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Lazy Justice

Everyone assumed
Lenell Geter was
guilty—even his
lawyer.



Lenell
Geter

BY SUSAN MILSTEIN

On the wall of Dallas defense lawyer Edwin Sigel's office hangs a black-and-white photograph of a young black man staring dejectedly at the camera from behind the steel bars of the Dallas County Jail. Scrawled in ink at the edge of the photo is a short, ambiguous message: "To Sigel. Thanks. Lenell Geter."

Sigel, 48, stokes a fat cigar and offers his interpretation of the cryptic inscription: "Thanks for getting me in. Thanks for getting me out. Or maybe he's just thanking me for getting him in. You never know with Lenell."

To a casual observer, Sigel might appear to be one of the heroes in Lenell Geter's tale. In October 1982 Geter, a 24-year-old engineer from South Carolina, was wrongly convicted of a \$615 holdup of a Kentucky Fried Chicken restaurant. The Dallas jurors who heard the case deliberated less than four hours before finding him guilty. They sentenced him to life in prison. After 16 months in jail, accompanied in the end by a storm of publicity, he was exonerated and freed; the prosecutors had found a more likely suspect.

Sigel, Geter's court-appointed lawyer, stood by his client through it all. After the conviction, while Geter bided his time behind bars, Sigel tried to undo what had been done. He

Susan Milstein, now a staff reporter for The American Lawyer, used to work at the Dallas Times Herald, where she broke the Lenell Geter story in January 1982.

pleaded with the district attorney's office to take a closer look, insisting that a terrible mistake had been made. The police had told lies, he claimed. The prosecutors had forced him to trial. The judge had refused his requests for more time to prepare Geter's defense. In motions and appellate briefs, in casual conversation, and in interviews with reporters, Sigel avowed that Geter was not the calm, calculating robber that the prosecutors made him out to be, but a casualty of police misconduct, mistaken identity, and overzealous prosecution.

In a "60 Minutes" segment aired in early December, a week before Geter's release, Geter was portrayed as an innocent victim of a system run by malicious police officers and stubborn, misguided prosecutors; Sigel appeared as his loyal advocate.

But the story, like the inscription on the photograph in Sigel's office, is not that simple.

In the aftermath of Geter's exoneration, newspaper columnists, defense lawyers, and politicians have pounced on his case, looking for sources of blame and ways of preventing future mistakes. They have groused about the unreliability of eyewitness testimony, the prejudicial nature of police testimony, and the law's leniency concerning the admissibility of extraneous offenses. They have called for reports and legislative changes.

Geter's story is indeed one of the criminal justice system going wrong, in a way that seems frighteningly routine. But Geter is more personal in his

criticism. The day the charges against him were dropped, he told reporters that his faith in the system had been "restored." Instead, it's the participants Geter condemns. He bitterly concludes that the system would have worked if certain individuals had done their jobs. There's the East Texas police detective who first tagged the engineer as a robbery suspect on the basis of a scanty tip from an elderly white woman who became suspicious of Geter's visits to a city park across from her home. There are the assistant district attorneys who prosecuted him ferociously and attacked his character without considering the possibility that he might be innocent. There's the splenetic old judge who refused to delay the trial despite Geter's agonized pleas for better representation and more time.

But above all, in Geter's mind, there's Sigel, the lawyer who answered Geter's cries of innocence with the suggestion that he plead guilty in exchange for a 20-year sentence, who never bothered to ask about alibi witnesses, and who agreed to go to trial before preparing even the barest defense.

Geter is perfectly clear about what the inscription on the photograph in Sigel's office means: "If the man had just sat down and said, 'Where are your alibi witnesses? I'm going to try to get you out,' I could've had a little confidence in him," Geter says. "But when I tell a man I'm innocent, don't come to me with a plea bargain.

"He treated me as if I was nothing. As if I weren't a human being. I guess the whole point is these folks didn't respect me as a human being: the D.A.'s office, the police, Sigel. I un-

derstand that in Texas there are a lot of blacks who commit offenses for reasons I don't know. But I mean, God, just because I'm black doesn't mean I'm lying.

"I'm not a hateful person," Geter continues. "But Sigel—I just couldn't get over him. It's taking me a long time."

From the start, Sigel was skeptical of his client's professions of innocence and trusting of the police and prosecutors' accusations. Jaded by more than ten years of criminal defense work and eager to fit in with the courthouse crowd, he initially shied away from defense tactics that might have saved Geter but likely would have been frowned on by the prosecutors and the judge.

But Sigel claims that Geter was not the only victim in this case—that he too was victimized. "They were taking advantage of both Geter and me," Sigel says of the prosecutors. And many lawyers familiar with the case say that what Sigel did in defending Geter was no different from what lawyers who represent indigent defendants do every day in courthouses throughout the country.

By the time Sigel was appointed to the case on September 28, 1982, the young engineer had already spent a month in jail. He had been arrested as he returned home from work on August 24, 1982—six months after E Systems, a leading military defense contractor, recruited him, along with five other South Carolina State College graduates, to take a \$22,000-a-year job in the Dallas-based compa-

ny's Greenville division.

Attracting the six black engineers was something of a coup for E Systems. It had never been an easy task, company officials say, to recruit qualified minority engineers, particularly to Greenville, a small, 80-percent-white East Texas town of 22,000 that 17 years ago changed its slogan from "Blackest Land, Whitest People" to "The Blackest Land, The Greatest People."

Geter says he never noticed a hint of racism in Greenville. In fact, the residents seemed remarkably friendly, he says. "I felt I assimilated well into the community," he says. "I had no trouble with anyone, black or white." Geter had had higher-paying offers from companies in Boston and Detroit, but, coming from rural South Carolina, he preferred a smaller city. His fiancée, a nursing student named Marcia Hickson, agreed that Greenville would be a better place to raise a family.

Geter and Hickson set their wedding date for Christmas 1982, and Geter moved to Greenville alone while Hickson finished college in South Carolina. To save money, he shared a modest apartment with Anthony Williams, another South Carolina State graduate recruited by E Systems. The two were not good friends—Williams is a spirited, fun-loving sort, while Geter is regimented, even stodgy—but the living arrangement was mutually convenient.

Geter spent most of his leisure time playing on E Systems's sports teams. In the winter there was basketball two or three times a week; in the spring and summer there was softball. Raised as a practicing Baptist, he used Sunday mornings to visit different churches, looking for one he and his bride could join after their marriage. His arrest in August cut short those plans.

Geter accepted his arrest quietly. "That was my problem," he says. "I just cooperated. There was no reason I shouldn't. I felt they had made a mistake, and I believed they would correct themselves quickly."

The day after Geter's arrest, the police returned to his apartment, this time for his roommate, Anthony Williams. Even the police who arrested them considered the engineers unlikely robbery suspects. Their starting salaries out of college had been \$22,000, and both had already earned promotions and raises. Neither had a criminal record. And both were undergoing close security checks for clearance to work on secret military projects. Yet witnesses to several robberies that took place in the Dallas area that summer had identified the engineers as the gunmen who held them up. It was more than coincidence could explain, the police concluded.

The engineers were indicted shortly thereafter. Geter on three aggravated robbery charges and Williams on one. With these arrests, however, the police also closed the books on some 15 other holdups that had taken place during the summer crime wave. They surmised that Geter and his roommate had staged robberies together. That theory was strengthened by a rumor promulgated by one police detective that Geter and Williams were suspects in some 30 unsolved robberies in the South Carolina town where they had

attended college.

Within days of his arrest, Williams hired his own lawyer, and within four weeks was released on bond and back at his E Systems job.

Geter's mother and stepfather traveled to Texas from their home in South Carolina, and Geter retained Carl Gaines, a black Dallas solo practitioner. For \$1,500, Gaines agreed to represent Geter in a pre-indictment hearing. But a month later, Gaines withdrew; Geter's family told him they couldn't afford to pay him to take the case to trial.

After Gaines withdrew, Geter signed an application for a court-appointed lawyer, and Sandra Jones, a court coordinator for state judge John Ovard, asked Sigel to take the case.

Sigel is one of a small clique of Dallas lawyers who subsist largely on indigent defense work. Although Dallas County is in the process of converting to a public defender system, for years indigent cases have been parceled out to private lawyers by state and county judges. Fees vary from court to court, but lawyers generally receive about \$250 for a guilty plea and up to \$1,500 for a jury trial.

Sigel had started taking court appointments about a year and a half before the Geter case. Unlike most of his colleagues at the courthouse, who had spent their entire careers either prosecuting street criminals or defending them, Sigel entered the field after a varied career in government and private practice. After graduating from the University of Texas law school, he joined the tax division of the U.S. Justice Department. After seven years, he left for Houston, where he did tax and securities work for several small firms. In the early seventies he moved to Dallas and teamed up with another lawyer, William Ravkind. Their practice consisted mainly of criminal defense, with a concentration in white-collar crime and drug conspiracy cases. When his first wife died in 1979, Sigel left Ravkind and spent a few years traveling and soul-searching. Then, in late 1981, he returned to Dallas, rented an office across from the gleaming white Dallas County courthouse, and started to build a practice of his own.

