

Marvin Anderson's Nightmare: Stories of the Innocence Project



COMMITTEE COMMENTARY

At age 17, Marvin Anderson was a normal teenager living in a small town in Virginia. He wanted to be a fireman. By age 33—convicted of robbery, abduction and rape—he had spent 15 years in prison for a crime he did not commit. Court TV's gripping 44-minute documentary, narrated by Richard Dreyfuss, recreates his "nightmare" through interviews with Anderson and his family, the original arresting officer, and Innocence Project founders Barry Scheck and Peter Neufeld. Film recreations dramatize the story without sensationalizing it. Court TV carefully reconstructs Anderson's case and lays out the many unheeded signs that led to this tragic miscarriage of justice. Only through his continuing fight to prove his own innocence, the campaigns of a mother with an unwavering belief in her son, and the tenacity of the Innocence Project—as well as pure luck—is Anderson ultimately exonerated. The documentary brings viewers inside the workings of the Innocence Project, operating with a skeleton staff and law student volunteers who are replaced each year. They engage in a five-year race against time to find DNA evidence to clear Anderson, evidence alleged to have been destroyed. In telling Marvin Anderson's story so simply and movingly, Court TV offers viewers an opportunity to reflect upon the human costs when our criminal justice system fails. While exonerated of the rape for which he was imprisoned, Anderson is neither free of the emotional impact of the wrongful incarceration nor able to fully restore his good name, the dreams and opportunities of his youth, or his early adulthood, which are gone forever.

Court TV | New York, New York

Ed Hersh, *Executive Vice President, Current Programming & Specials*
Robyn Hutt, *Executive Producer* | Nick Davis, *Executive Producer/Writer*
Micah Cormier, *Producer*

INTERVIEW with Nick Davis and Micah Cormier

Nick Davis is a filmmaker and television producer. His company, Nick Davis Productions, produces the "Stories of the Innocence Project" series for Court TV. Davis executive produces the series, overseeing all aspects of production. He and producer Micah Cormier co-wrote "Marvin Anderson's Nightmare." As producer, Cormier was also responsible for supervising the filming, conducting interviews, and helping to edit the film.

Where did the initial idea for "Marvin Anderson's Nightmare" come from?

NICK DAVIS: In the fall of 2002, I read an article about the Innocence Project. In discussing it with my wife, we realized that it would make a fascinating documentary series. I approached Barry Scheck and Peter Neufeld about doing such a series, with each hour devoted to a different case of wrongful conviction, and the work done by the Innocence Project on the exoneree's behalf. Once Peter and Barry understood that we would in no way be interfering with their work on active cases, they agreed to the series. Court TV had long wanted to do a series with the Innocence Project. Remarkably, no one had ever suggested a series on closed cases before, only on following the Innocence Project as they went about their important work. So in January 2003 Court TV ordered a pilot. It has been a dream to work on this series. In this business, it is rare to work on something that is an unqualified good thing. But getting the chance to tell these stories is simply, unarguably, a good thing. I think it was Peter who suggested the remarkable case of Marvin Anderson to begin the series. What made his story a great beginning for the series is that despite all of his hardships—or maybe because of them—he is a man of remarkable grace and an absence of bitterness and anger that is quite incredible. He has always had a strong and supportive family, and he weathered the storm of his wrongful imprisonment far better than I can imagine anyone else doing.

How does the documentary foster public understanding?

MICAH CORMIER: The challenge for us as filmmakers was to translate Anderson's legal odyssey, in all of its complexity, into a film that would make sense to the public. I traveled to Virginia with our cameraman, Bernard McWilliams, to conduct taped interviews and to film scenes and re-creations that would make up the visual backbone of the film. I also dug up photographs and documents from various sources to help illustrate many of the



Nick Davis



Robyn Hutt

story points we thought should be included. Aside from my interviews with Anderson and the Innocence Project lawyers, two other interviews proved to be incredibly important to the film: one I did with the arresting officer (who had conducted a series of faulty line-ups that helped convict Anderson) and one with the former head of criminal justice services for the state of Virginia (who initially denied Anderson's request for a DNA test on the basis of the state's infamous 28-day rule). I am especially grateful that these two agreed to be interviewed on camera. With them in the film, the viewer gets a far more complete and ultimately shocking picture of what happened. What I believe makes this program so different from most of the press coverage that typically follows a sensational DNA exoneration is that we went beyond the mere fact that wrongful convictions do happen and delved into the root causes, the *how* and *why*. Rather than shy away from the complexities of the case, we tried to elucidate them.

What does winning the Silver Gavel award from the ABA mean to you?

DAVIS: We are filmmakers, first and foremost, and to be recognized by the legal profession for work we did that must also satisfy the demands of commercial television is enormously gratifying. I am humbled by the recognition from the ABA—honored and moved and thrilled. I am also extremely grateful to Barry Scheck and Peter Neufeld for allowing us to tell these stories, and to Marvin Anderson, one of the most inspiring people I've ever met. I wish this story had never happened, and therefore did not have to be told, but this award suggests that we did justice to it, even so.

Go online to <http://www.court tv.com/onair/shows/innocence%5Fproject/> for information about and future screenings of "Marvin Anderson's Nightmare" and other documentaries from the Court TV series Stories of the Innocence Project.



