



Ferguson. I did not provide any of the pertinent details in my interrogation that would support a conviction.

7. Beginning at age 14 and up to the date of my arrest I was a heavy drug user. I experimented with LSD, psychedelic mushrooms, peyote and cocaine. I was using recreational drugs and drinking alcohol on the night of October 31, 2001. I had taken 3 - 4 Adderal blue pills (10 mg), ingested one line of cocaine and consumed about 13-14 alcoholic beverages (10 sixteen ounce beers and 3-4 mixed drinks). It is possible that I also used marijuana. October 31<sup>st</sup>, 2001 is the first time I experienced an alcoholic blackout. Between October 31<sup>st</sup>, 2001 and my arrest on March 10, 2004, I experienced 10 to 20 additional blackouts. My memory, including my memory from that night, was severely affected as a result of my consumption of alcohol.

8. My extensive alcohol use was never explored by the police or prosecutors in my proffer and pre-trial preparation.

9. At trial, no one ever asked me any questions about my heavy alcohol use. The prosecutor mentioned my using cocaine and drinking on 10/31/01 one time. (R.488). An extensive assessment was performed on me at the University of Missouri - Columbia on November 26<sup>th</sup>, 2001. (Attached and incorporated herein as Exhibit "A"). The assessment stated that "it is possible that Charles has experienced a minor brain insult or organic abnormality that has gone undetected and has gradually compromised his cognitive abilities, memory, motivation or judgment." (page 12) The assessment also stated that "...it is possible that Charles' past or possible current use of substance is impairing his memory abilities..." (page 15) The assessment concluded that "Charles might benefit from a comprehensive neurological evaluation in an attempt to evaluate the possibility that underlying organic structures might be compromised or damaged." (page 16) My assessment was in the possession of the State, my attorney and Ferguson's defense attorneys.

10. It is my understanding that some memories can never be recovered and other memories are not reliable as the result of an alcoholic blackout because the brain never records the information sought to be retrieved. The police, prosecutors, and defense attorneys never explained the possibility that I could not physiologically have remembered any events of October 31<sup>st</sup>, 2001 after I blacked out. At trial, no expert for the defense or prosecution addressed my heavy alcohol use from October 31, 2001 to March 10, 2004.

11. I was also high on marijuana when I was first taken into custody and questioned by police. The statements I made during my interrogation were the result of being high on marijuana.

12. Prior to accepting a plea agreement, I was provided police reports. One of the reports reflected an interview with an inmate at the Boone County Jail named Richard Walker. The report stated that Walker told police that Ferguson had implicated himself in the murder. I was never told that Walker recanted his allegations against Ferguson.

13. Another police report reflected an interview with Megan Arthur. The report stated that Ferguson had told Arthur that he and I "did something stupid" and that Ferguson did not want to turn himself in. I was never told that in a subsequent statement given to Investigator Jim Miller that Megan Arthur denied making these statements.

14. Even though I did not remember any details about how the crime took place during my interrogation, the reports of these two individuals persuaded me that Ryan Ferguson may have been involved in the murder.

15. I was led by police to believe that Ferguson was going to accept a plea agreement and testify against me. Richard Walker also informed me that Ferguson was going to take a plea in exchange for his testimony.

16. The police threatened me to implicate Ferguson or else I would be solely responsible for Heitholt's death and be charged with first degree murder and possibly sentenced to death.

17. As a result, I had no choice but to accept a plea agreement in exchange for my testimony against Ryan Ferguson.

18. I met with Boone County prosecutor Kevin Crane numerous times prior to Ryan's trial to go over my testimony.

19. At trial I testified that Ryan proposed that we rob someone in order to get more money to buy more drinks. (R. 517). This testimony is false. Ryan did not propose that we rob someone to buy more drinks.

20. At trial I testified that we decided to go downtown to commit the robbery. (R. 517). This testimony is false. Ryan and I did not plan to go downtown to commit a robbery.

21. At trial I testified that Ryan said, "We're young, we're not that big, and if something happens, one of us might get -- one of us might get messed up, and we need to take something with us." I also testified that Ryan then grabbed a tire tool from his trunk. (R. 519). This testimony is false. Ryan never suggested that we needed something for protection. Ryan did not grab a tire tool from the trunk of his car.

22. At trial I testified that Ryan and I were hiding behind a dumpster enclosure next to the Tribune parking lot. (R. 522). This testimony is false. I did not see Ryan hide behind any dumpster enclosure that night.

23. At trial I testified that Ryan stated, "We need to get this over with. We need to get this over with. Just go do it." (R. 524). This testimony is false. Ryan never urged me to attack Kent Heitholt.

24. At trial I testified that I saw Ryan standing over Heitholt with his foot on Heitholt's back, strangling Heitholt with Heitholt's belt. (R. 548-50). This testimony is false. I never saw Ryan standing over Heitholt. I never saw Ryan in possession of Heitholt's belt. I never saw Ryan strangling Heitholt.

25. At trial I testified that I saw Ryan going through Heitholt's pockets and going through the car. (R. 551). This testimony is false. I never saw Ryan going through Heitholt's pockets or his car.

26. At trial I testified that I bent down to pick something up and Ryan said, "That's not ours. Don't touch that." (R. 553). This testimony is false. Ryan never told me not to touch anything.

27. At trial I testified that after the killing I thought of the tire tool and asked Ryan, "Ryan, did you get that?" to which he replied, "Yeah." (R. 558). This testimony is false. I never asked Ryan about a tire tool, and I never saw him in possession of a tire tool that night.

28. At trial I testified that Ryan put the tire tool in a plastic bag from the trunk of his car. (R. 566). This testimony is false. I never saw Ryan put a tire tool in a plastic bag.

29. At trial I testified that I put the belt in the plastic bag Ryan retrieved from his car. (R. 566). This testimony is false. I never saw Ryan retrieve a plastic bag from the trunk of his car.

30. At trial I testified that on the ride home Ryan said he would take care of the items in the trunk, and stated, "Don't worry. I'm going to take care of it. You know, it doesn't really matter, man. I always wanted to kill someone before I was 60 anyway, so I just – I just accomplished that." (R. 573, 589-90). This testimony is false. Ryan never told me he would dispose of items in the trunk or that he wanted to kill someone.

31. At trial I testified that Ryan called me a few months after the murder and told me that his dad had found Kent Heitholt's wallet. (R. 588-89). This testimony is false. Ryan never told me his dad had found Heitholt's wallet.

32. At trial I testified that I was a hundred percent certain that Ryan and I committed this crime. (R. 622). This testimony is false. I never witnessed Ryan commit any robbery or murder.

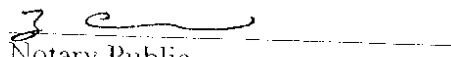
33. At trial I testified that I told the cleaning lady to "get help." I have no memory of asking anyone to "get help" on ~~October 31<sup>st</sup>, 2001~~ <sup>11/1/01</sup> or telling anyone after ~~October 31<sup>st</sup>, 2001~~ <sup>11/1/01</sup> that I had done so. (R. 813). <sup>(CE)</sup>

34. My testimony at trial implicating Ryan was false. My testimony was involuntary and was the result of the coercion and pressure put on me by police and the prosecution.

FURTHER AFFIANT SAYETH NOT.

  
Charles Erickson

Subscribed and sworn to before me this 9<sup>th</sup> day of FEBRUARY, 2011

  
Notary Public

