

NOT TECHNICALITIES

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Author: Donald E. Wilkes, Jr., Professor of Law, University of Georgia School of Law.

Page 12 of the March 5, 1997 *Flagpole* contained an article mentioning the case of a wealthy Savannah antiques dealer, Jim Williams (now deceased), who in the 1980s was accused of murdering Danny Hansford, tried four times, convicted twice (with both convictions later being reversed), received a hung jury at the third trial, and was acquitted at his fourth trial. The Williams murder case is the focus of the bestselling book *Midnight in the Garden of Good and Evil*, by John Berendt.

The article asserts: "While two juries convicted [Williams] of murder, higher courts overturned the rulings on technicalities [emphasis supplied]."

Hansford was killed on May 2, 1981. At the first trial Williams testified that he shot Hansford in self-defense and also told the jury that on April 3, 1981, a month before the killing, Hansford went into a rage, damaged furniture, and fired a shot through the floor of Williams' house. After Williams left the stand, a police officer named Anderson testified that he had been called to the Williams residence on April 3 and had seen the bullet hole in the floor, but that he "could not determine if that was a new type of gunshot or was an old one." (Officer Anderson also was called to the Williams residence on May 2, shortly after Hansford was shot dead.)

During his closing arguments the Savannah district attorney asserted that the bullet hole had been there long before April 3; that it was Williams, not Hansford, who had gone on a rampage and broken furniture on April 3; and that Williams' version of the events of April 3 was not only false but proved that, a month before the slaying, Williams had perpetrated a diabolical hoax for the purpose of setting up Hansford so that Williams could murder him later and buttress a false claim of self-defense.

At a hearing in the judge's chambers after closing arguments, Williams' lawyers asked the district attorney if the written report officer Anderson prepared after the slaying included any information that would in any way not support his trial testimony. The prosecutor responded that it did not.

A few weeks after the first jury convicted Williams, his lawyers received an envelope in the mail from an anonymous source in the district attorney's office. It contained a complete version of officer Anderson's May 2 report and included a line stating that on April 3 he had found "a fresh gunshot on the floor" of Williams' house. According to author Berendt, the district attorney had whited out this line from the edited version of the report previously furnished Williams' lawyers.

It is a violation of the constitutional right to due process of law for a prosecuting attorney to conceal exculpatory evidence. The Georgia Supreme Court therefore unanimously reversed the conviction, finding that "the state should have done more than it did to protect the defendant's rights," and announcing that it would "not approve corruption of the truth-seeking function of the trial process."

After Williams was again convicted, the Georgia Supreme Court again reversed, this time by a 4-3 vote. This time the Court did not find that Williams' constitutional rights had been violated, but did hold that the trial court had committed error when it allowed a police detective to give conclusory testimony that Hansford's alleged attack on Williams on May 2, which Williams cited in claiming self-defense, was staged by Williams. (Knowing that jurors are extremely gullible when policemen take the stand, prosecutors love to have police give conclusory testimony about what "really" happened at an alleged crime scene.)

The Georgia Supreme Court also concluded that error had occurred at the second trial when the district attorney was permitted to introduce new evidence during the closing arguments, so that the defense was given no opportunity to rebut the new evidence. However, the Court did not find it necessary to decide whether this second error was also reversible error.

The three dissenting justices thought that the errors had been harmless.

In these days, when police and prosecutors have so much power, and when they are repeatedly caught abusing those powers, it is terribly unfair to criticize the courts, when they act to curb those abuses and to protect the rights of citizens, as allegedly issuing decisions based on technicalities. Courts affirm far more convictions than they reverse; and when they do reverse, it is almost always because governmental authorities have exceeded or abused their powers in order to obtain a guilty verdict, as the Jim Williams murder case demonstrates.

When the Georgia Supreme Court reversed twice in the Williams case, they were not involved in technicalities. They were doing what they are supposed to do. As the United States Supreme Court observed over a hundred years ago: "It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon."