

May 24, 1995

A CASE OF LIFE & DEATH

Guilty Until Proven Innocent

A Dover native is on death row in Arizona for a brutal murder. New evidence shows he may not have been the killer.

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Daily Record staff

Ray Krone wasn't feeling his best on Dec. 28, 1991. It was a Saturday, and he had been drinking heavily until early in the morning. He and his roommate did basically nothing all day, they sat around the house, ordered a pizza and watched football on television.

Krone, a letter carrier in Phoenix who grew up in Dover, went to his room about 10 p.m. He told his roommate, Steve Junkin, that he would read for a while and then go to sleep.

Junkin called it a day about an hour later. It wasn't an unusual Saturday for the two buddies who had served together in the Air Force. They often partied hard on Friday nights and wasted away the next day.

Sunday afternoon, Krone's life was interrupted by a knock on his door. He opened it to find Phoenix Police standing outside.

A detective wanted to question him about a murder. A bartender at the CBS Lounge, a local bar where Krone often played darts, had been stabbed to death about 2 a.m.

Krone agreed to go to the Phoenix Police Department for questioning. He told investigators he knew the bartender, Kim Ancona, but only as an acquaintance. He had received a Christmas card from her and talked to her at the bar, but that was about it.

Before he left, police asked him to bite a piece of Styrofoam. Ancona had teeth marks on her body, so detectives were collecting bites from everyone they talked to for comparison.

Krone agreed and bit down on the Styrofoam. Police then took him home. The lead investigator on the case, Detective Charles Gregory, took Krone's bite sample with him back to the crime scene.

When he got there, Gregory showed the bite mark to Dr. John Piakis, a local dentist helping on the case. Piakis immediately said Krone's sample was consistent with the mark on Ancona's left breast.

Police thought they had their man, just a little more than 12 hours after the murder. From then on, they focused on evidence that led to Krone, disregarding leads that might point in other directions. Two days after Ancona's slaying, police arrested Krone and charged him with first-degree murder, kidnapping and sexual assault.

Krone wasn't worried at the time. He told his family that it was all a mistake, and he would be released soon. The state couldn't convict him, he said, because he didn't do it.

Eight months later, Krone was tried on the strength of the bite mark evidence against him. Police had no fingerprints, blood tests, DNA, hair samples or eyewitnesses. Only his teeth marks, which several experts say are the weakest type of forensic evidence, tied Krone to the slaying.

The jury thought it was enough. They found Krone guilty of murder and kidnapping. The judge sentenced him to die.

Now, a new lawyer has piled up evidence that indicates Krone may not have killed Ancona. That includes DNA testing that exonerates Krone, four bite mark experts who dispute the prosecution's findings and a previously unknown witness who raises doubts about testimony by other people.

The lawyer, Chris Plourd of San Diego, is trying to get Krone, now 38, a new trial. To do that, he must convince a judge either that errors were made at the first trial or introduce evidence not available to the defense at the time. He says he can do both.

"The evidence is so overwhelming, I don't even think the prosecution would take it to a new trial if we got one," Plourd said.

But the prosecutor, Noel Levy, said he doesn't buy the new evidence. He thinks police got the right man.

"Everybody in prison's innocent," Levy said. "Just ask them."

The investigation

The new owner of the CBS Lounge in west Phoenix was working early the morning of Dec. 29, 1991. It was Sunday, but Hank Arredondo had just bought the bar about a week before and needed to let a carpenter in to do some work.

Arriving shortly after 8 a.m., Arredondo started to unlock the front door but found that it was already open. He went inside and noticed several things out of place. The beer sign lights were still on and the door to the back office was open.

Arredondo first checked the office safe and found it open with the money still inside. Wondering what had happened to Ancona, the bartender who had closed the night before, he searched the lounge.

Ancona, 36, had worked at the bar about six months. She was a divorced mother of three, ages 18, 14 and 10, and lived with a man named Paul Clark.

That Sunday morning, Arredondo found Ancona quickly. She was lying naked on the floor of the men's bathroom. Her clothes were strewn around the room and dried blood was all over the bathroom and pasted on her neck.

Arredondo called Phoenix Police, who checked the body and found that someone had stabbed Ancona eight times, twice in the back and six times in the neck. They also found footprints on the bathroom floor and in the kitchen, where a knife was missing.

Detective Gregory quickly took over the case. He searched in Ancona's purse and found an address book with two phone numbers for "Ray" inside. One number belonged to Ray Krone. That's what led police to him.

