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From Barton himself...

Assigned a study of my wrongful conviction, Illinois Wesleyan University students of Associate Professor Amanda Vicary have asked a few questions of me. The first of which surrounds my decision to choose a Bench Trial:

Q: Why did you go for a bench trial instead of a jury trial? Was this your decision or your lawyer's and what was your thinking behind it? Do you think it would've turned out differently if you had a jury?

A: I've been asked these questions many times. The decision largely my own, there were a number of critical factors in play at the time I gave up my right to a jury trial and opted for a bench trial instead. My decision was also premised on several still-pending issues I reasonably expected be resolved in my favor at my trial, still many weeks away.

Foremost influencing my choice of a bench trial was the State's pretrial motion seeking to bar from my presumed-jury trial any defense presentation of evidence regarding my estranged girlfriend, Misook Nowlin, whose responsibility for Christina's killing was otherwise transparently obvious. From where I sat, police and prosecutors seemed hellbent on keeping Nowlin from being implicated in my daughter's murder, much to my horror.

Saddled with an unenthusiastic Public Defender-attorney, and a long running habit on the part of prosecutors of concealing exculpatory evidence, an evidentiary hearing was held to determine the admissibility of Nowlin-related defense evidence. This is known as an “Offer of Proof” hearing. At this “OFFER OF PROOF" hearing held March 4th, 1999, approximately 9 months after my daughter’s murder and my arrest, my attorney's lame presentation of only a few of the many facts and circumstances regarding Nowlin's involvement in my child's killing was token and unpersuasive, while Nowlin and her pals seemed expertly coached in their testimony at this hearing. Myself alone in pursuit of Christina's killer, by the date of this hearing it seemed “the fix" was already in.

Granting the State's motion to suppress all Nowlin related evidence that the OFFER OF PROOF hearing was all about, the judge ruled a jury wouldn't be allowed to hear Nowlin-related defense evidence at my trial. In other words, I was barred from presenting evidence at my presumed-jury trial at the expense of Christina's true (and obvious) killer. Nobody, whether it be the Defense or Prosecution or myself if I were to take the stand,

could utter or reference at my trial the name “Misook Nowlin” relative to insinuating her possible involvement in the murder.

Ultimately this ruling barred me from contesting the charges against me at all.

Because Christina was in fact murdered while in my admitted custody - granting the State's motion to suppress defense evidence relating to Nowlin meant that I'd be the killer, by default!

Long before my one-sided trial, my looming wrongful conviction was thus already foregone conclusion. The formality of a trial was consequently unnecessary, and the court should've just went straight to passing my sentence - since only the prosecution could present their case to a jury, and no similar right existed for me. All I would be able to do is plead not guilty, but not be able to present evidence in my defense - particularly not at the expense of my murderous estranged girlfriend, whose guilt in murdering my daughter I hadn't a shadow of a doubt.

In answer to your above question, the judge ruled that A JURY would not be allowed to hear evidence & testimony in my defense regarding Nowlin's murder of my daughter. Put another way, the prosecutor's claimed identity of the killer (Christina's own father) could not be contested. Accordingly, exercising my right to a jury trial not only would render me wrongfully convicted, but would also guarantee the getaway of my child's killer. Effectively, the judge's ruling precluded my right to a trial by jury. Unable to present a defense at the real killer's expense, and essentially barred from presenting a defense at all, a jury wouldn't have needed deliberate ten seconds before announcing a guilty verdict.

Exercising my right to a jury trial would be an act of suicide guaranteed to result in my wrongful conviction, which would further Nowlin's escape of responsibility for what she did to my daughter.

My only option in my twin goals of pursuing Christina's killer, and defending myself from a malicious railroading, was to opt for a bench trial where only a judge, otherwise known as a “Sole Fact Finder” would weigh the evidence, not a jury. The above suppression ruling only barred A JURY from hearing Nowlin-related facts and circumstances relevant to the identity of Cristina's killer. This is what my attorney advised me.

