

BROWN, Anthony S. (B/M)

DC# 838162

DOB: 03/28/56

First Judicial Circuit, Escambia County, Case #82-5992

Sentencing Judge: The Honorable Joseph Q. Tarbuck

Trial Attorney: Robert A. Dennis, Jr., Private

Attorney, Direct Appeal: Michael Minerva, Assistant Public Defender

Date of Offense: 12/21/82

Date of Sentence: 07/27/83

Circumstances of the Offense:

Evidence collected by the police indicated that the Veteran's Gas Company received a phone call from an individual who identified herself as Annie Rivers at 3:30 p.m. on 12/21/82. The female requested that the minimum amount of gas be delivered to 3905 Pine Forest Road. Five minutes later, the same individual called back questioning where the gas was. The order was relayed, via the dispatcher, to deliveryman James Dassinger, the victim. Dassinger never returned from his route and the gas company called the police and reported him missing around 6:00 p.m. that night.

Deputy Schultz went to the neighborhood and stopped at a house to inquire about the location of the address of the gas request. Wydell Rogers, who was visiting a friend, answered the door at this house. He admitted that the address in question was his, but he denied any knowledge of the gas request. Deputy Schultz then went to Roger's residence (the address of the gas request) and found the gas truck and the body of James Dassinger. There was no wallet found on the body. There was a large wound under the armpit. A pad was found in the truck with a list of names; Annie Rivers was the last name on the list. Two 410-shotgun shells were found at the scene. Two shoeprints that resembled tennis-shoe prints were found about 150 feet southeast from the house. An employee from the Veteran's Gas Company identified the body and indicated that no gas had been delivered to the house and that approximately \$225.00 was missing.

During the inspection of the scene, Anthony Brown appeared at the address. Blood spatters had been found in the truck, and Brown had a small spot of blood on the watch that he was wearing. The watch was taken into evidence, and Brown was asked to go to the station for questioning. There he was advised of his rights and signed a waiver. In his statement, Brown declared that he was a friend of Rogers and had stopped by for a visit and that he was at a pool hall in Atmore, Alabama, earlier in the day. In a later statement, Brown indicated that he had been with Rogers earlier that day and had left to buy drugs at the pool hall and then had returned. Brown had a fresh track mark on his arm, possibly from an infection. Rogers was questioned on 12/21/89 and 12/22/89. He did not show up for further questioning on 12/26-28/89. On 12/29/89, authorities found an unserved warrant for Grand Theft on Rogers. He was spotted by an officer and promptly taken to the police station. During the questioning, Rogers stated that he knew who was involved

in the robbery and the killing and named Brown and Ulysses Robinson. During the initial stage of the interrogation, Rogers did not implicate himself, but later on testified and admitted to participating in the robbery conspiracy.

Rogers testified that he stated that he arrived at the Oaks Tavern around 1:30 p.m. and was sitting in his car in the parking lot with David Davis. Brown approached the car and asked Rogers to get out of the car. Brown detailed his idea for the crime to Rogers, and Rogers stated that he would go along with it. Rogers' statements led to the conclusion that it was Brown's idea to commit the robbery. Brown got into the car and the three men drove to Brown's mother's house to get a change of clothes. They drove to the Jr. Food Store, where Brown and Rogers used the phone. Brown called information and got the number to Veteran's Gas Company. He then used Rogers' girlfriend's name, and called the gas company and ordered 50 gallons of gas in a female voice. The three men drove to Rogers' house and got a 410-shotgun and some shells that were under the house. Brown loaded the gun and stayed at the house. The plan was for him to hide in the bushes and wait for the deliveryman. Rogers drove to the gas station down the street and waited until he saw the gas truck. He then went to pick up Brown after the allotted five minutes. Brown was not at the designated spot. Rogers then drove back toward the gas station and saw Brown standing on the side of the road. Brown did not have the shotgun. Rogers picked Brown up, and Brown stated that he had killed the deliveryman. Brown had a wallet and a check. When Brown got out of the car he placed \$50 over the visor and stated it was in case anyone inquired as to whether Rogers could pay for the gas.

At the trial, Brown testified to a different sequence of events. He had been home until approximately 1:30 p.m. on 12/21/89. He then drove to Oaks Tavern and saw Rogers. Next, he bought a six-pack of beer and took it to the tavern and drank it. At approximately 3:30 p.m., Brown asked Rogers to take him home. He then walked back to the tavern around 4:30 p.m. Brown and two other individuals then went to Atmore; they bought gas and dope. Brown returned to the Oaks Tavern and then proceeded to Roger's house to give him some pills. Brown stated that he did not know where the blood on his watch came from. Brown also testified that Rogers had pulled a sawed-off shotgun on him several months earlier.

