



MICHAEL MARSHALL: BACKGROUND ON THE CASE

On November 3, 2007, a woman (“female victim”) was inside her home in Hapeville, GA, when she heard a vehicle in front of her house. She went outside and saw a man she did not know sitting inside her orange and white truck. She said the man pointed a gun at her and threatened to kill her if she didn’t get away from the truck. The female victim’s son (“male victim”), who had followed her outside, saw the man in the truck pointing a gun at his mother. The man then drove away.

The male victim called police, and Hapeville Police Department officers were dispatched to the home. En route, a Hapeville officer spotted the stolen truck less than a half mile from the home. The officer followed the truck, and the thief got out and started running. Despite the fact that Atlanta Police helicopters were used in the search, officers failed to apprehend the suspect. According to one officer’s official report, “Officers have not currently located the suspect, but were able to recover a shirt which he was seen wearing and a cell phone possibly belonging to him.” A cell phone case was also recovered.

On November 6, 2007, a composite sketch was developed based on information from the male victim. The sketch described the suspect as a black man, 40-45 years old, approximately 5’5” to 5’7”, weighing 140-150 pounds with short hair.

Ten days later, on November 13, 2007, the manager of an apartment complex (located about a mile from where the truck was stolen) noticed a man lying in the hallway of the apartment building. The manager called police out of concern that the man was unconscious or dead. Police responded and found the man to be asleep. They learned that his name was Michael Marshall. According to police reports, a Hapeville officer “noticed an uncanny similarity” between Marshall and the sketch of the man who had stolen the truck. Other officers came to the scene with a copy of the sketch. According to the same report, “all officers on scene thought that Mr. Marshall matched the sketch exactly.”

The officer contacted the male victim, who came to the apartment complex and identified Marshall as the truck thief. (This kind of identification is known as a “show-up.”)

Michael Marshall was charged with armed robbery, aggravated assault, possession of a firearm during a felony, and possession of a firearm by a convicted felon.

During a pre-trial hearing on March 10, 2008, the male victim testified that he was 50-100 feet away from Marshall when he identified him. Later, the female victim looked at a photo line-up which included a photo of Marshall, but she failed to identify Marshall – or anyone else – in the photos as the suspect.

Marshall’s public defender attempted to have the identification suppressed. Fulton Superior Court Judge T. Jackson Bedford, hearing the pre-trial motion, said, “I don’t understand why they would do a showup ten days later. I mean that’s wrong. And it shouldn’t be done.” However, Judge Bedford also said about the show-up, “There’s no substantial likelihood of misidentification based upon that.” Judge Bedford denied the motion to suppress the male victim’s identification of Michael Marshall as the truck thief.

Michael Marshall pleaded guilty to theft by taking and was sentenced to ten years in prison to serve four.

The Georgia Innocence Project (GIP) received Mr. Marshall's first letter on June 8, 2008. In it, he said, "I plead (sic) guilty out of being scared...it's not my charge, so I ask you out of truth to help me." In the same letter, Mr. Marshall also noted, "Hapeville Police Department have in there (sic) possession a gary (sic) tshirt, Nokia cell phone and a cell phone case since DNA samples and fingerprints are us (sic) in these times to prove a peson (sic) innocence they never check...."

There is no record in police or court reports that the shirt, phone, or case were subjected to DNA testing before GIP requested testing in 2009. Nor is there any record that investigators attempted to determine the owner of the phone in any other way.

BACKGROUND ON MICHAEL MARSHALL

Michael Marshall, 43, is an Alabama native. He moved to the Atlanta area in 1998 and worked in construction before securing a position as an on-site property manager at an apartment complex. In 2001, after the complex was sold, Mr. Marshall lost his job and the free apartment provided to him. He then worked at odd construction jobs, living in a motel when he could afford to do so and staying with friends. Within a short time, the jobs had dried up and Mr. Marshall became homeless.

From 2003 until his arrest in November 2007, Mr. Marshall turned to shoplifting to feed and clothe himself, sometimes selling the items he had taken from stores in order to pay for a night's motel stay. Mr. Marshall was also convicted previously of the after-hours burglary of a convenience store and was sentenced to four years' probation.

Mr. Marshall, who says he did not seek help from his family in Alabama out of shame about his homelessness, is committed to rebuilding his life. The Georgia Innocence Project's Life After Exoneration program will assist him in that effort.

BACKGROUND ON THE GEORGIA INNOCENCE PROJECT

The Georgia Innocence Project (GIP) began operation in August 2002 and began to investigate cases in January 2003. GIP's mission is to free the wrongly prosecuted in Georgia and Alabama through the use of DNA testing, to advance practices that minimize the chances that others suffer the same fate, to educate the public that wrongful convictions are not rare or isolated events, and to help the exonerated rebuild their lives.

GIP adheres to an extensive screening process for its cases. To date, GIP has received approximately 4,200 requests for assistance but has accepted only 23 clients. The case work is done primarily by volunteer law students and lawyers under the supervision of GIP Executive Director Aimee Maxwell, a criminal defense lawyer with 20 years experience.

GIP is a 501(c)(3) nonprofit organization; it is one of more than 50 independent Innocence organizations worldwide. GIP receives no government funding and operates out of partially-donated space in Decatur, GA, with just two full-time employees.

For more information on the Georgia Innocence Project, visit www.georgiainnocenceproject.org.