Defending indigent street-crime suspects was hardly an upward step for Sigel, but he says he started taking the cases with the idea that he would write an article on the Texas murder laws for a local law magazine. Initially, he says, he regarded the work more as research than as a livelihood.

A hurried, but likeable sort, Sigel had no problem getting cases. He wasn't known as a brilliant scholar or an outstanding courtroom orator, but it didn't much matter. With an overcrowded jail, it was the ability to move cases quickly that judges looked for in a defense lawyer seeking court appointments. The judges found Sigel to be affable, dependable, and reasonably adept at negotiating plea bargains for his clients. When it came to doling out court appointments, they gladly included him.

Geter's case, however, was trouble almost from day one. The day he was appointed to the case, Sigel introduced himself to his client in a small room in the courthouse. Geter, in his characteristically understated way, calmly explained that he hadn't robbed anyone and he had witnesses to prove it.

Sigel had heard such claims before. Many of his clients started out insisting that they were innocent, but almost invariably their alibis disintegrated under the mildest scrutiny. Yet Geter was a different sort of client: a college graduate, employed, never arrested in his life. Certainly this was a rare blend of traits for a man accused of sticking up fried-chicken restaurants, Sigel thought.

On the other hand, for an innocent man, Geter seemed peculiarly accepting of his situation. Here he'd been locked up for a month, yet he seemed stoic and patient, rather than outraged. "I didn't know what he was," Sigel says. "For a while, I thought he might even be an FBI plant."

Sigel's initial advice to Geter was to find the money to make bond and get himself out of jail. Prosecutors tend to be in less of a hurry to dispose of their bond cases than their jail cases, he explained. Geter knew that

his roommate, Williams, had already made bond and was back at work awaiting trial. But Geter had been talking to his fellow inmates, and they had warned him that if he did make bond, the chances were good that the police would arrest him again on one of the other 15-odd armed robbery charges they had threatened him with. "I guess I was naive," he now says, "but I didn't want to exhaust my funds." And Geter was still optimistically clinging to the hope that at any moment the prosecutors would realize that they had picked up the wrong man. He decided to wait it out in jail.

Two days after meeting Geter, Sigel had his first conference with Randall Isenberg, 30, the assistant district attorney who had been assigned to the case. "I told him the guy didn't look like a criminal. He didn't act like a criminal. He didn't talk like a criminal," Sigel says. But Isenberg assured him that according to police from several departments in the Dallas area, Geter was good for the crimes with which he was charged as well as many more. "Isenberg indicated to me that the guy was obviously lying to me," Sigel says. "He said the police had showed his photographs around [to victims] and they'd gotten hits on him. In addition to that, he said they'd verified his background and they knew who he was.

"I left with the impression that basically there were some things about Geter that Geter wasn't telling me," Sigel recalls. "I didn't think Isenberg would lie to me. I had no idea the police were lying to him. And I had no idea he didn't know what he was talking about."

Sigel was also starting to wonder why Geter wasn't more eager to get out of jail. He had told his client to call collect at any time. Days went by and he didn't hear from him. And when they talked, Geter was hesitant to discuss his case. "He kept saying he was worried about the phones being bugged," Sigel says. "I was paranoid," Geter now admits.

Sigel figured that if everything the police were saying was true, the case would best be disposed of through a plea bargain. He decided that before he got down to dealing with the nitty-gritty facts of the case, he'd run the option by Geter to see what he thought. Although he had no firm offer from the state, Sigel knew from past experience that the Dallas district attorney's office wouldn't consider anything less than a lengthy prison sentence for armed robbery. And the way he figured it, with the goods the police supposedly had on Geter, Isenberg wasn't likely to settle for less than 20 years.

Geter was appalled by Sigel's suggestion. "I got furious," Geter recalls. "That eroded our whole relationship right then. I explained to him, 'Hey, listen. I'm innocent. I don't want a plea bargain.' But it wasn't registering. He wouldn't even listen to it. He just gave me this fast talk. That showed me what side he was taking. He didn't believe me and he believed the D.A."

From that moment on, Geter says, he did not trust Sigel and did not cooperate with him. He'd been listening to his fellow inmates. He heard their stories about court-appointed lawyers trying to make a quick buck by pressuring their clients into plea bar-

gains. As he watched their warnings being played out in his own attorney-client relationship, his paranoia mounted. "Sigel talks so fast. I would try to get a word in on the side. But he's very domineering in his conversations. And he doesn't spend much time," Geter says. "When he'd come to see me, he'd do most of the talking. He'd try to sell me on his program—in essence, a plea bargain. And then he'd leave."

Sigel never did make much progress with Geter beyond the initial plea-bargain discussion. He visited the jail at least two more times before the trial, but they never once discussed the specific charges or explored defense possibilities. In fact, Sigel never so much as wrote down the names of the E Systems engineers Geter claimed could provide an alibi.

"It was a low-priority case," Sigel says. "All I was trying to do at the time was get him out of jail on bond, and he wasn't cooperating. . . . There was never any impression that we needed to do anything urgently as far as checking anything out about him. The main thing I tried to convey to Geter was that he had to get out of jail."

SIGEL'S IRREVERSIBLE ERROR

On Thursday, October 14, Isenberg and his co-counsel on the Geter case, assistant district attorney Kenneth Carden, sat down to plan their trial calendar for the following week. The case they had scheduled for Monday had fallen through, and they were looking for another case to try. They noticed that Geter's had been set for that Wednesday. It was a first setting, and felony cases rarely go to trial that quickly, but Carden told Isenberg to call Sigel to see if he'd agree to move the case up to Monday.

Sigel says that when he got Isenberg's call that Thursday, he wasn't even aware the first setting for Geter was coming up in less than a week. Even though he'd been appointed two and a half weeks earlier, Sigel hadn't yet thought about preparing a defense. "I said [to Isenberg], 'Christ, man. Why are you trying him? If he's so good for it, why not let me work a plea out?'" Sigel recalls. But Isenberg was no longer interested in bargaining. He needed a case to try that week, and Geter's seemed about as straightforward as they come. Sigel, never one to rock the boat, reluctantly consented to be there on Monday.

The next morning, Friday, October 15, Sigel started working on Geter's case. He stopped by Judge John Ovard's courtroom to ask him for some funds for an investigator. Ovard gave him \$250, half the allowance state law provides to indigent defendants to cover investigative costs. Sigel also learned from the judge that a retired judge named Herbert Line would be sitting in the next week while Ovard was off on judicial business. The visiting judge, who was from Texarkana, often filled in

for Dallas judges and was well known around the courthouse for being prosecution-minded. Defense lawyers would sometimes quip that they'd sooner feign illness than go to trial in front of Judge Line. Sigel was familiar with Line's reputation, but he had tried cases in front of him in the past and thought he'd seemed fair enough.

That Friday afternoon Sigel hired private investigator Brian McDuffie to round up some witnesses for him for the Monday trial. The next morning McDuffie went by the jail to see Geter. It was the first Geter had heard about his trial date; McDuffie informed him that he would be tried for only one robbery, the August 23 Kentucky Fried Chicken holdup, which had taken place on a Monday afternoon in Balch Springs, a town some 55 miles from the E Systems plant in Greenville. (Sigel says he

wasn't sure which robbery Geter was going to be tried for, but he thought it was Balch Springs.) Geter said he had a solid alibi: He was at work that day. The only time he'd left the plant was at lunchtime. He gave McDuffie the names of several E Systems engineers who could vouch for him.

Even McDuffie's Saturday morning visit failed to convince Geter that his case was actually going to trial in two days. "I had only been incarcerated two months," he says. "I knew from talking to other inmates that usually robberies don't go to trial for six, seven months." Confident that there had been some misunderstanding about the trial date, Geter didn't try to contact his family or his friends at E Systems that weekend. He didn't even bother to call Sigel. And Sigel didn't call him.

Saturday afternoon Sigel received a call from his investigator, McDuffie. "He says, 'Hey, we've got a winner this time,'" Sigel recalls. The investigator had tracked down some of Geter's witnesses and, sure enough, they were ready to testify that he had been at work on the Monday of the robbery. Sigel told McDuffie he felt certain that he could get the prosecutor to postpone the trial once he heard about the investigator's find. He called Isenberg to give him the names and telephone numbers of the witnesses. Isenberg agreed to check them out.

The only problem was that Isenberg lived in Dallas and most of Ge-

ter's witnesses lived in Greenville. Isenberg didn't want to place any long-distance calls from his home, so he called only the two witnesses who lived in the county. Neither could place Geter at work at the exact time the robbery occurred. Isenberg could see no reason to delay any longer.

Monday morning Sigel headed over to the courthouse confident that the prosecutors, Isenberg and Carden, would agree to postpone. And even if they gave him a hard time, he believed Judge Line would grant him a continuance. "I do it all the time," Sigel says. "I get away with it and it always works. . . . Hell, we just found five witnesses that say the man didn't do it. . . . I honestly figured that I could talk these folks into being reasonable."