Since my soon-to-be trial judge was the same judge that previously heard the (token) presentation of evidence relating to Nowlin at the OFFER OF PROOF hearing, at least the judge did in fact hear some of it, never mind that he granted the State's motion to bar it. A jury wouldn't have heard even that token defense presentation as per the judge's pretrial evidentiary ruling. Even if only THE PROSECUTION was allowed to present

ITS EVIDENCE, at least the future bench trial judge had heard SOME DEFENSE PRESENTATION of Nowlin-related evidence, if only at the prior evidentiary hearing.

The judge's ruling didn't bar defense presentation of Nowlin-related evidence during a bench trial where the question of the killer's identity could still be contested, and where the judge alone decides the weight of the evidence. My only hope then of slowing my child's killer's getaway and preventing my increasingly likely wrongful conviction rested in the bench trial option. So when considering that I could only be allowed to present a defense at the expense of Christina's real killer only by way at a future bench trial, I thought that by the time my trial began I had hoped my attorney would get his act together.

I reasonably expected my attorney to put forth a powerful bench trial defense comprised of ALL of the Nowlin-related evidence to include my own lengthy testimony - far and above my attorney's pathetic token presentation at the prior OFFER OF PROOF hearing which had fallen flat, largely by his refusal to have me testify about the many Nowlin-related facts and circumstances that I was a personal witness to in the months, weeks, days, and hours leading up to her killing of Christina. During my OFER OF PROOF hearing it was my intention to testify, but my attorney never called for it before the hearing was concluded much to my dismay. After which of course I let my attorney know that he had failed me on this important occasion. He furthermore had subpoenaed Misooke and Andy Nowlin's 9 year old daughter which was prearranged, yet never called her to the stand about her and her parent's whereabouts the night of her stated best friend Christina's murder.

In addition to all this, I had every reason to expect my attorney to obtain important evidence of Nowlin's guilt which I directed him to, evidence that was known to police and prosecutors all along. And I expected then-incomplete forensic testing results of critical evidence to not only exonerate me, but to further implicate Christina's already-obvious true killer (as more recent 2015 DNA test results have in fact done). None of these reasonable expectations came to pass.

Little could I have predicted when I gave up my right to a trial by jury, my attorney, seemingly allied with prosecutors, had no intention of defending me at my upcoming bench trial either, the ONLY venue where he could've put up a defense at the expense of Christina's killer. Forensic evidence that I alone pursued either never was tested at all, or resulted only in neutral findings. Prosecutors steadfastly continued to withhold all manner of evidence in their possession that I had firsthand knowledge of, which my attorney refused to pursue.

Had I known at the time of my decision regarding a jury/bench trial, that my appointed attorney had no intention of defending me at Christina's killer's expense even at a bench

trial (or defending me at all for that matter), I might not have given up my jury trial right. In the hands of malevolent prosecutors and absent an ability to challenge the State-claimed identity (me) of my child's killer, any pretense of a trial would be merely a theatrical façade. And by the way, I fully recognized at the time as fiendish, the character of what was transpiring much to the wicked delight of my psychotic child-killing estranged girlfriend.

By jury trial standards, my bench trial was lightning fast. The State took 2½ days to present THEIR evidence, which didn't amount to a hill of beans - and didn't need to since prosecutors knew there would be no defense challenge to the charge that Christina's own father was the killer of his only child, rather than someone else.

At my insistence, though I myself testified at trial as the only witness for the defense (except for 2-minute testimony by my landlord), my attorney refused to elicit from me any testimony relating Nowlin's involvement in my daughter's killing. Caged in the county jail, held without bond for over a year awaiting my one-sided trial, in all, the defense portion of my trial lasted a mere hour.

While I had little choice in giving up my right a jury trial, I had sound reasons for doing so at the time I waived my right. But ultimately it didn't matter one way or another. In hindsight, my wrongful conviction was guaranteed long before trial, especially once prosecutors succeeded in having suppressed any defense presentation of facts and circumstances relating to Nowlin's otherwise-obvious responsibility for murdering my child.

Given a chance to speak at a resentencing hearing 3 years later, I told the court that, having gotten clean away with Christina's murder and having successfully framed me for it as was surely her intent, Nowlin was certain to kill again, and likely either a woman or another child. An easy prediction to make. This is now documented and foretold in 2002. And as the sotry continues, Nowlin would go on to also murder her mother in law, too.

Sincerely yours, Barton McNeil