

HOLTON, Rudolph (B/M)

DC# 829326

DOB: 04/20/53

Thirteenth Judicial Circuit, Hillsborough County Case # 86-8931

Sentencing Judge: The Honorable Harry Lee Coe

Attorney, Trial: Mina Morgan, Court-Appointed Counsel

Attorney, Direct Appeal: Douglas Connor, Assistant Public Defender

Attorney, Collateral Appeals: Linda McDermott & Martin McClain, CCRC-N

Date of Offense: 06/23/86

Date of Sentence: 12/17/86

Circumstances of Offense:

On June 23, 1986, the naked, partially-charred body of Katrina Graddy was found in a burning vacant house. Pieces of a nylon cloth were tied around her neck and around one wrist, and the neck of a glass bottle was partially inserted in her anus. Investigators determined that the fire was started intentionally, but the cause of death was strangulation.

Police questioned Carl Schenck, who had been asleep in his truck, which was parked directly across from the burning house. Schenck told investigators he had parked there at about 10:00 or 11:00 p.m. the night before. He had picked up a hitchhiker earlier in the day and was waiting for his return, but Schenck fell asleep and eventually was awakened by the fire engines. A black shaving bag left by the hitchhiker in Schenck's vehicle was taken as evidence. While unable to make a positive identification of the hitchhiker, later identified as Rudolph Holton, Schenck said the hitchhiker closely resembled Holton.

Witnesses claimed they saw Holton enter the house and saw him talking to the victim around the time of the murder. Holton was seen holding a black shaving bag. Another witness, who had known Holton for a number of years, testified that Holton told him "he had killed a girl, that he had strangled her" and then set fire to the house.

When questioned by investigators, Holton claimed he was at home at the time of the murder. He said he had not been to the vacant house for ten days. When told that his fingerprint had been found on the wrapper of an empty pack of cigarettes removed from a room in the house, Holton admitted he had been shooting drugs in the house several days before the homicide occurred but denied being near the house on the night of the murder. Photographs taken of Holton showed scratches on his chest and a cut on his finger.

Three hairs were removed from the victim's mouth at the medical examiner's office. The only conclusive remarks that the expert could offer were that the hairs were from an African American, which included both the victim and the defendant. Additionally, one

of the hairs was from one of three possible areas: the area immediately above the pubic area, from in between the anus and the lower pubic area, or from the nape of the neck. The defense learned during the pretrial investigation that the victim reported being raped anally a week prior to the murder by a person who used a street name of “Pine.” The defense could not ascertain the true identity of “Pine” prior to the trial and proceeded without that information. During an evidentiary hearing several years after Holton’s conviction, the trial attorney was shown two police reports that were taken on the night of the alleged rape. One of the police reports confirmed that the victim had reported being raped, but withdrew the complaint. The second report showed that a David Pearson was questioned by police and arrested for obstruction by giving a false name (he gave the name of Donald Smith), even though the sexual battery charges were dropped by the victim. The trial attorney stated that had she had this information prior to proceeding with the trial, she could have pursued the connection between the incident with David Pearson (Pine) and the subsequent murder of the victim. Additionally, the defense presented the argument that Pearson’s criminal records indicated that Pearson carried a leather black pouch, which had a similar description to the shaving bag seized from Schneck’s car.

Prior Incarceration History in the State of Florida:

Prior to his trial for the murder of Katrina Graddy, Holton had a criminal record in the State of Florida. The following is his prior prison history in Florida:

Offense Date	Offense	Sentence Date	County	Case No.	Prison Sentence
03/12/1979	ROBB. GUN/DEADLY WPN	03/12/1979	HILLSBOROUGH		2Y 0M 0D
05/08/1981	BURGUNOCCSTRUC/CV OR ATT.	09/03/1981	HILLSBOROUGH		1Y 6M 0D
12/22/1982	GRAND THEFT,\$300 LESS &20,000	03/29/1983	HILLSBOROUGH	8215094	1Y 6M 0D
02/15/1983	GRAND THEFT,\$300 LESS &20,000	03/29/1983	HILLSBOROUGH	8302236	1Y 6M 0D
12/26/1983	BURGUNOCCSTRUC/CV OR ATT.	03/28/1984	HILLSBOROUGH	8315326	1Y 0M 0D
12/23/1983	BURG/DWELL/OCCUP.CONVEY	03/28/1984	HILLSBOROUGH	8400242	1Y 0M 0D
12/27/1984	GRAND THEFT MOTOR VEHICLE	06/10/1985	HILLSBOROUGH	8500114	3Y 0M 0D
01/06/1985	BURG/DWELL/OCCUP.CONVEY	06/10/1985	HILLSBOROUGH	8500840	3Y 0M 0D
01/08/1985	ORGANIZES THEFT PROPERTY	06/10/1985	HILLSBOROUGH	8500841	3Y 0M 0D
01/05/1985	BURG/DWELL/OCCUP.CONVEY	06/10/1985	HILLSBOROUGH	8501118	3Y 0M 0D

Trial Summary:

07/09/86 Indicted on the following charges:
 Count I: First-Degree Murder
 Count II: Sexual Battery
 Count III: Arson