As he approached the courtroom, however, Sigel began to realize he might meet more resistance than he

had anticipated. The state's witnesses were there waiting for the trial to begin. Geter had been brought to the holdover cell. The visiting judge had arrived, and the court clerks were arranging for a panel of prospective jurors to be brought up.

Sigel tried to talk to the prosecutors but got nowhere. "It was a lay-down case," Carden says. "He agreed to move the trial up. We had all our eyewitnesses down there. We were ready to go."

"It never dawned on me that Carden and Isenberg would be that ridiculously hardheaded in the face of what I was going to tell them," Sigel says. He says their attitude was: "To hell with you. You just put on what you have, and we'll just let the chips fall where they may."

It was looking dreary. Sigel went back to the holdover cell to give Geter the bad news. "I go in there to explain to Lenell what's about to happen to him and he almost faints," Sigel recalls. "He says, 'Sigel, you've got to stop them.' I said, 'I don't know if I can stop them. They're foaming at the mouth.'"

Sigel tried to soothe Geter with assurances that if the case went sour, he could appeal on the ground that he was rushed to trial, but the lawyer's words were of little comfort.

Panicked and angry, Geter launched into a speech, asserting his constitutional right to adequate counsel and condemning Sigel as incompetent.

Sigel left the holdover room quickly, found McDuffie, and told him to get Geter's witnesses down to the courthouse. He was beginning to accept the inevitable. Unless the judge granted him a continuance, they were going to trial. He hadn't talked to a single witness. He hadn't seen the police reports. He wasn't familiar with the crimes Geter had been charged with. He hadn't even talked to Geter about his whereabouts at the times of the offenses. He'd have to wing it. "I couldn't physically stop them," Sigel says. "I guess I could have pulled a Kunstler or staged some kind of protest or something. But I don't do that. Basically, I have to work at that courthouse."

Lawyers who have read the transcript of the trial or are familiar with the case often fault Sigel for not submitting a written motion for continuance to the court that day. Sigel acknowledges that a written motion would have helped if it were to be raised as a ground for appeal, but at the time, he says, it wouldn't have made any difference. Written or oral, the state would have opposed the motion, and the judge most likely would have denied it, he claims. "No one was insisting on a written motion for continuance," he says. "If the judge was going to insist on a written motion for continuance, I would have just called across the street and had one delivered in fifteen minutes. But the judge gave me a hearing without one."

As the hearing on the motion for continuance began that Monday morning, October 18, Sigel did not cite his own lack of preparation. Rather, he explained to the judge that he needed more time because he was having trouble communicating with his client. "I don't know whether it's my doing or what," he told the judge, "but I've not been able to for some reason communicate with this defendant like I normally can. Either he doesn't trust me, it might be a racial situation, or just the fact that I'm court-appointed, I don't know, Judge."

The judge, addressing the defendant as "Geter," rather than "Mr. Geter," agreed to let him explain his concerns. Geter nervously rambled on for a few minutes about his attorney's lack of preparation and about various violations of his rights. But the judge cut Geter off in midsentence: "It's a strange situation as far as the court is concerned that you employ an attorney [Gaines], you or your family, pay him fifteen hundred dollars. Then you fire him for, as you say, he wasn't properly representing you. Then the court appoints an attorney to represent you who the court felt—and I think justifiably so—that the attorney was fully and completely capable of representing you. And now we come to the day of trial and you say, 'No. I don't want him. I want someone else.' Now, that can be endless. So as far as the court's concerned, we're going to proceed, and the court will determine whether or not you receive proper representation. And I assure you, you will be properly represented."

Geter was in a state of panic. "My knees were trembling. I was trying to hold myself together. I was in a very bad state," he recalls. "I was paranoid, untrusting of Sigel, feeling that he was incompetent. I never had had

a chance to sit down with him and give him my alibis. He had not even asked me about my whereabouts at the times of the offenses."

Geter remembers searching the courtroom for a familiar face. He recognized no one. None of his friends or relatives knew he was going to trial, and the engineers McDuffie had called weren't there yet. "I felt completely alone," he says.

Sigel was growing increasingly im-

patient with his inimical client, and he made no attempt to hide his frustration from the judge. Although Sigel now contends that he did his best to postpone the trial, it's apparent from the transcript that his effort was halfhearted. Near the end of the pre-trial hearing, the record shows that Sigel plainly stated that he saw no reason why the trial should not proceed. "With regard, Your Honor, just for purposes of the record, I

stated that I didn't know if the defendant knew for sure he was going to trial exactly today at this time because of the Court's docket, et cetera, but I think he knew he was subject to trial, and there was never any attempt on his part to postpone indefinitely a trial," Sigel said.

"Now with regard to his parents, I tried to get them to come down here, and they can't come down here. . . . I talked to his father about that, and his mother. I don't think they are going to come," he continued. "With regard to other witnesses, without disclosing the name and nature of our witnesses, which I think would not be in his best interests at this time, I think he has sufficient witnesses," Sigel concluded, apparently referring to the E Systems engineers who had finally arrived, none of whom he had interviewed.

The judge asked Geter for the names of any witnesses he wanted to have testify on his behalf who hadn't been contacted. But Geter seemed unable to understand the judge's words or to formulate a coherent answer. Once again, he complained about the short notice he'd been given. The judge had heard enough. The continuance was denied.

By the time jury selection began Monday afternoon, Geter felt so betrayed by Sigel—and Sigel so frustrated with Geter—that the two had lost all ability to communicate. As a result, Sigel maintains, he wound up with a jury unfavorable to his client: all white, nine women and three men. "It wasn't a very good calculated pick in my opinion because Lenell and I were having a hard time agreeing on anything back then," Sigel says. "Whatever he wanted, I would give him. Sometimes he would want one that was just absolutely wrong. [but] you know it was just real difficult to deal with him because, you know, he was just so darn scared."

Even after the jury was selected, Geter kept trying to halt the proceedings. He refused to sign the application for probation. "I thought it would have been an admission of guilt," he now explains. He stood up and again told the judge he wanted to get rid of Sigel and hire a lawyer. His last hope, he thought, was Carl Gaines, his previous counsel. Maybe Gaines would step back into the case and rescue him.

Gaines was summoned to the courthouse. He took the stand and, in response to questions from Sigel and Isenberg, clarified his association with Geter. He stated that he was no longer representing Geter because Geter's family had been displeased with his service and refused to pay him any more for his work. "They are totally unfamiliar with the judicial system, first of all," Gaines said of Geter's parents. "And they just could not see why a person like him could have been caught up in the judicial system the way he is. And they wanted him out of jail that very same day. They just wanted a whole lot of things that couldn't be done."

"They wanted him out of jail. They wanted him released. They wanted to file suit against everybody for arresting their son and causing all the problems it was going to cause. And I could not explain to them in any way whatsoever that this is just not the way it's done."

Gaines acknowledged that Geter

PHOTOGRAPH BY CHARLES THATCHER

had called him several times to ask him to get back on the case. He said he had never had a chance to see Geter in jail to discuss the proposition.

Geter listened to Gaines's testimony in despair. There was no one else he could call and no other approach he could think of to reach the judge. "That really hurt me," Geter says. "When Gaines wouldn't get back on my case, that really hurt."

"THEY DIDN'T KNOW WHO ROBBED THEM"

Sigel admits that up until the trial he strongly suspected that Geter was guilty. Even though the state had found no gun, no money, no fingerprints, nor any other physical evidence to link him to the robbery, they did have five eyewitnesses. Any lawyer knew that was a gold mine for the district attorneys. It wasn't until Sigel heard the eyewitnesses' testimony that he started taking Geter's profession of innocence seriously.

"After the first couple of witnesses, I knew Lenell didn't do it," Sigel says. "I absolutely knew he didn't do it. They just didn't describe him." Five people had witnessed the August 23 Kentucky Fried Chicken robbery. Following the incident, four of them had independently picked Geter's picture out of a photographic lineup. The fifth had been unable to identify the robber from the photographs, but on the day of the trial, all five pointed to Geter when asked to identify the gunman who had held them up. The in-court identification, however, was no great test. Geter was the only black man seated at the counsel tables.

On cross-examination, Sigel asked the witnesses to describe the robber. All five agreed that the robber was black and carried a large black gun. Beyond that, their descriptions varied widely. One described the gunman as having had a thick mustache but no beard. Another recalled a thin beard and mustache. A third recalled a small beard but no mustache. Photographs and other testimony showed that Geter was clean shaven at the time of the robbery.

There were also inconsistencies in the witnesses' descriptions of the robber's height. One described him as less than six feet tall. Another said five feet six inches or five seven. A third estimated five eight to five nine. Geter is just over six feet tall.

The two remaining witnesses gave no physical description. One was never asked to describe the robber in court. The other, the one who couldn't pick the robber out of the photo lineup, testified that she couldn't recall anything about the gunman's appearance but claimed to recognize Geter in court. "I'll never forget those eyes," she said.

"The state's case was horrible," Sigel now says. "I'm sitting there watching Carden and Isenberg dance around like these are great witnesses. They were the most flaky witnesses I've ever heard. They didn't know who had robbed them."