After focusing on Krone as the primary murder suspect, police searched for evidence against him. In addition to the bite marks, they found:

- A former girlfriend had filed an injunction against Krone prohibiting harassment in February 1991. Another woman had filed a report with police saying Krone threw a beer can at her in 1990 when she was at his house. Krone was not prosecuted and he had no criminal record.
- Police found small plastic beads from a shuffleboard game with the body. They also found the beads in Krone's car.
- Kate Koester, the bartender who worked with Ancona that night, said Ancona was planning to close the bar with a man named "Ray." Believing Ancona meant Ray Krone, Koester described Krone to police, a mailman with a beard and mustache and straight brownish-blond hair in a ponytail.
- Krone had no solid alibi. His roommate couldn't say for sure that he didn't leave the house that night.
- The bar's former manager, Patricia Chipley, said Krone and Ancona were dating. They had been together at a Christmas party at Chipley's house and

Krone had fought with a guy in the bar who was flirting with Ancona, Chipley said. Another friend of Ancona also said she was dating a man named "Ray."

- The man in the bar fight, Robert Atwood, told police the argument was about Krone subbing in a dart tournament. Krone didn't want to pay \$5 to play and blamed it on Ancona because she had asked him to sub, Atwood said.

Convinced Krone was their man, police didn't pursue information that would have led them to other possible suspects:

- Police found the name and phone number of another "Ray" in Ancona's purse. They contacted that man. He told police he and Ancona used to date, but he hadn't seen her in a year and a half. Police disregarded him as a suspect because an officer looked at his teeth and said he didn't think they matched.
- Arredondo told police Ancona had been in the bar Friday, her night off, with a man. He described him as having medium length dark hair, no facial hair and wearing old-fashioned, plastic-framed glasses with very thick lenses. Arredondo told police he didn't know the man's name.
- A bar patron, Denise Newman, described Ancona with the same man that night. Newman said the man was named "Ray" and had dark hair, thick glasses with plastic frames, no facial hair and a cut above his right eye.
- Several people, including Arredondo, told police they thought the bar's fired manager, Chipley, and her lesbian lover, Lu Yazzie, may have had something to do with the death. They gave several reasons.
- Clark, the man Ancona was living with, told police they were having problems with their relationship, and Ancona was thinking about moving out.
- Fingerprints from a glass left out on the bar were never identified. They were compared to Krone's and didn't match. Also, some human blood found on Ancona's pants didn't match Krone's or Ancona's. Police never identified who the blood belonged to.
- Police found shoe prints in the men's bathroom and kitchen that they originally believed were made by the murderer, according to investigation reports. Krone didn't have shoes matching the prints and police later disregarded them, saying the prints must have been made by someone other than the murderer.

- When police first arrived at the murder scene, a man about a block away signaled to one of them, then left a note on the ground and ran. The note said police should be looking for an Indian man and described him in detail. The man said he had seen the Indian hanging around behind the bar about 3:30 a.m.
- Police tracked the note writer down and questioned a man who matched the description he gave. The native American, a steady patron at the bar who stopped coming after the murder, told police he didn't do it. Police took a sample of his bite mark, which they didn't think matched.
- Police found marijuana and methamphetamines in Ancona's purse. Toxicology tests showed she had meth in her bloodstream when she died. Several people told police Ancona used to be involved with dealing drugs. Ancona's ex-husband told police her roommate had been murdered about two years before over drugs.
- A man cleaning the sidewalk in front of the CBS Lounge during the early morning hours the day of the murder said he saw a man drive a small green car into the bar's parking lot. The man got out and may have gone into the bar, then came out later, the sweeper said. He believed he could identify the man if he saw him again. When shown a photo lineup containing Krone's picture, the man identified someone else.

None of these leads were strongly pursued, according to police records. Because the dental expert said Krone was their man, investigators treated everything else as superfluous.

"We weren't interested in nailing Krone per se," prosecutor Noel Levy said. "We wanted the suspect, the guy." Krone just happened to be the suspect in this case.

The trial

Krone went on trial for murder beginning July 29, 1992. Sitting next to his court-appointed lawyer in a Maricopa County courtroom, Krone listened as one witness after another, 19 in all, implicated him in the crime.

The prosecutor, Levy, made three major arguments during the trial.

1. Krone and Ancona were dating and he was supposed to meet her at the bar that night.
2. Krone made the bite mark on her breast.
3. None of the other evidence proved Krone wasn't the killer.

