinced me that she is innocent - the way the prosecutors handled the case," Higgins said. "They were constantly saying 'we lost this report.'"

At a Prosecutorial Oversight panel discussion in Austin last March, Morton said that his wrongful conviction had nothing to do with race or prior criminal record or "living in a bad part of town" - common assumptions about those aggressively pursued by the justice system.

"Look at me," he said, an apparent reference to the fact that he is white and, at the time of his wrongful conviction, lived in a nice neighborhood. The prosecution's theory was that he had beaten his wife to death because she had denied him sex.

Routier, also white, lived in a two-story house in an upscale neighborhood. Prosecutors insinuated that she was motivated to kill her children out of materialism and frustration over not losing baby weight.

"Through innuendo and very salacious accusations, I was found guilty and got a life sentence," Morton said.

He was luckier than Routier. She got death.

BY A THREAD

Those who have known Routier all her life, or for a number of years, claim there has never been any hint that she would be capable of such a horrific crime.

Melanie Waits, who became friends with Routier more than 20 years ago when they were

both young mothers and regularly visits her in prison, said that there was no solid evidence to back up the state's claims about her character or mental state.

When asked how her friend has managed to hang onto her sanity during the years she has been on death row, Waits replied: "By a thread sometimes."

At Mountain View, Routier has often reached out to, or on behalf of, fellow death row inmates. The interview with Coleman was at Routier's request. She had written TCCJ expressing concern

that Coleman's court-appointed lawyer was not keeping her informed of key appeal developments that have been speeding her to an execution date. She also wrote about her concern for Kimberly McCarthy, who has been scheduled for execution on Jan. 29.

McCarthy, convicted in the drug-fueled murder of a neighbor in Lancaster, was prosecuted by Davis.

"She tries to help these women," said Darlie Kee, Routier's mother. She said that she and her daughter don't always agree about who is worthy of compassion.

Behind glass and mesh in the visitation room at Mountain View, Coleman's face softens and she smiles when the subject of Routier comes up.

"Darlie," she said, "has been a real blessing to me."

In an effort to determine whether Davis' claims about Routier might have merit, TCCJ obtained through Open Records the Texas Department of Criminal Justice's disciplinary reports on Routier. There have been 12 write-ups in her almost 16 years of incarceration. None are for violent or dangerous offenses. The infractions are for such things as soliciting a prison staffer to make a phone call on behalf of another inmate, and having in her cell items that are not available at the prison commissary, such as magazines, tweezers and cocoa mix.

A few of the infractions are perhaps the most telling. Routier used an over-the-counter dental product in a way in



COURTESY

FUTURE PSYCHOPATH? At the time this first grade photo was taken of Darlie Peck - who would later become Darlie Routier - she was the same age her oldest son would be at the time of his murder.



COURTESY

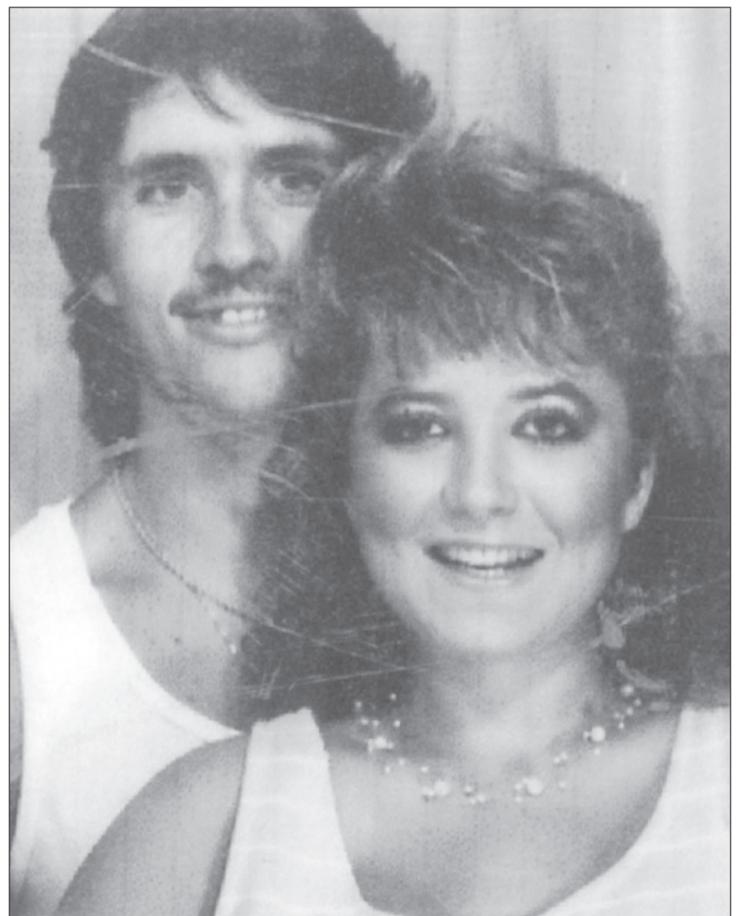
ON THE DEFENSE: Dallas attorney Stephen Cooper said that his client, Darlie Routier, has been evaluated but never diagnosed as a psychopath, even though prosecutor Greg Davis used that label when speaking to the press about her.

Former FBI agent suspects prosecutors' actions were to circumvent discovery laws.

which it was not intended; violated prison rules by rolling her sleeves too high in the prison yard; and had a jar of petroleum jelly that had been mixed with an unknown pink substance.

The woman Greg Davis told the world was a psychopath wanted to dye her hair, get a tan and wear lip gloss.

Kathy Cruz is a staff writer for the Hood County News in



COURTESY

YOUNG LOVE: Darin and Darlie Routier were dating when this photo was snapped.



COURTESY

LOVING MOTHER: Those who know her claim that Darlie Routier loved her three sons. She was accused in the murders of the two oldest boys, and is on Texas death row.

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--New Hampshire blogger
Melissa Higgins