In retrospect, Sigel says he wishes he had stopped the process at that moment. "Probably at that time I should have just thrown a monkey wrench through the window . . . faked a heart attack and just stopped the whole damn proceedings, you know, done some circus thing like that," he says. "But I tried to maintain my cool."

THE DEFENSE

Geter's and Williams's co-workers and supervisors at E Systems had been following the case closely since the arrests. Although they had known Geter and Williams only a short time, most were convinced the two could not possibly be outlaws. For one thing, they weren't the type. And second, they couldn't possibly have balanced their jobs with the high level of criminal activity of which they were accused.

The one robbery that Williams had been charged with and two of the three Geter was accused of had taken place after working hours. But the third charge against Geter, the Balch Springs Kentucky Fried Chicken stickup (for which he was being tried), had taken place at a time when Geter normally would have been at work. The engineers had searched their memories for events that would place Geter at the E Systems plant that day. One supervisor remembered an assignment he had given him that morning. A co-worker remembered chatting at Geter's desk that afternoon. Another recalled discussing a problem Geter had been having with a project. Altogether there were more than a dozen engineers who could somehow place Geter at work on that day. "We felt like if it ever went to trial we'd have no problem showing that he was at work that afternoon," says Charles Hartford, 54, one of Geter's supervisors.

The engineers had talked to Gaines, Geter's first lawyer. But before the trial they had never met or talked to Sigel. "The first time we heard that the case was going to trial that Monday was when McDuffie called us on that morning and told us to get down there," Hartford says.

After McDuffie's call, Hartford rounded up those engineers whom Geter had specifically requested, plus a few others who wanted to come along. They piled into cars and headed for Dallas.

By the prosecutors' own later admissions, Geter could have had an almost impenetrable alibi based on the testimony of a handful of his co-workers. But his best alibi witnesses—the ones who could place him at work at the exact time the robbery took place—never testified at the trial. Hartford says he didn't ask them to come along because at the time he didn't realize how crucial their testimony would be.

The five E Systems engineers who did testify on Geter's behalf came off as decent, law-abiding citizens who truly believed in his innocence. But there were some holes in the alibi they presented. The crime had taken place, according to the state's witnesses, between 3 and 3:30 P.M. Of the five defense witnesses, one put

Geter at work at 12:30 P.M., and another said he talked to Geter about midday and also at about 4 P.M. The third witness testified that he talked with Geter at about 3:45 P.M. The fourth put him at work at about 4 P.M. His supervisor Hartford testified that he gave Geter an assignment at 1:30 or 2 P.M. and that he knew Geter was at work the entire day. But Geter himself contradicted Hartford's testimony when he told the jury that he left the plant for an hour and a half at lunchtime to do some errands in downtown Greenville. (Hartford said later that he wasn't counting the lunch break when he said Geter hadn't been away.) The prosecutors argued that even if the engineers were telling the truth, it would still have been possible for Geter to slip quietly away from work, make the

55-mile trip to Balch Springs, and return unnoticed.

Geter took the stand at the end of the second day of trial. In a low, halting voice, he told the jury his age, where he was from, and where he had gone to school. He explained how he had worked his way through school, first with a factory job, starting at age 15, and later as a welder. Soon after he graduated, Geter testified, he had moved to Greenville to start at E Systems, where he was assigned to an aeronautical systems group and dealt with thermodynamics and fluid-flow analysis. He told the jury that he planned to marry in two months.

Geter's nervousness was so apparent that Sigel broke his line of questioning to ask, "Do you always talk hesitantly like that?" Geter replied, "Yes, when I'm nervous."

Sigel shifted his questions to the day of the Balch Springs robbery. "What did you do that morning?" he asked. Geter answered that he had started the day with a two-hour training class and then worked on two assignments for two supervisors. He explained each assignment in detail for the jury. He said he had finished at about 5 P.M. and had gone straight home. The only time he left the plant, he testified, was for an hour and a half at lunch.

"Did you drive or in any way, shape, or form go to Balch Springs that day?" Sigel asked. "No, sir," Geter answered, "I've never heard of the place before."

Hartford says he believes a big problem with the defense was that, except for Geter, Sigel had not talked to the witnesses before they were on the stand testifying. "He never once sat down with any one of us to discuss what we knew, what our testimony would be, or anything else. He didn't know what answers we had or what questions to ask," Hartford says. "And we couldn't volunteer answers to questions that hadn't been asked.

"I hate to say we should have been coached, because that's not the word," he continues. "But I think it would have done a whole lot of good if he had taken us aside and told us how to testify, to be positive in your answers, not to hem and haw around, and just generally how to act on the witness stand. I know it would've

helped me a lot."

THE STATE'S REBUTTAL

Because an alibi defense was raised, Geter's prosecutors were permitted under state law to introduce testimony about extraneous offenses similar to the Balch Springs robbery. When the prosecutors attempted this on Wednesday morning, the third day of the trial, Sigel objected to the admission of the extraneous offenses, claiming that the prosecutors were "stretching that principle of law." But prosecutor Carden pointed to the similarities: Witnesses to all three robberies said the gunman was soft-spoken, told them to calm down, carried a big gun, and instructed them to put their money in a bag. The judge overruled the defense's objection, and the state proceeded to introduce evidence linking Geter to the other two crimes with which he had been charged.

The next witness, Lou Ann Heard, took the stand and identified Geter as the gunman who held her up in a parking lot in Greenville on Saturday, August 21, 1982. But her description of the robber contradicted the testimony of other witnesses on several points. Her robber, she testi-

fied, was six feet tall, had a mustache and long sideburns, and carried a plastic shopping bag, rather than the gym bag that several of the Kentucky Fried Chicken witnesses had described.

Then the witness to the second extraneous offense, Taco Bell employee Ronnie Turner, testified that Geter was the gunman who robbed a Taco Bell in Garland just after midnight on August 21, 1982. He described the gunman as having a "short 'fro," a mustache, and a little beard. Both witnesses had previously picked Geter's picture out of photographic lineups.

Geter had an alibi for the parking-lot robbery. Richard McCants, another South Carolina State graduate who had been recruited by E Systems, testified that he and Geter had driven to Dallas that morning to shop and had stopped by a friend's apartment in Dallas later that afternoon. The friend and the friend's roommate took the stand to corroborate McCants's testimony. Geter testified that he was home alone at the time of the Taco Bell robbery.

In total, the state had presented seven witnesses who identified Geter as a robber. "I think the jury was influenced by the sheer number of people who got up there and said, 'He's the one,'" Sigel says. He says he started growing increasingly pessimistic in the rebuttal phase of the trial. "They were going to fry him," he says. "There wasn't any question. . . . It's the same as if an angry mob was taking him out to lynch him. What am I going to do? Put my neck in there and hang myself for him?"

The jury deliberated briefly that afternoon, went home for the evening, and returned early the next morning. By noon on Thursday, they'd reached their verdict: guilty. The punishment phase of the trial started that afternoon.

"A BAD CHARACTER"

In the first phase of the trial, the jury had heard about three robberies that the police and prosecutors believed Geter had committed. In the punishment phase, however, the jury would hear about some 30 more robberies to which the police had supposedly linked Geter.

As the final phase of the trial began that afternoon, the state called to the stand Greenville police lieutenant James Fortenberry. The prosecutors intended to use Fortenberry's testimony to show that Geter had a bad reputation. Fortenberry had been the first police officer to finger Geter and Williams as robbery suspects. He had checked out their backgrounds in South Carolina and fed the prosecutors whatever he got.

None of the state's witnesses were better equipped to destroy Geter's reputation. A detective with 17 years in the field, Fortenberry had much experience testifying at trials. He knew how to phrase his answers in such a way as to imply more than the literal meaning of his words.

Without the jury present, Sigel inquired about where Fortenberry was getting his information. The detec-

tive named three people: a robbery witness, a South Carolina sheriff, and a confidential informant. In answer to Sigel's questions, Fortenberry explained that he had focused on Geter after receiving his license plate number from the confidential informant. Sigel assumed that the state had a smoking gun—an informant who had seen Geter's car driving away from the scene of a robbery.

In the presence of the jury, Fortenberry testified that he had learned from a South Carolina sheriff named Edward Darnell that Geter had a rep-

utation as a bad character in his home state.

Prosecutor Isenberg asked Fortenberry if the South Carolina sheriff had told him about 30 unsolved robberies in South Carolina. Fortenberry replied that in fact he had heard about the unsolved robberies from a South Carolina police detective.

Sigel couldn't believe what was happening. It didn't take much for the jury to read between the lines of Fortenberry's testimony. Now the jury was hearing that Geter was probably responsible for some 30 more

robberies in South Carolina. Sigel was panicking. In what he now describes as "a desperate attempt to try to save something," he tried to pin Fortenberry down on the South Carolina robberies. His line of questioning, however, only strengthened the impression that Geter was a walking crime wave.