Through eight days of the trial, Krone's lawyer, Geoffrey Jones, pointed out several inconsistencies and questions about the prosecution's witnesses and case. He presented five witnesses of his own, including Krone, and never raised a reasonable doubt in the jury's mind.

Levy spent the first two days of the prosecution's case trying to establish that Krone and Ancona were dating. He based that argument on accounts from some of Ancona's friends.

Chipley was one of the first witnesses to take the stand, and one of the most damning to the defense. She told the court that Krone and Ancona had been kissing and hugging at a Christmas party at her place, just days before the murder. She said they had been on other dates, and Ancona wanted to have sex with Krone.

Another woman had told police similar details, but she wasn't called to testify. Beth McCulloch said Ancona was interested in a man named "Ray" and wanted to sleep with him, but hadn't. McCulloch, however, did not know this "Ray's" last name or what he looked like.

Koester testified after Chipley. Levy used her to place Krone at the scene of the crime. Koester said "Ray" was planning to help close the bar the night Ancona was killed. She thought Ancona was talking about Ray Krone and had described Krone to police.

Under cross examination, however, Koester testified that Ancona said "Ray" would be at the bar, not specifically "Ray Krone."

When Krone took the stand in his own defense, he denied that he and Ancona had ever dated. They had been to a Christmas party and another bar together, he said, but with a group of people. Some friends told him Ancona was interested in him, but he said he didn't want to date her because she was living with another man.

It was Krone's word against Chipley's at the trial, but since then, Plourd has gathered information that sheds doubt on Chipley's testimony.

Ancona may not have planned to close the bar with Krone. Instead, she may have talked to Koester about another "Ray," the same man Arredondo and Newman saw with her the Friday before the murder.

A few days before she died, Ancona had told a close friend that an "old flame" had recently contacted her. That may have been the other "Ray" whose phone number police found in Ancona's purse. His description in the police report roughly matches the description of "Ray" that Arredondo and Newman gave police.

Plourd also discovered a new witness who will testify that Ancona wasn't planning to meet anyone that night. Early this year, Plourd visited the Phoenix Police evidence room. He found a business card in Ancona's pants pocket and contacted the woman whose number was written on it.

The woman, Kathleen Menona, turned out to be Ancona's neighbor. She told Plourd she had stopped by the bar around closing time. Ancona told her she was closing alone and would come to Menona's house afterward.

Police never interviewed Menona. When Plourd contacted her, she said she was surprised she had never been questioned.

Chipley is the only person who directly testified that the "Ray" the victim was talking about was Ray Krone. However, other people told police they suspected Chipley may have had something to hide.

Arredondo told police that he had fired Chipley three days before the murder. He described her as being in a state of shock. Chipley had tried to convince Ancona to quit in support of her, but she wouldn't.

After the murder, Arredondo and two bar patrons told police they believed Chipley and her lesbian lover, Lu Yazzie, may have been involved in the murder. They relayed several instances of unusual behavior by the two. One man said Yazzie was jealous because Ancona was planning to move in with her and Chipley.

In addition, Chipley gave a conflicting account of when she and Yazzie had returned from a weekend trip.

When Gregory interviewed her Sunday afternoon, Chipley told him she had returned home Saturday night, before the murder, according to Gregory's notes.

In a later interview and during the trial, she said she didn't return home until Sunday night and learned of the murder then. That means she testified that she learned of the murder after Gregory had already spoken to her about it.

A defense investigator contacted Chipley in Lexington, Ky., in December. She agreed to speak with him when she visited Phoenix, then never did. The defense has been unable to locate Chipley or Yazzie since.

The prosecution's case focused next on the bite mark evidence. That's what eventually convicted Krone, Levy said.

"There wasn't a whole lot of forensic evidence," he said. No fingerprints, hair samples, blood tests or anything else linked Krone to the crime. "This was what you call a bite-mark evidence case."

Piakis took the stand Aug. 3 and told the court about his examination of Ancona's body. When Gregory brought him a sample of Krone's bite mark, he said, he saw an immediate similarity with the marks on Ancona's body.

However, Piakis wasn't certified as a forensic odontologist, or bite mark expert, so his testimony was followed by that of Dr. Raymond Rawson, an odontologist from Nevada.

To back up his testimony, Rawson produced a video to explain his technique. Jones learned about the video just one working day before the trial started.

Jones argued that the video should not be allowed because it was introduced to him so late. The judge allowed the video to be shown and denied Jones' motion for a continuance.

"Had we known that there was going to be a video, we would have obtained an expert and done one of our own," Jones said. He believes Krone didn't get a fair trial because of that. "It's so much more effective in video. You cannot cross examine a videotape."

