

A true story about the many tragedies stemming from an unsolved murder and an innocent man rotting in jail for that crime. Drew Whitley spent over eighteen years in prison wrongfully convicted of murdering Noreen Malloy before establishing his innocence. His story sheds new light on this unsolved crime.

Victim of the System

by Lawrence H. Fisher

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THE WRONGFUL CONVICTION OF DREW WHITLEY
FOR THE MURDER OF NOREEN MALLOY



VICTIM OF
THE
SYSTEM

LAWRENCE H. FISHER

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Murder and a Tale of Many Tragedies

Noreen Malloy always searched the dark parking lot when she had to close the store. Sure, it was McDonald's, and sure, her crew stood nearby, but this was the outskirts of Pittsburgh. Something about that parking lot always seemed wrong, especially considering that the Mon View Heights Housing Project was just a few blocks away. As the remaining employees cleaned and stocked the restaurant, she locked the doors and hurried to close out the last shift, thinking *all I want right now is to curl up in my bed and sleep.*

Back in those days, the restaurant stopped serving the public at two in the morning. Someone else would open it back up later. After eight hours as the last shift manager, Noreen removed a triangle-shaped paper hat bearing the Golden Arches and tussled with a beret that released a bunch of wavy hair down to her shoulders. The stink of sweat, grease, and hamburgers oozed from her itchy striped uniform.

After a while, Shawn Divan shouted, "Noreen, let's get out of here already."

He was fidgeting while waiting with some other employees by a locked glass door in front of the building. Noreen continued methodically counting the cash in the registers.

"Come on, Noreen," Barbara Rice and Thomas Pitts yelled almost in unison, "Hurry up."

The others moved about anxiously by a time-clock on the wall where their time-cards hung to be punched before anyone left. But Noreen couldn't leave until she perfectly reconciled every register with the receipts from her shift. So, neither could they.

Finally, she gathered and placed all the money from the registers into a gunmetal safe along with some paperwork, forcefully closed the safe door, and spun a dial on the door to make sure that it was locked. Everyone clocked out, and young Noreen threw a switch that turned off almost every light inside. That darkened moment agitated her fears about the parking lot.

At her direction, Jerome Wilson, the new guy at work, was sitting outside, and supposed to be on the lookout for trouble in the dimly lit lot. He dozed as he leaned up against the side of the building.

She and her co-workers exited the restaurant into the warm and humid, late-August darkness that fogged her glasses. When the steam on her lenses evaporated, a tall, thin black man startled her as he stepped out from a stairwell behind the building. A nylon stocking covered his face. He wore a trench coat and a wide-brimmed hat. With insect precision, he grabbed Noreen around her neck with his left arm and pulled her toward him. Using his other hand, he pointed a gun at her head.

“Give me the money bag.”

“I don’t have any money bag,” she yelled. “Please let me go.”

“Then give me your purse.”

At first, everyone froze in fear.

Noreen began to struggle with the attacker, gouged his arm with her fingernails, broke free, and ran toward her car. The rest of her crew took off in different directions.

A gunshot sizzled past her in the air. She felt her heart beat in her teeth. Another bullet blasted into her back and ricocheted off her ribs through her chest. She struggled to breathe and collapsed to the ground. As she choked on blood and saliva, her face began to sting, bashed by the assailant’s gun until he could snatch a purse from her clutched hand. The white sole of a shoe fled the scene reflected in Noreen’s still-open eyes.



On the morning after this murder in 1988 Drew Whitley woke up unaware that it had occurred and prepared for a parole violation hearing he had to attend that afternoon. In the past, he’d been jammed up with burglary, robbery, and receiving stolen property charges. Free on parole from these criminal charges, he was now alleged to have violated the

terms of his parole by running a swindle while relenting to the temptations of illegal drug use. This time he faced prison.

Jail wasn't his only concern. Approaching his thirty-third birthday, his marriage was failing. Repeatedly at odds with the law, he tried the best he could to provide for his wife, Barbara, and their only child, Marcus. But a life of petty crime and drug addiction plagued his troubled mind while he had toiled at various jobs.

Lots of people couldn't hold a job in the hood where Drew lived. That was exceptionally true for a licensed furniture upholsterer, the occupation that sustained him for many years starting in 1973. Nor did the gang members and drug dealers in the ghetto respect his work for threading companies or his extensive sewing skills. He worked as a janitor at his next job for the Union Railroad for about a year. It was important for him to pursue employment doggedly, even if that involved making train motors or foundry labor shaking hot steel but he loved sewing. From job to job he just did not fit in or get along, often wondering why everybody in the world was so messed up. When these efforts to survive as a self-reliant citizen failed, once more Drew found himself on the wrong side of the law, but this morning, as always, he would try to make things right.

He promptly arrived at his hearing, ready to accept responsibility for misdeeds involving both drugs and scamming, but he had no idea that these would not be his worst concerns that day. He planned a sincere apology and intended to seek mercy from the judge. He knew it could go either way, but just couldn't bring himself to contemplate an awful ending, let alone the ending that was to come. During the hearing at the Magistrate's office, Drew's court-appointed public defender seemed inexperienced and unsure of himself. The judge looked on passively as Drew apologized and promised to straighten up if given another chance to avoid the only fate he knew he should fear.

No use. The judge ordered him cuffed (as the Constable briskly complied) and sent to jail for violating the terms of his parole. Disoriented by this abrupt loss of liberty, from there, the Constable transferred him to the custody of two police detectives who had nothing to do with the violation that had him behind bars.