On cross-examination, Sigel asked Fortenberry, "All right, so what you're telling me then is that now Geter is good for thirty robberies in where? . . . in Orangeburg County, South Carolina?" Fortenberry replied that he had heard that there were 30 unsolved robberies, though he added that Geter "has not been identified yet."

The testimony in the punishment phase had been so damaging that it came as no great surprise to Sigel when the jury returned a life sentence. "It was like the thing had been orchestrated for the ultimate ending," Sigel says. "No one could have written a script any better. It was all happening, every bit of it. The horrible nightmares that you have on these cases were coming true." To Geter and the engineers, however, it was inconceivable that the jury could have believed that Lenell Geter was a criminal who belonged in prison for life.

As the judge pronounced the sentence, Sigel turned to Geter. Unlike the jury, he had been convinced by the trial that Geter was innocent. "I went over to him," Sigel recalls. "At that moment Lenell and I were very, very close. That was pre-NAACP, pre-reporters. We'd just gone through a hell of an ordeal. Jesus, there was nothing I could say to him.

"I had been asked in the past, 'Of all the people you've ever represented, have you ever had anybody sent to the pen who you knew was innocent?' I'd always been able to answer, 'Never.' I've had guys that I've gotten off that I knew were guilty. . . . I never ever had a guy that I knew was absolutely innocent get fried like this."

The court bailiff was ready to escort Geter back to his cell. The engineers were waiting for Sigel. "At that moment we were not too impressed with him," McCants, Geter's co-worker and friend, recalls. "But what could we do? There was no one else to turn to." Sigel suggested they all walk over to his office to talk.

"I had on my crocodile boots that day, and for some reason I remember looking at them when I walked out of the courtroom that day," Sigel says. ". . . I remember having the feeling not to worry about it. We were going to get this thing undone. I had it in my mind."

In the privacy of his office, Sigel spoke candidly with the engineers. "He just plain said, 'Guys, we shouldn't have lost that one, and it was my fault,'" recalls Wendell Crom, an E Systems engineer who testified on Geter's behalf. "He told us, 'Don't be too dismayed. We're not through yet. The fight has just begun.'"

Sigel talked to the engineers about requesting a new trial and appealing the conviction. He offered to continue working on the case if they would help him with expenses. He never had had the money or time to do a proper investigation, he explained.

APWIDE WORLD

The engineers' first reaction was to get rid of Sigel and hire a new lawyer. After all, he had just lost the case and lost it bad. But a new lawyer would have just presented new problems, they figured. "We didn't know what to do," says Hartford, Geter's supervisor. "We didn't have any money. We didn't know any lawyer to go to. Of course, we're all dumb engineers, we don't know anything about the law. I guess, right or wrong, we stuck with him. There were plenty of times when we wished we hadn't, but when you're operating on a shoestring, you don't go out and get Racehorse Haynes." Hartford wrote Sigel a personal check for \$1,000 to what would later be named the Lenell Geter defense fund. Over the next 15 months, the engineers would raise \$13,300; about \$7,400 went to Sigel to cover his expenses.

After the trial, the first thing Sigel did was to call Ronald Hinds, a 36-year-old solo practitioner to whom Sigel sends most of his appellate work. Hinds visited Sigel that afternoon and listened to his account of the trial. Immediately, Hinds pinpointed several errors he believed were solid grounds for appeal. Hinds's optimism buoyed Sigel's flagging spirits. "I knew it was going to be reversed," Sigel says. "There was just no way that thing could stand."

The engineers were calling Sigel daily to check on his progress. "I just didn't have any ready solutions at that time," Sigel recalls. "I was just trying to figure out how in the world I was going to attack them over there [in the D.A.'s office]."

TAKING ON THE D.A.

Henry Wade, 69, has been Dallas County's district attorney for 33 years. No other elected official in the county has held a title longer than he, and none has more influence or power in the county. Most of the judges on the state and county benches in Dallas started their careers as assistants to Wade, and most of the defense lawyers who frequent the state courthouse were once on his payroll. Everyone who has ever worked for him calls him "Chief." His office, comprising 150 lawyers who prosecute more than 14,000 felonies each year, has been regarded as a model of efficiency. Sixty percent of the cases are settled through plea bargains, and he boasts of a 96 percent conviction rate (including the plea-bargained cases).

Sigel had never worked in Wade's office, but he had a political connection to the district attorney through his family. Sigel's cousin, Sidney Sigel, the proprietor of a chain of Dallas liquor stores, had started a Dallas County citizens' crime commission and had always been a big Wade supporter.

Nonetheless, the D.A.'s office had a jury verdict and a life sentence; Sigel knew it was going to take a lot more than his loose connection to shake the prosecutors loose on this case. In addition to Hinds, Sigel called on several other local defense

lawyers, all of whom had worked for Wade. "I just wanted as much help as I could get," Sigel recalls.

The first break, however, came from a lawyer who had never even heard of Henry Wade. Within a week after Geter was sent back to prison, Sigel received a call from a South Carolina lawyer named C. Lee Bowers. Bowers had heard about Geter's case from the mayor of Estill, South Carolina, who happened to be Geter's brother-in-law. After the conviction, the mayor asked Bowers to try to find out what had happened.

"I told him he just got railroaded," Sigel recalls of his first conversation with Bowers. He asked Bowers if he knew anything about the South Carolina sheriff and the 30 unsolved robberies that Fortenberry, the Greenville detective, had mentioned in the trial. Bowers promised to look into it.

A few days later, Bowers called back. He'd tracked down the sheriff who had talked to Fortenberry. The sheriff, Darnell, remembered his conversation with the detective but didn't remember telling him anything about Geter's character. Darnell was positive he hadn't accused Geter of being a bad character. Sigel was elated: A lying police officer. What better grounds for a new trial?

Bowers offered to take the sheriff's affidavit and send it to Texas. But Sigel insisted that Bowers bring the sheriff to Dallas in person. On November 15, 1982, Bowers and the sheriff flew to Dallas, and a hearing on the motion for a new trial was held before Judge Line. Darnell told the judge that Fortenberry had called him and asked for a record check of Lenell Geter. The check revealed that Geter had no police record. Darnell testified that Fortenberry then asked him if he knew of Geter. "I think my remark at that time was, 'I wouldn't know him. I wouldn't know him if he was to walk in my door,'" Darnell testified.

Darnell said he recalled telling Fortenberry about the 30 unsolved armed robberies in Orangeburg County, South Carolina, but, he added, "At no time did I link or say that Mr. Lenell Geter was a suspect in any of these cases."

Then Fortenberry took the stand. He remembered the conversation differently. According to his recollection, Darnell had told him, "If his name was Geter and he was from Denmark, South Carolina, he was probably an outlaw." It was one lawyer's word against another's. Judge Line denied Geter a new trial on the spot. (Asked about the Geter case recently, Line said, "I have no comment whatsoever to make to you or anyone else. You can get your information from the public record of Dallas County, Texas.")

THE NAACP INTERVENES

More than a month had passed since the trial, and the engineers' hopes of quick relief for Geter were dimming. Sigel told them he would continue to work on the appeal. Also, Williams's trial was coming up in a few months; perhaps

they could help there. But there were still many unanswered questions.

The engineers still couldn't figure out how Fortenberry, the Greenville detective, had zeroed in on Geter and Williams in the first place. Who was this confidential informant he had alluded to? The engineers met weekly to discuss the case. They paid an investigator to talk to the jurors about their decision. They tried, unsuccessfully, to get local television stations to do news stories. Mostly, all they could do was wait.

Then, in late November, the engineers heard that the National Association for the Advancement of Colored People might intervene in Williams's case. The news came from a dean at South Carolina State, Williams and Geter's alma mater. The dean said he had discussed the case with George Hairston, one of seven staff lawyers for the NAACP.

Hairston, who was in South Carolina working on another case, had promised to look into the two cases.

Hairston, a former social worker who joined the NAACP's New York legal staff ten years ago, had actually received a letter months earlier from Geter's fiancée, Marcia Hickson. But he had disregarded her request for help. "It didn't really say anything that struck my attention," Hairston says of Hickson's letter. "It didn't appear to be any different from the letters I received at least ten times a week for the last ten years." But much had happened since Hickson's letter, and after talking to the South Carolina dean, Hairston was interested. He called Sigel and began monitoring the case by telephone. After the motion for a new trial was denied, Hairston decided it was time to make an appearance on the scene.

Williams's first attorney, Michael O'Brien of Garland, Texas, had logged about 80 hours in the weeks following the arrest. He says he had asked for a "substantial" fee to take the case to trial. When the NAACP offered to take over Williams's defense for free, O'Brien stepped aside.

When Sigel first got the call from the NAACP, he was still hoping to solve the problem quietly, without ruffling too many feathers in the district attorney's office. In late November, he and Hinds, one of the local lawyers whose help he had enlisted, made an appointment to talk to Henry Wade. After eight years on

Wade's staff, however, Hinds knew it was a long shot for the district attorney to even consider admitting error in a case that involved five eyewitnesses and a jury verdict. And Hinds sympathized with Wade's position. "If they're just going to dismiss cases right and left, what are they going to say to the victims of crime who say, 'What are you doing to protect me?'" Hinds says.

