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One Man Goes Free, Another Waits

Travis Hayes, whose alleged accomplice was released from death row by DNA tests, wonders why prosecutors won't dismiss his charges.

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Travis Hayes and his lawyers were elated when they learned that Louisiana prosecutors had dismissed all charges against his friend Ryan Matthews, who had spent more than five years on death row for the 1997 murder of a grocery store owner.

Hayes had a special interest in the dismissal: He was serving a life sentence as Matthews' getaway driver.

It was almost two years ago that Jefferson Parish Dist. Atty. Paul D. Connick announced that he was dropping charges against Matthews after five DNA tests "failed to establish any link" between Matthews and clothing -- including a ski mask -- thrown from a car fleeing the crime scene.

Connick said tests confirmed that there was DNA on the ski mask from Rondell Love, who was serving a 20-year sentence for slashing the throat of a woman who lived near the market, six months after the grocer was killed.

Love, according to court records, had bragged to other inmates that he had killed Tommy Vanhoose, the owner of Comeaux's Grocery in Bridge City, which lies across the Mississippi River from New Orleans. Vanhoose was shot four times with a .38-caliber revolver during an attempted robbery and bled to death.

Lawyer Emily Maw of the New Orleans Innocence Project said she and Hayes expected that he too would soon be released. There was no DNA evidence implicating him, and none of the witnesses could put Hayes at the crime scene or in a car fleeing from it.

But Hayes is still serving a life sentence at the Louisiana State Penitentiary at Angola, and Love has not been charged.

Today, at the Jefferson Parish courthouse in Gretna, Hayes' lawyers will call witnesses in an attempt to persuade Judge Henry G. Sullivan Jr. to release Hayes, who is now 26. The lawyers maintain that the only thing that links Hayes to the crime is a coerced confession he gave to police after six hours of interrogation.

Prosecutors are expected to present witnesses, including the detectives who interrogated Hayes, on Friday.

Connick and his assistants have declined to speak about Hayes' case outside court.

However, in a hearing on Hayes' appeal six months after Matthews was released, David P. Wolff, the lead prosecutor, said the fact that neither Hayes' nor Matthews' DNA was on the ski mask did not "mean that these men never wore the mask. It is possible for them, for Ryan Matthews to have worn the mask, or Travis Hayes for that matter, and not left DNA."

Wolff also said that in Hayes' confession several hours after the slaying, "he puts himself in the getaway car, at the scene, at Comeaux's."

Hayes' lawyers said they were stunned that the prosecutors were continuing to assert that Hayes was involved in the killing given the evidence that had developed over the last nine years, including the DNA test results.

"I just think it is unbelievable," said Steven I. Singer, a Loyola University law professor who has been working on the case with Maw and David Park of the Innocence Project.

Matthews and Hayes were longtime friends with minor juvenile records. They were arrested together a few hours after the slaying.

Matthews always proclaimed his innocence.

Hayes initially denied any involvement, but in a middle-of-the-night interrogation he told detectives that he drove to the store, that Matthews went into Comeaux's Grocery, and about 15 minutes later he heard shots and saw Matthews run out. Hayes said the two drove away and he never asked Matthews what happened.

Hayes later recanted his confession, but he was convicted in 1998 of second-degree murder. Matthews was convicted as the triggerman, largely on eyewitness testimony that legal experts say is now discredited by the DNA test results.

Those tests were reviewed, at Connick's request, by one of the nation's leading forensic scientists, Henry C. Lee, director of the Connecticut State Crime Laboratory and a witness in many high-profile cases. Lee concluded that it was "highly unlikely" that Matthews ever wore the ski mask.

Experts on wrongful convictions and false confessions say they have never seen a case quite like Hayes'.

"I'm staggered about it," said Steven A. Drizin, a Northwestern University law professor and coauthor of a study on false confessions.

"I reviewed Hayes' confession and a lot of the police reports. It is the most naked, uncorroborated confession I have ever read, devoid of relevant detail," said Drizin, who is the director of the law school's Center on Wrongful Convictions.

He said that Hayes was led into admitting things that he did not do and making statements that showed he did not know what really happened.

Transcripts show that a police detective asked Hayes: "When did [Matthews] tell you that he was, in fact, involved [in the shooting]?"

Hayes: "He ain't never told me nothing."

Detective: "He never did?"

Hayes: "I just found out."

Detective: "You found out through us talking to you?"

Hayes: "Yes, sir."

There is "cause for serious doubt about the reliability of the confession," said Richard Ofshe, a UC Berkeley sociologist and a leading expert on false confessions. His comments were made in a court declaration after he reviewed Hayes' statements and other evidence for Hayes' appellate lawyers.

Ofshe said that there were conflicts between Hayes' recollections and eyewitness testimony on such details as whether Matthews was in the store for 15 minutes or a much shorter time, or whether he was carrying a gun or wearing a ski mask. Hayes was unable to tell the police what street he was on, how to get to the crime scene, the name of the store, how many shots he heard or where the weapon was left, Ofshe said.

The variance of Hayes' narrative "from the underlying crime facts

Barry Scheck, co-founder of the Innocence Project in New York, who played a role in securing Matthews' freedom, said Hayes' case demonstrated how difficult it was to convince prosecutors that someone would confess to a crime that he had not committed.

Hayes was 17 when he was arrested, a dropout with a low IQ. Juveniles and people of limited intelligence are particularly susceptible to confessing to crimes they did not commit, according to scholarly studies of false confessions.

Drizin said that Hayes certainly fit into those categories.

Defense lawyer Maw said Hayes was mystified and disturbed about his situation. But letters he has written to relatives indicate he hopes to win his freedom.

"Good things come to those who have patient," he wrote in one.