Plourd may argue that the judge made a mistake by denying Jones' motions. That could be another reason for a court to grant Krone a new trial.

Only one person, an odontologist obtained by Jones and approved by the court, examined the bite mark evidence for the defense. "His qualifications, they're not nearly as strong as a forensic odontologist," Jones said. Forensic odontologists undergo special training to learn about using bite marks as evidence in crimes.

Plourd has now brought in his own experts, and they sharply disagree with Rawson and Piakis. Four certified forensic odontologists have told Plourd they believe Krone's teeth are not consistent with the bite mark.

Dr. Homer Campbell, the chief forensic odontologist for the state of New Mexico, submitted a sworn affidavit to the court. In it, he states, "My opinion is that the teeth of Ray Krone are inconsistent with the bite mark injuries found on the victim's left breast."

Dr. Richard Souviron and Dr. Norman Sperber of San Diego have also written to Plourd to say they disagree with the prosecution experts and are willing to testify. A fourth expert disagrees with Rawson but wants to speak with him before providing an official opinion.

Sperber may prove to be an even bigger drawback for the prosecution. The San Diego expert has seen the evidence before. In early 1992, the prosecution tried to enlist him as an expert on its side.

Sperber disagreed with Piakis' conclusion that he had a match. "In this case, there were a few teeth that there was some consistency with, but there were other marks that weren't consistent," he said. After Sperber turned them down, the prosecution enlisted Rawson.

The state is required to provide any evidence that may exonerate a defendant to the defense lawyer, Plourd said. However, Jones was never informed that Sperber had seen the evidence and judged that it was not a match.

That alone could be enough to get a new trial, Plourd said.

Levy presented a few other pieces of evidence at the trial. Rather than proving that Krone was the killer, this evidence was used to show that nothing proved Krone wasn't the killer.

Levy said no fingerprints were found on the murder weapon. The Phoenix Police crime lab specialist testified that Krone and Ancona shared O-positive blood. Their hair was similar and the expert could not "exclude or include" hairs found on the body as coming from Krone, he said.

DNA testing wasn't a factor at the trial. Police sent saliva found in the bite marks and pubic hairs on Ancona's body to a genetic testing lab in Colorado, but the results came back inconclusive, Levy said.

Jones didn't dispute the findings. Plourd, however, specializes in DNA cases. He obtained the DNA report from the testing lab and said the tests lead to different conclusions from the prosecution's.

Investigators found DNA in the saliva from the bite marks on Ancona's body. Tests said the material matched Ancona's DNA, which is different from Krone's. So the material in the bite marks may be Ancona's DNA, or the biter was someone with the same DNA characteristics that she has. Either way, it wasn't Krone.

The same holds true for pubic hairs found on Ancona's body. The lab tested the hairs and said none of them matched Krone's DNA. The pubic hair may have come from the bathroom floor, rather than the killer. Either way, Plourd said, the genetic material wasn't from Krone.

The sentence

Despite all of the evidence that now seems to exonerate him, Krone was convicted. The jury never heard most of it, and the teeth marks were enough to convince them.

The jurors deliberated two hours before finding Krone guilty of kidnapping and first-degree murder. The last thing they asked to see before rendering the verdict was Rawson's video.

Krone wrote about his reaction to the verdict in a letter to the York Daily Record dated May 14 from Arizona State Prison.

"I had no motive whatsoever to harm this person, so how could I ever be convicted of such a serious crime? It was just too incredible to believe that they actually thought I had killed her. ... I still wonder if there was something in my testimony that caused the verdict. Really the whole trial was like some surreal out-of-body experience, with me just playing a part like some role actor."

For 2 years now, Krone has played the part of a death row inmate. He said he would give up hope if it weren't for his supporters: his friends, his parents and his lawyer.

"I feel the deep need to show my infinite appreciation for all they have done and my deepest gratitude for giving me the secure feeling I've gotten from knowing they love and care about me," he wrote. "To them all I will owe my life and from them I've received more than I can ever repay."

Right now, Krone wants nothing more than to be proven innocent. The evidence accumulated by Plourd may be enough to do just that.

Last year, Plourd requested a new-evidence hearing. After some legal wrangling over Krone's automatic appeals process, he got one. Now he will get the chance to show that Krone deserves a new trial.

Plourd is confident that he can win Krone that trial. Once that happens, he's sure he can prove Krone's innocence.

Then Krone would be free to continue his life, a life interrupted that day in 1991 when police knocked on his door looking for a murder suspect.