The trick, Hinds told Sigel, was to come up with a proposal that would be palatable to all sides. "I wanted to give them a graceful way out—a way they could justify to their own consciences, to the media, to the victims of other crimes," Hinds explains. He suggested that they ask Wade to acknowledge that Judge Line had erred in admitting testimony relating to the extraneous offenses. If Wade would submit an admission of error to the state court of appeals, the case would

be reversed and remanded to the lower court for retrial. "That would have taken the D.A. off the hook, the police off the hook, and put it on the judge, who wasn't even from around here," Hinds says.

Wade heard them out but wouldn't consider their request to drop the conviction. "Mr. Wade said he could not justify taking any action on the case other than allowing the appeal to run its course," Hinds says. "He basically said, 'If you've got something reversible, go ahead with the appeal, and if it's reversed, we'll talk about it.'" The district attorney says he doesn't remember this initial conversation.

Hinds came away from the meeting hopeful that something could still be worked out quietly. Sigel, however, took the rejection more seriously. "I knew when we went in there to talk to [Wade] that he wasn't really listening to what we were telling him," Sigel says. "And I knew the bureaucracy over there had worked in such a way as to destroy Lenell Geter's freedom. The system had boomeranged. It had buried an innocent guy. . . . I knew my obligation was to Lenell at that time." Sigel started wondering whether a more radical approach might not be called for.

A more radical approach was exactly what Hairston, the NAACP lawyer, had in mind. He arrived in Dallas in late November and was greeted in Sigel's office by Sigel, Hinds, and Bradley Lollar and

Wayne Huff, the other Dallas lawyers Sigel had recruited to advise him on the case. It was immediately apparent to all that the Dallas lawyers and Hairston were of different minds as to how the case should be handled.

"I quickly got the sense that these lawyers wanted to deal with this, but they wanted to deal with it in a way that was compatible with the system. Not in a way that would attack the system," Hairston recalls. Hairston told the lawyers he believed the press and other political officials could be used to bring pressure on the district attorney. The Dallas lawyers knew that any publicity this case generated had to be bad for Dallas County and, more specifically, for Henry Wade. Such a public airing of this embarrassing situation seemed to them unseemly and counterproductive. As Hinds puts it, "George [Hairston] wanted to take the approach of beating them over the head with a sledgehammer and extracting some good from the resulting pulp.

"It was apparent to me that George didn't have a clear understanding of the criminal justice system in Texas and in Dallas County," Hinds continues. "George seemed to feel we could bring pressure on Henry Wade—through the press, through the governor, through the attorney general, through the NAACP. What he didn't understand is that outside pressure wasn't going to affect Henry Wade. Through the years he'd been criticized by all these groups, and he's still there. He's weathered every storm. No one is going to run Henry Wade out of office. It's his until he dies."

Despite their differences, it was agreed at that first meeting that Hairston would intervene in both Geter's appeal and Williams's defense, and that Sigel would be Hairston's sponsoring local attorney.

Hairston spent a few more days in Texas. He met with Williams and the other engineers, and he traveled to Tennessee Colony to meet Geter in prison. Then he returned home and got to work on the press angle. He talked to the Dallas representative of a black journalists' group, and she in turn alerted the group's members to the case. Within a week, reporters from both the *Dallas Times Herald* and *The Dallas Morning News* were working on stories.

On January 6, the first story—written by this reporter—appeared in the *Times Herald*. Stripped across the top of the front page, the headline read JUSTICE ALSO ON TRIAL IN ARMED ROBBERY CASE. The following day the *Morning News* ran a similar story, and that night a local television station aired a report.

At that point it was still unclear to most reporters who looked at the case whether Geter and Williams were truly innocent. But guilty or not, the cases seemed to deserve attention. Four months after his conviction, Geter's colleagues were still fighting for his vindication. And these supporters were mostly white, middle-aged, conservative men. They were, as E Systems supervisor E. J. Garrett told the *Times Herald*, "not people who need causes." What had happened to Geter and Williams had profoundly shaken their confidence in the criminal justice system. "I can't believe that a white person would have been put through

what Lenell had been put through," Garrett, an E Systems employee for more than 30 years, told the *Times Herald*. "To my thinking, if he were white, he would not be in prison. I don't think it could happen to most of us. But it's a shame it could happen to anybody."

One question the early news stories sought to answer was how Geter and Williams had become robbery suspects in the first place. Fortenberry told the *Times Herald* that he was led to the pair while investigating an August 9 robbery of a Greenville fast-food restaurant. When he had trouble cracking the case, he ran a notice in the local newspaper asking the public for help. Several days later an old woman called to tell Fortenberry that she had a suspect for him. There was a black man who fit the robber's description, she said, who occasionally parked his car near her home, which was across from a city park nearly three miles from the robbery site. (Geter later explained that he often went to the park to read by the pond and feed the ducks.) Suspicious of strangers, she had jotted down the South Carolina license plate number of the man's brown 1967 Volkswagen. Fortenberry said the woman recalled seeing the man on the day of the Kentucky Fried Chicken robbery. "This informant saw him about two hours prior to the robbery and even described practically the same clothing," Forten-

berry told the *Times Herald*.

Fortenberry traced the license plate number and promptly notified at least four other police agencies that Lenell Geter was a suspect in the rash of fast-food and convenience store robberies they'd been investigating. A police detective from the North Dallas suburb of Plano was the first to order Geter's and his roommate's driver's-license pictures from the state department of public safety. The Plano officer then turned them over to the Garland police department, which sent them on to Balch Springs.

Fortenberry also staked out Geter's apartment complex. He noticed another car with South Carolina plates in the parking lot and learned from the manager that Geter had a roommate. From there, Fortenberry surmised that Williams was also a likely suspect. He passed the word on to his fellow lawmen. Fortenberry also visited E Systems security officials and was given company photographs of the six young engineers recently recruited from South Carolina State. The connection, Fortenberry told the *Times Herald*, made him wonder if he'd found a whole band of engineer-robbers.

As it turned out, the witnesses to the August 9 Greenville robbery didn't pick the pictures of Geter and Williams out of a police lineup, and they were never charged with that crime. To this day, that robbery re-

mains unsolved. But that didn't stop Fortenberry or other police from continuing to show the pictures of Geter and Williams to robbery witnesses. Several weeks later Fortenberry's obscure lead began to pay off. A witness to the August 20 Taco Bell robbery in Garland, Texas, tentatively identified Geter as the holdup man. On that basis, Garland police issued an arrest warrant for Geter and asked Fortenberry to execute it. Fortenberry arrested Geter on the afternoon of August 23.

The next day Geter was transferred from Greenville to the Garland police department, where color photographs were taken. From the new photograph, the witness to the Taco Bell holdup positively identified Geter.

Garland police detective Patrick Martinkus told the *Dallas Times Herald* that Geter asserted his innocence but gave him the names of his roommate, Williams, and four other South Carolina State graduates at E Systems, suggesting that they might know something about the robberies. (Geter later said he gave the names only because the police had asked if anyone else from his college had moved to Greenville to work at E Systems.)

The day after Geter's arrest, Williams was picked up. A third South Carolina State graduate was also arrested, but was freed the following day. In Garland, Williams and Geter were placed in a live lineup with four other black men. Lyla Baggett, a 7-Eleven employee who was the sole witness to the August 22 robbery of the store where she worked, identified Williams as the man who robbed the store of \$31. Then she pointed to Geter and told police that he had been in the store five minutes before the holdup. After hearing about Baggett's identification, the police and prosecutors were convinced they had the right men. "That's what clinched it for me," Carden, the assistant district attorney, told the *Times Herald*.

Once the first newspaper stories appeared, both the prosecutors and the defense lawyers knew that war had been declared. Hairston wrote to Mike Wallace at CBS. He attached copies of the stories that had run in the Dallas papers and suggested that "60 Minutes" might be interested. From then on, says Hairston, "the case was no longer about Lenell Geter. To them, the case was about them and us. They understood that they were under attack, that they were on trial. They didn't give a damn about Lenell personally. Even if they believed he did it. What's a street robber? They're a dime a dozen. They catch them all the time."

At first, Carden suggested that if Geter passed a lie detector test, they might be willing to take another look at the case. But they weren't promising anything. Sigel arranged for Geter to be given a polygraph in March, but Geter failed. Hearing that news, the prosecutors became all the more adamant about Geter's guilt. Carden told a *Times Herald* reporter that he was so thoroughly convinced that Geter was good for the robberies that he was tempted to call Fortenberry and volunteer to go up to Greenville to prosecute Geter on the parking-lot robbery in order to add a few years to his life sentence.

APPWIDE WORLD

WILLIAMS'S DEFENSE

Embarrassed by Geter's performance on the polygraph, the defense lawyers turned their attention to Anthony Williams. It was Hairston, the NAACP lawyer, who suggested that the police tactics used to implicate both engineers could be attacked under the guise of Williams's defense.