Fingerprints found in the truck did not match Rogers' or Brown's. Davis was never fingerprinted; thus his fingerprints were never compared to the fingerprints found inside the truck. Two of the charges against Rogers were nolle prossed because of insufficient evidence and information. The pathologist testified that the cause of death was a gunshot from close range - within an inch. The death was almost instantaneous because of the massive bleeding.

Additional Information:

In 1974, Brown was arrested for Aggravated Assault twice and given one year and five-years probation. In 1975, he was arrested for Breaking and Entering; the charges were nolle prossed. In 1980, Brown was arrested for Aggravated Assault and Battery and Burglary and was given a one-year suspended sentence and one year of probation. In January of 1983, while out on bail from the murder charge, Brown was arrested for Possession of a Firearm by a Convicted Felon; the charges were dismissed.

Codefendant Information:

Wydell Rogers entered a plea bargain and pled guilty to a charge of Second-Degree Murder and Robbery with a Firearm in exchange for his testimony against Brown. Rogers received a life sentence for the murder and 15 years for the robbery. During Brown’s retrial, Rogers recanted his testimony. He received three counts of perjury and was sentenced to five years for each. Rogers is currently incarnated at Wakulla C.I.

Trial Summary:

- 01/11/83 Defendant indicted on the following charges:
 - Count I: First-Degree Murder
 - Count II: Armed Robbery
 - Count III: Possession of a Firearm by a Convicted Felon
- 07/15/83 The defendant was found guilty of the following:
 - Count I: First-Degree Murder
 - Count II: Armed Robbery
- 07/15/83 A majority of the jury recommended that the defendant receive a life sentence.
- 07/27/83 The defendant was sentenced as follows:
 - Count I: First-Degree Murder - death
 - Count II: Armed Robbery – no separate sentence imposed
- 09/01/83 The defendant nolle prossed for count III

Retrial Information:

- 09/27/85 Motion for retrial filed
- 02/10/86 Jury trial held
- 02/14/86 Defendant acquitted

Appeal Summary:

Florida State Supreme Court, Direct Appeal

FSC# 64,247

471 So. 2d 6

09/16/83 Appeal filed
05/02/85 FSC reversed the conviction and sentence and remanded the case for a
 new trial.
07/11/85 Rehearing denied
08/20/85 Mandate issued

Case Information:

Brown filed a Direct Appeal with the Florida Supreme Court on 09/16/83. The main issue raised in the appeal was that, prior to trial, the State held a deposition, without Brown present, of a deputy sheriff, who would be unavailable at trial. The Florida Supreme Court found the State's failure to follow Rule 3.190 created the fundamental error of not allowing Brown to confront and cross-examine the witnesses testifying against him. The Court ruled that this error was not correctable and, therefore, vacated Brown's sentence and conviction on 05/02/85. The case was remanded to the circuit court for a new trial. The rehearing was denied on 07/11/85, and the mandate was issued on 08/20/85.

On 09/27/85, a motion for retrial was entered into the circuit court. A notice of trial was issued on 10/09/85. On 02/10/86, the jury trial was held and on 02/14/86, Brown was acquitted on the charges of First-Degree Murder and Armed Robbery. The main reason for Brown's acquittal was that Wydell Rogers recanted his testimony.

Prosecution Statement/Law Enforcement:

05/23/02 Judge Novotney, the state attorney who tried Brown, had retired at the
 time of this summary. She was traveling and unable to be reached for
 comment.

04/08/02 Letter sent requesting comment to Escambia County Sheriff's Department.
05/23/02 Information requested via telephone call to Escambia County Sheriff's
 Department. No information has been received to date.

Defense Statements:

04/08/02 Letter sent requesting comment to Mr. Robert A. Dennis, Jr.
05/23/02 Telephone call placed to Mr. Dennis who indicated that he would e-mail
 his comment. No comment had been received to date.

Current Status:

In August 1987, Brown was arrested for Armed Robbery, Possession of a Firearm in the Commission of a Felony, Aggravated Assault, and Larceny; the charges were dismissed.

In September 1987, Brown was arrested for robbery and again the charges were dismissed.

Brown is currently serving a 30-year sentence for Aggravated Battery with a Deadly Weapon. The offense occurred on 02/20/90, and Brown was sentenced on 09/17/90. He also received a charge of Introducing a Controlled Substance into a Detention Facility for which he received an additional three years on 06/18/96. His projected release date is 02/07/13.

Report Date: 02/27/02 NMP
Updated: 10/05/06 JFL