Robert Lazzaro, the lead detective in the Malloy murder, said, "We need to talk," and Lazzaro proceeded to immediately read him his rights.

"You have the right to remain silent. Anything you say can and will be used against you. You have the right to a lawyer. If you cannot afford a

lawyer, one will be appointed for you. If you understand these rights and are willing to waive them and talk with us, please sign here.”

“What is this all about?” Drew said. He signed without any other thought.

“People tell us that you robbed and murdered a young woman in the McDonald’s parking lot near your apartment in the early morning yesterday,” Lazzaro responded with a callous dispassion for the gravity of these allegations.

Lee Torbin, the other detective, was silent, his chin pressed into his chest while he doodled on a pad of paper in the corner of a small and barren interrogation room.

“Come on,” Drew laughed with the queasy confidence of a guy who, for once, did nothing wrong, but was being harshly interrogated anyway. “I may be a petty thief and scam man, but I’m not a murderer—I have a heart.”

It was the same old crap the police always pulled when trouble arose, trying to tag him with even more hassle if they could, but this time he almost felt cocky amidst his engrained mistrust for authority. He’d violated his probation. That was all. No big deal. Surely, he could handle any bogus wrap that they were trying to pin on him?

“Where were you on Tuesday, August 16th, and Wednesday, August 17th?” Torbin chimed in as his puffed-out eyes popped open and up from his pad.

“First I was at my mom’s in Braddock because the electricity and gas at my Mon View place got shut off, but I had to go back to my crib the next day.”

Questions followed in rapid succession. They showed him photos of the trench coat and hat worn by the perpetrator of Malloy’s murder and asked if they would find these items in his apartment. They already knew these items were retrieved from the scene of the murder, but detectives are trained at deception.

“No.” Drew responded.

“Do you own a gun?” They both asked this question at the same time, as if to disorient Drew.

“Never.”

“You’ve got a gun possession charge on your rap sheet,” Torbin said. He tossed a dot matrix printout of Drew’s criminal record on a table between them. “Look at it.”

“I don’t have a gun and I’ve never had a gun.”

More intimidation followed. “A lot of people are telling us differently. They say that you are a liar.”

“Screw you,” Drew responded while stabbing his index finger into the decreasing space between him and Torbin.

Lazzaro cut the rising tension by reaching his hand out toward Torbin with a flat palm, seemingly meeting with resistance from the otherwise imperceptible air that filled the hot room. Torbin sat back in his chair. Then Lazzaro ran his other hand through his thick, partially graying mane and said, “Listen, Drew, whoever did this was probably high on drugs, and that can be a reason for such irrational behavior.”

“I don’t do hard drugs. I only smoke a little reefer.”

“Well then,” Lazzaro’s voice softened even more. “How did you get those track marks on your arms and hands?”

“Man, I can’t talk about that. You’ll tell my PO, and that will be another violation.”

“Certain parts of your story are not adding up.” Torbin pushed his way back into the interrogation. “Why are you lying to us?”

“I’m not lying.”

“Then let us search your apartment.”

“I can’t consent for my wife. Her things are there too, even though she walked out on me lately.”

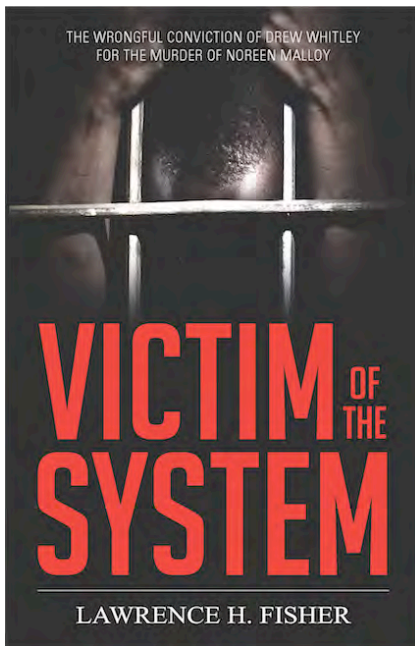
“Then give us hair samples, blood samples, saliva samples. The whole nine yards.”

“Go ahead,” Drew said with growing frustration. “Give me a lie detector test. I am innocent.”

Within moments, the detectives had hairs clipped from Drew’s forearms, head, face, and armpit. A nurse drew his blood. Everything collected was logged, marked, and sealed in evidence bags. They denied him the lie detector test he requested. Everyone left the room, and the Constable returned to escort him to jail. These detectives were fast on their way toward blaming Drew for a murder he did not commit. In the bizarre events that followed, they unjustly imprisoned him for the Malloy murder until his innocence was conclusively proven and his freedom secured eighteen years later.



The tragedy of Malloy's murder triggered many other tragedies: Drew's nightmarish imprisonment for a murder he did not commit; the Malloy family's unfulfilled right to justice for their loved one's death; the complete breakdown in all levels of our justice system; and a parade of personal failings that wreaked havoc on the lives of so many. Almost two decades later, Drew brought these tragedies into my life and called me to rectify each of them.



A true story about the many tragedies stemming from an unsolved murder and an innocent man rotting in jail for that crime. Drew Whitley spent over eighteen years in prison wrongfully convicted of murdering Noreen Malloy before establishing his innocence. His story sheds new light on this unsolved crime.

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