In light of Geter's conviction, Williams had concerns about Sigel's ability to represent him, but Hairston advised him to stick with Sigel. "I had two options," Hairston explains. "One is to work with Sigel. The other is to come down and retain a new local attorney for Anthony [Williams] and go the route of ineffective assistance of counsel, thereby attacking Sigel." Despite inevitable criticism from the local black bar, Hairston decided to work with Sigel. "What I could rely on with my relationship with Sigel was his own desire to mend his reputation and image and the fact that he felt that the prosecutors had done him a disservice," says Hairston. "They had lied to him and gotten him into a mess. There was that personal type of outrage on his part."

Moreover, Hairston was an outsider. He knew he needed help from lawyers who could talk to the judges and the prosecutors. "Sigel played an important role in terms of his knowledge of the system and his ability to manipulate it," Hairston says. "He could bring back as much intelligence as he gave up. As long as I didn't tell him everything that was on my mind, he was useful." The two lawyers managed to work together. "We played off each other," Hair-

ston says. "We were working together. But at the same time, he was telling them over at the courthouse. 'This nigger's [Hairston] crazy. He's coming down here and I can't control him.'"

Postponed several times at the defense's request, the Williams trial began October 31, 1983, a year after Geter's conviction. Williams was represented in court by Hairston, Sigel, Bowers (from South Carolina), and an assemblage of four other Dallas lawyers, all of whom were white except one. "If I was going to be out front, I wanted as many white lawyers around Williams as I could get, for the jury's sake. That appearance of a joint effort by many lawyers protecting one guy weighed heavily in our favor," says Hairston, who is black.

The district attorney assigned Barbara Gibbs, a 42-year-old University of Texas graduate, to prosecute.

While Geter's trial had gone unnoticed by local reporters, Williams's trial attracted reporters and camera crews from the networks and national magazines and newspapers as well as the local press. By that time, the engineers' story had been covered by everyone from Cable News Network and *The New York Times* to *People* magazine. Hairston had appeared on "The Phil Donahue Show." And CBS's "60 Minutes" was in the midst of preparing its report. Its crew had started filming during the summer of 1983, and its cameramen were among the crush of reporters and photographers who showed up daily at the courthouse for the Williams trial.

The state's case against Williams was considerably weaker than its case against Geter. As in Geter's case, the police had no physical evidence linking the defendant to the 7-Eleven robbery: no gun, no money, no fingerprints. And this time, they had only one eyewitness.

Williams's alibi, however, was weaker than Geter's. On the evening of the convenience store robbery, Williams testified, he had been at home in the apartment he shared with Geter. He stated that his girlfriend had been with him, and she took the stand to corroborate his testimony.

Hairston realized that a jury couldn't be expected to acquit solely on the word of the defendant and his girlfriend. Instead, the focus had to be shifted to the police and the tactics they used to develop the case against both Williams and Geter.

Since Geter and Williams were not codefendants, Williams's prosecutor, Gibbs, objected repeatedly during the trial to the defense's attempts to mingle the two cases. At first, Judge Ed Kinkeade, a 32-year-old

Republican appointee to the state bench who presided at Williams's trial, sided with the state and admonished Hairston to stick to the facts of Williams's case. But Hairston was persistent, and eventually the judge allowed witnesses to answer defense questions concerning the police investigations of both Williams and Geter. He also overruled the state's objections to the testimony of an expert witness for the defense, a psychologist who told the jury about the unreliability of photo lineups.

Every police officer who had shown the two engineers' pictures to robbery witnesses was subpoenaed to testify during the pre-trial phase of Williams's case. From their testimony, the defense reconstructed the investigation that led to the arrests. The jury acquitted Williams on No-

ember 8, 1983. The next day the defense lawyers filed a motion with Texas's fifth district court of appeals in Dallas asking the court to consider testimony from Williams's case when it reviewed Geter's conviction.

The appeal, however, turned out to be unnecessary. On December 4, 1983, a month after Williams's acquittal, "60 Minutes" aired its report, "Lenell Geter's in Jail." The show portrayed Geter as an innocent victim of racism and overzealous lawmen. Producer Morley Safer asked Geter, "Why you?" "Sir," replied Geter, "the only thing I can say is, I can only assert the fact that maybe it would have to be jealousy, because I was in a small town, I had been there six months, and I had a good job . . . it was a predominantly white town." The report also gave viewers a taste of the police tactics used. Robbery victim Lou Ann Heard, the woman mugged in the parking lot, told Safer that Fortenberry, the Greenville detective, showed her a second photo lineup including Geter's picture after she failed to identify him in a first lineup. Nonetheless, Carden, one of the prosecutors, told "60 Minutes" he had "one hundred percent confidence" that Geter was guilty. "We have people who do rob for fun," he said, "and Lenell Geter, I think, is one of them." Aired following a broadcast of a Dallas Cowboys football game, the show was seen by an unusually large Dallas audience.

Even before the show was aired, Sigel anticipated its tone and decided to give Henry Wade a last chance to save face. Accompanied by Hinds, Sigel paid the district attorney another visit. As Hinds recalls, the lawyers warned Wade that "60 Minutes" was bound to reflect badly on Dallas County and more specifically on his office. "I just hated to see our problems aired nationally," Hinds says. He recalled pleading with Wade to "do something so that the rest of the world doesn't think we're living in some kind of evil environment." But Wade wouldn't budge. "He was very adamant that a jury verdict had determined Lenell's fate," Hinds says, "and he felt he'd be betraying the five eyewitnesses if he just threw a jury verdict out the window."

Wade says he doesn't recall hearing much of anything about the Geter case until the "60 Minutes" report. But he has vivid memories of the program. "I never saw such poor reporting," Wade declares. Specifically, Wade objects to interviews with several witnesses to the August 9 robbery—the crime, said Safer, that "put [Geter's] name and face into the criminal justice system." What "60 Minutes" failed to make clear, Wade says, was that Geter was never charged with that robbery. "The public got a misrepresentation of the facts," Wade says. "All the witnesses to the robbery he was convicted in picked him out. If they had put our witnesses on [TV], they would have identified him as the robber."

Despite his own conclusions that the report was slanted, Wade knew the show had given the public the distinct impression that Geter had not been given a fair shake by the criminal justice system. "I decided after talking to some people—no one who

amounted to anyone, just some ordinary people I play golf with—I could see they just had the wrong impression," Wade says. "I was getting the feeling the show had put false notions in ordinary citizens—the kind of people we put on our juries. I was actually more worried about future cases and the damage that had been done to the criminal justice system by '60 Minutes' just presenting one side of the story."

Several days after the "60 Minutes" report, Sigel called Hinds and suggested they pay Wade yet another visit. "I said, 'Hinds, they ought to give up. We ought to give them a way out,'" recalls Sigel. "I always wanted to give Wade a way out. I always felt if Wade knew the honest-to-goodness truth, he would let him go."

Sigel and Hinds met first with Gerald Banks, one of Wade's top three assistants. "We said, 'Listen, we're willing to work with you guys in any shape or form. We're willing to go along with anything it takes for you to satisfy yourselves that he's innocent,'" Sigel says. Hinds suggested that Geter be given another polygraph by a Dallas police officer whom he knew Wade respected. Banks told the lawyers he would discuss the options with Wade.

That afternoon, Banks called Sigel. Wade was ready to talk. When Sigel and Hinds arrived, Wade, Banks, and several other senior deputies were waiting. Wade told Sigel he would ask the court to drop Geter's conviction. He gave Geter an option: He could take a lie detector test administered by the operator Hinds had recommended, or he could risk his fate before a new Dallas jury. Two days later, Geter was transported from a state prison in South Texas to Dallas and released to the free world.

Geter, who had already failed one polygraph and had been told his high-strung nature made him a bad candidate for the test, opted for the new trial. Wade assigned his top two prosecutors to the case and ordered them to complete a thorough investigation. For Sigel, however, the case was over. "I knew they'd never try him. I said, 'Some way, somehow, those people are going to look at their facts and realize they can't win,'" he says.

GETER REVISITED



Although the prosecutors did reach that conclusion eventually, they initially approached the case with vigor. The investigation was led by Banks and Norman Kinne, a veteran prosecutor whose specialty is prosecuting death penalty cases.

Banks and Kinne conducted the kind of investigation that ideally would have been done by Geter's defense lawyer before the first trial. They subpoenaed Geter's bank records, telephone records, and personnel file. They spent days at E Systems interviewing everyone they could find who had had contact with Geter on the day of the Balch Springs robbery.

After nearly a month of probing, they had come up with no substantial evidence to strengthen the state's

case. In fact, most of what they'd uncovered could help the defense. The records did nothing but reinforce Geter's claim that he was an upstanding citizen who had never considered breaking a law. "Everybody needs money," Kinne says. "But I couldn't find any evidence that Geter had any great need for more money that would necessitate him to go out robbing fast-food restaurants. His financial situation was normal. He didn't have any debts to repay. He wasn't living high on the hog.

"And I couldn't figure out why he'd go all the way to Balch Springs in the middle of a workday in a

Volkswagen to rob a Kentucky Fried Chicken—a man who's an engineer who makes twenty-four thousand a year. There were plenty of fast-food places between Greenville and Balch Springs."