12/05/86 Jury returned guilty verdicts on all counts of the indictment

12/05/86 Jury recommended death by a vote of 7-5

12/17/86 Sentenced as follows:
 Count I: First-Degree Murder – Death
 Count II: Sexual Battery – Life
 Count III: Arson – 30 years

Appeal Summary:

Florida Supreme Court – Direct Appeal

FSC# 69,861
573 So.2d 284

01/12/87 Appeal filed
09/27/90 FSC affirmed conviction and death sentence
02/14/91 Mandate issued

U.S. Supreme Court – Petition for Writ of Certiorari

USSC# 90-7757
500 U.S. 960

04/16/91 Petition filed
06/03/91 USSC denied petition

Circuit Court – 3.850 Motion

CC# 86-8931

07/15/92 Motion filed
11/02/01 CC overturned conviction and sentence and ordered a retrial

Florida Supreme Court – 3.850 Motion Appeal (state)

FSC# 01-2671
No Opinion

12/04/01 Appeal filed
12/18/02 FSC affirmed retrial order

Case Information:

Holton filed a Direct Appeal with the Florida Supreme Court on 01/12/87, citing the following errors: allowing improper peremptory challenges, allowing prejudicial cross-examination of investigators, allowing improper closing statements by the prosecutor, failing to grant a continuance until a defense witness could be located, using insufficient evidence for first-degree murder and arson convictions, finding evidence of sexual assault, failing to complete a sentencing guidelines score sheet, determining that four aggravating circumstances existed, and failing to consider statutory mitigating circumstances. On 09/27/90, the FSC affirmed the first-degree murder conviction and death sentence.

Holton filed a Petition for Writ of Certiorari with the U.S. Supreme Court on 04/16/91 that was denied on 06/03/91.

Holton filed a 3.850 Motion with the Circuit Court on 07/15/92. On 11/02/01, the CC overturned Holton's conviction and death sentence and ordered a retrial. In making the decision, the court cited DNA tests that proved that crucial hair evidence did not belong to Holton and a *Brady* violation in that police did not turn over some information to Holton's trial attorney.

The state filed a 3.850 Motion Appeal with the Florida Supreme Court on 12/04/01, and on 12/18/02, the FSC affirmed the granting of a retrial.

On 01/24/03, prosecutors dropped the murder charge against Holton. In a document to the Circuit Court, State Attorney Mark Ober wrote, "Due to the unreliability of witness testimony and the lack of physical evidence, the state of Florida cannot proceed to trial."

Law Enforcement/Prosecution Statements:

Mark Ober, State Attorney for the 13th Judicial Circuit, provided the following written statement:

In 1986, Rudolph Holton was convicted by a jury of his peers for the murder of Katrina Graddy, and the Florida Supreme Court affirmed the conviction.

Since that time, the trial court has ordered a new trial after an evidentiary hearing in 2001 where trial witnesses recanted their testimony and an alternative suspect was developed over a decade later.

The police detectives and the prosecutor handled the case ethically with the information they had at the time.

The real focus of my inquiry in January 2003 of the Holton case was to legally assess the case as it exists today. After an objective, impartial, and extremely detailed analysis of the evidence by senior members of my staff and myself, it became clear that the case could not be proven beyond a reasonable doubt.

This was a very complicated case and was carefully examined from all aspects. We could not proceed with a new trial because of the witness recantations, which are highly suspect, the lack of corroborating evidence, and the defense's argument of an alternate suspect. This office could not ethically proceed with the case because of those factors. However, it should be made abundantly clear that I am not saying that Rudolph Holton did not commit this crime. My stance is that the State of Florida can not prove the case against Mr. Holton beyond a reasonable doubt, and we do not have a reasonable likelihood of obtaining a conviction as the case exists today.

A request for a statement was made to the Tampa Police Department, but no comment has been received to date.

Defense Statements:

Linda McDermott, an attorney at CCRC-N, provided the following written statement:

I have been Mr. Holton's primary counsel in his postconviction proceedings since 1997. Shortly after becoming involved in his case, I began to realize the strong possibility of his innocence. Through hard work, dedication, and the assistance of my colleagues at CCRC, we were able to transform that possibility into a reality.

Mr. Holton is innocent of the murder of Katrina Graddy. This conclusion has been echoed by many others who have taken a close look at this case. A news article recently reported that the original prosecutor who tried Mr. Holton's case now believes he is innocent. During an oral argument which I conducted before the Florida Supreme Court, Justice Pariente stated that Mr. Holton's case 'comes close to one of the strongest cases of potential for actual innocence that [she] had seen.'

Remarkably, the Florida Supreme Court issued an order affirming the lower court's granting of a new trial just six days after the oral argument. In my experience, a minimum of six months to one year often elapses prior to an opinion being issued by the Court.

In a press conference following Holton's release, another of Holton's attorneys, Martin McClain, said, "Though we are certainly pleased that the state attorney has dropped the charges, this does not change the awful fact that Rudolph Holton served over sixteen years on Death Row for a crime that he did not commit."

Current Status:

On 01/24/03, Holton was released from Union Correctional Institution.

In early 2003, Holton was arrested and charged with aggravated assault for threatening his nephew with a machete.

Holton was arrested on 12/11/03 and charged with aggravated battery for punching his wife and beating her with the shaft of a golf club. On 06/21/04, Holton was given a two-year sentence and was released on 08/29/05.

Report Date: 10/04/06 JFL