ACT TWO

NARRATOR: In 1982 Marvin Anderson was sentenced to 210 years for a brutal rape he said he did not commit.

The Innocence Project begins to re-investigate his case by examining the steps that led to his conviction: from the moment he became a suspect to the jury's verdict.

LAW STUDENT BRIDGET BYRNES: Hi, I'm calling from the Innocence Project on behalf of Marvin Anderson.

NARRATOR: The first question: Why did Marvin Anderson become a suspect in the first place? The answer: The rapist had told his victim, "I got me a white girl at home," and at the time Anderson was living with his white girlfriend.

PETER NEUFELD: With nothing more, Marvin Anderson becomes not just the chief suspect, he becomes the only suspect.

MARSHALL BAILEY, INVESTIGATING OFFICER: I think the investigative techniques as I saw them were adequate. But then again hindsight is great.

NARRATOR: But that was only the first mis-step by investigators. There was also a problem with the photographs the police showed the victim to identify the rapist.

BAILEY: Everybody had a specialty. Mine was photo identity.

NARRATOR: But the photo spread shown to the victim was hardly an unbiased sampling.

NEUFELD: They couldn't get a mug shot to show this woman because Marvin had never been arrested. All they could get was his employment ID card... which is a color, laminated card with Marvin's picture on it, and they took that and then they took half a dozen or a dozen black-and-white mug shots, and they paid a visit on the victim.

BAILEY: And she went through them, twelve or fourteen pictures, if I remember correctly, and when she got to the one, she just threw them up and said, "I don't want to look at 'em."

NARRATOR: The victim had identified Marvin Anderson. But was she influenced by the fact that his photo was the only one in color?

NEUFELD: You don't need a textbook to know that if one picture is a color photo and all the others are black and white, it's going to stand out.

BAILEY: I don't see it as a problem, but they claim that it was probably a problem.

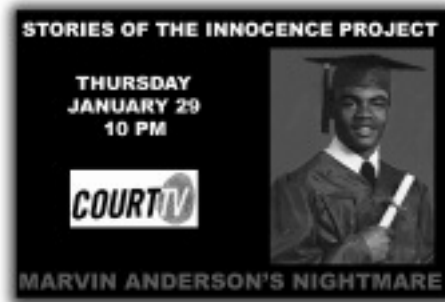
ACT FOUR

Ext. Prison. DNA Testing.

NARRATOR: By 1994 Marvin Anderson had spent over a decade in prison for a crime he swore he did not commit—a crime that another man had confessed to.

But during those same years a powerful new tool—DNA analysis—was revolutionizing forensics.

DNA testing was now being used to exonerate people of crimes they didn't commit.



BARRY SCHECK: What DNA has done is blow open the courthouse doors and focus the attention of judiciary, prosecutors, law enforcement and the defense community itself, that there are innocent people in jail, there are ways to prove it and we have to listen.

NARRATOR: Law partners Barry Scheck and Peter Neufeld were among the first to use DNA testing as a way of establishing innocence.

SCHECK: Ten years ago, Peter Neufeld and I got a case from our old public defender's office in the South Bronx, and we went back to try to do DNA testing at the very beginning of DNA testing. We became fascinated with the technology.

NARRATOR: Scheck and Neufeld formed the Innocence Project and, with a skeleton staff of attorneys and volunteer law students, they began examining old cases.

In Virginia, Marvin Anderson heard about the Innocence Project and asked his mother to write to them for help.

JOAN ANDERSON: I wrote Barry a letter and just gave him a little briefing on what had happened and if he could please help us, please help us.

SCHECK: Well, this letter came on September 7, 1994. ... Anyone reading it would say this is serious.

NARRATOR: During the original investigation in 1982, biological evidence had been gathered, including vaginal swabs which contained semen and therefore the rapist's DNA.

Int. Innocence Project Office.

NARRATOR: If the Innocence Project could find that original rape kit, a test could compare the rapist's DNA with Anderson's.

SCHECK: What really goes on is a desperate search, a race against time, to find the evidence before all hope is lost.

NARRATOR: But Anderson's case was over 12 years old. The rape kit was going to be tough to find, if not impossible.

Ext. VA Forensics Lab

STUDENT: Some of the evidence was, in fact, destroyed.

NARRATOR: Again and again, the students go over the chain of custody.

NEUFELD: Lay out each item, what was the chain of custody after the trial?

NARRATOR: They call St. Luke's Hospital, where the victim was taken after the rape.

BYRNES: I'm looking for evidence collected in the case of Marvin Anderson?

NARRATOR: The Ashland police station, where the evidence was stored during the investigation...

INNOCENCE PROJECT STAFF ATTORNEY: I think you should present the idea to Barry [Scheck].

NARRATOR: ... and the Hanover Circuit Court, where Anderson was originally tried.

Again and again, the students were told the same thing: The evidence had been destroyed. But the students refused to give up.

BYRNES: We're trying to get confirmation that evidence was destroyed in the case of Marvin Anderson...

NEUFELD: Each year another group of students would take over the case and retrace the steps of the previous year's students and meet with the same bad outcome. The students who were having the most direct contact with Mr. Anderson and with Mr. Anderson's mother said that they were personally moved so much by the family that we had to keep trying.