The more Kinne learned about Geter, the shakier he felt about his case. In early January Kinne interviewed several engineers whose combined testimony would provide a strong alibi for Geter. One of the engineers, a man who Kinne says "would not have lied for anyone," told Kinne he recalled having a discussion with Geter about a project he was working on. He remembered that the discus-

sion took place at about 3 P.M., but he was not absolutely sure on which day the discussion took place. Several other engineers, however, had overheard the conversation and recalled that it took place on the day the Balch Springs restaurant was robbed. The witnesses said they would have testified at the first trial but no one had asked them to do so.

"They could've fooled me," Kinne says of the witnesses. "But I don't think all those people at E Systems would lie for him. I don't think they're wrong about the date."

Yet, even after talking to the witnesses, Kinne was not ready to con-

cede. "I wasn't satisfied that he was guilty, nor was I satisfied that I could prove his guilt with the evidence I had," Kinne says. "I still had more investigation to do." His further probes produced some evidence that might have strengthened the state's case. Geter had testified during his trial that on the Monday of the robbery he had been at work all day, with the exception of an hour and a half at lunchtime, when he drove to downtown Greenville to do errands. But during the reinvestigation, the prosecutors found a receipt for a \$5 payment Geter had made on the day of the robbery at a stereo store in Dallas. No one at the store could remember whether Geter had appeared in person, and Geter did not recall going there that day. In April 1984 Geter said he had found the check that proved that he had mailed the payment, rather than appeared in person at the store.

More ammunition came from several of Geter's fellow inmates. The prosecutors say that Geter's cellmate said Geter complained about his life sentence but not about his conviction. Another convict told prosecutors that Geter had said he hadn't gone to work on the day of the robbery.

Finally, there were still five eyewitnesses who had independently identified Geter as the gunman who held up the fried-chicken restaurant. Although the inconsistencies of their descriptions of the robber during the trial troubled Kinne, he was hesitant to disregard their testimony completely. "How can five eyewitnesses be wrong?" Kinne asks. "They say, 'That's the guy who robbed us.' On the other hand, all these people say he was at work. That's a dilemma a jury has to decide."

In late February, less than six weeks before Geter was scheduled to be retried, Banks, the prosecutor assigned to the case, announced that he was leaving the district attorney's office to join a private firm. His timing, after 12 years as a Dallas prosecutor, caused many around the courthouse to wonder about Wade's staff's confidence in their case against Geter. Yet Banks insists the move had nothing to do with the case and was purely financially motivated. He says he would have stayed if he believed Wade needed him to prosecute Geter, but he thought that Kinne could easily handle it alone.

Kinne, however, continued to have doubts. He confided to several people that there was no way the state could win. Wade, however, had told him that as long as the five witnesses were sure they had picked the right man, the prosecution would proceed.

In the aftermath of Geter's release from prison in December, the D.A.'s office had received a flood of tips, mostly anonymous, on the case. "We followed up every lead we got," Kinne says. "We talked to anyone who professed to having information about the case. Nothing proved to be much of anything." Then, in mid-March, less than three weeks before the new trial date, Kinne received a call from an informant who claimed to have information linking an ex-convict from Houston named Curtis Eugene Mason to the Balch Springs robbery.

Based on the informant's tip,

Kinne tracked down Mason in a Houston jail and traced his previous steps. He says he immediately saw a resemblance between Mason and Geter. He confirmed that Mason had been hit by a car in Beaumont, Texas, in September 1982, two weeks after the Balch Springs robbery. The driver of the car told police the man he had hit was carrying a blue gym bag. But following the accident, Mason denied owning the blue gym bag and the .45-caliber revolver police found inside of it.

The Beaumont police kept the gun but sold the bag at auction. Mason, whose leg had been broken in the accident, went on his way. Four months later, however, he was arrested in Houston and charged with several armed robberies. As it turned out, Mason has a lengthy criminal record, had done two stints in prison, and was known by police for his alleged penchant for robbing fast-food restaurants. "He liked Burger Kings and Whataburger. And he loved Kentucky Fried Chicken," says Karen McAshan, an assistant district attorney in Harris County, Texas. Houston police say they believe Mason is responsible for 29 robberies there, most at Kentucky Fried Chicken restaurants.

Two days after receiving the tip, Kinne flew to Houston to talk to Mason in jail. Mason denied being involved in either the Beaumont accident or the Balch Springs robbery. But Kinne also talked to an informant who said Mason had admitted to committing the Balch Springs robbery. Kinne returned to Dallas and quietly arranged to have Mason transferred to the Dallas jail. He told no one, including Wade, about his find.

While Mason was being transferred, Kinne called the five witnesses to the Balch Springs robbery down to the courthouse. They were shown a live lineup in which Mason stood among a group of five black men. Four of the five witnesses identified Mason as the robber who held them up two years earlier.

By the time Wade first learned about Kinne's investigation, Geter's exoneration was an accomplished fact. "You can't try a defendant when your witnesses have identified another person as the robber," Wade says. On Wednesday, March 21, the day Wade learned about Mason, he

called a press conference to announce that he would not prosecute Geter.

Surrounded by reporters and photographers in his small courthouse office that day, Wade exploded when a reporter asked whether he would apologize to Geter. "I don't say anything to him," Wade replied. "Do you? You can say what you want to him. I don't even know him.

"I feel like I've done everything I can for him. . . . He'd still be down there in the penitentiary if it hadn't been for me. I'm the one that got him out. . . . I'm the one that's dismissed the case. I don't know what else I could do."

EPILOGUE



week after Geter's exoneration. Wade talked about the case in his office on the seventh floor of the Dallas County courthouse. The aging, red-faced district attorney chewed hungrily on his cigar and paused occasionally to spit brown juice into a plastic-lined spittoon at his feet. It was clear from the tone of his com-

ments that he was not at all convinced of Geter's innocence and was disappointed to have had to call off the second trial. The second trial was to have demonstrated publicly that the Dallas district attorney's office didn't railroad people; as it turned out, the public had been given a much different impression. "We have some people who say they think Geter's good for it. We have others who say he didn't do it," Wade says. "Now we'll never find out."

The Justice Department initiated a probe more than six months ago to determine whether Geter's civil rights were violated during the police investigation and prosecution. But the local press has quoted FBI officials as saying that not much field work has been done in the probe; the local officials explained that they were waiting for a go-ahead from Washington.

Wade's office has no plans to press for disciplinary action against Fortenberry. Prosecutor Kinne doesn't think a perjury charge would stick: "You've got Fortenberry saying Darnell said one thing, and Darnell

saying he didn't say it. That won't do it," Kinne says.

In Greenville, hundreds of black residents have turned off the porch lights they kept burning for three months to show support for Geter. A group of Greenville residents has demanded that Fortenberry be fired. (Fortenberry stopped talking to the press soon after the first stories on Geter's case appeared.)

Williams has left Greenville to do graduate work at the University of Texas in Arlington. Geter is still at E Systems, but he says his life will never be the same. His days and nights are filled with calls and visits from a swarm of Hollywood producers and writers—all would-be beneficiaries of Lenell Geter's bad luck.

An unlikely beneficiary is Sigel. He says his practice has picked up considerably with all the press attention he received. Instead of relying mainly on court appointments, Sigel now gets calls from paying clients who all want to hire the lawyer who got Geter off. "The phone's ringing off the hook," he says.

Hearing about Sigel's newfound business, Geter smiles knowingly. "He's been portrayed by the press as being a very good lawyer," Geter says. "Everyone has accused the judicial system of not giving him enough time to really uncover the evidence that would have exonerated me. That's the way it appeared on '60 Minutes'—that he wasn't given enough time. They didn't venture into the question of ineffectiveness of counsel."

Geter says he believes Sigel hung in the case after the conviction mainly "to vindicate his own name." But whatever the motive, Geter says Sigel's perseverance and efforts have helped him get over his bitterness toward him. "I believe he deserves some credit," Geter says. "He was the one most instrumental for getting me out of the [prison] unit into the world. He negotiated that."

And Geter says he has a feeling that the case may have made Sigel a better lawyer. "I'm not trying to justify for the man," says Geter. "But maybe this is what he needed to make him really stand up and fight."

Hairston, the NAACP lawyer, has returned to Brooklyn but is continuing to advise Geter in his dealings with the Hollywood producers. He is also developing a federal civil rights suit on Geter's behalf against Dallas County and the police departments involved in the case. Hairston recently offered his own reflections on what happened to Geter. According to Hairston, it was not an anomaly. "The criminal justice system is like a conveyor belt," he says. "Once you get on it at the arrest stage, you just ride it to the end. You have to be very lucky for something to happen or for someone to pluck you off of it."

In Geter's case, he says, "nobody at any point stopped and considered whether Lenell was innocent or whether there was anything wrong with the case. It was passed from Fortenberry to the other police officers and into Sigel's hands. And there it went. In that sense, the end was inevitable. You cannot blame any particular person. It just all fell into place, as cases fall into place all the time." □