

A photograph of Henry McCollum, a Black man with short hair, wearing a blue button-down shirt. He is looking down with a somber expression. He is surrounded by several men in dark blue uniforms, likely law enforcement or court security. In the background, a clock is visible on the wall.

SAVED FROM THE EXECUTIONER

THE UNLIKELY EXONERATION OF HENRY MCCOLLUM





HENRY MCCOLLUM

Of all the men and women on death row in North Carolina, Henry McCollum's guilty verdict looked airtight.

He had signed a confession full of grisly details. Written in crude and unapologetic language, it told the story of four boys, he among them, raping 11-year-old Sabrina Buie, and suffocating her by shoving her own underwear down her throat. He had confessed again in front of television cameras shortly after. His younger brother, Leon Brown, also admitted involvement in the crime. Both were sentenced to death in 1984.

Leon was later resentenced to life in prison. But Henry remained on death row for 30 years and became Exhibit A in the defense of the death penalty. U.S. Supreme Court Justice Antonin Scalia pointed to the brutality of Henry's crime as a reason to continue capital punishment nationwide. During North Carolina legislative elections in 2010, Henry's face showed up on political flyers, the example of a brutal rapist and child killer who deserved to be executed.

What almost no one saw – not even his top-notch defense attorneys – was that Henry McCollum was innocent. He had nothing to do with Sabrina's murder. Nor did Leon. In 2014, both were exonerated by DNA evidence and, in 2015, then-Gov. Pat McCrory granted them a rare pardon of innocence.

Though Henry insisted on his innocence for decades, the truth was painfully slow to emerge: Two intellectually disabled teenagers – naive, powerless, and intimidated by a cadre of law enforcement officers – had been pressured into signing false confessions. Every gory detail in those confessions – the pattern on the girl's clothing,



LEON BROWN

the brand of cigarettes and beer cans left at the crime scene, the stick broken off in the girl's throat – was provided by investigators.

Henry and Leon were convicted based on those confessions, but law enforcement never followed up on clues that might have led to the real killer. An overzealous prosecutor with a flair for courtroom theatrics hyped the manufactured evidence. And the state illegally withheld facts that might have allowed Henry and Leon's attorneys to prove their innocence.

In the end, it was mostly luck that their innocence was finally uncovered. It was luck that Leon, who is severely intellectually disabled, took a fellow inmate's advice and asked the N.C. Innocence Inquiry Commission to investigate his case. Leon couldn't read or write, so the other inmate filled out the form for him. It was luck that, out of the scores of cases referred to the Commission each year, it agreed to examine Henry and Leon's.

It was luck that, on the day of the crime, the actual killer dropped a cigarette butt at the scene. Luck that, after so many years, the cigarette had not been lost or destroyed – as other gathered evidence in their case had been. It was luckier still that, when the cigarette was tested 30 years later, the DNA was in good enough condition to yield the killer's profile.

The DNA showed that the real killer was a serial rapist and murderer, a man who lived only a few hundred yards from where the girl's body was found, and who committed an eerily similar rape and murder in the same small town just a few weeks after Sabrina's killing.

That cigarette finally answered the question of who killed Sabrina Buie, but other questions remain. How many other prisoners have confessed to crimes they did not commit? How many are innocent but cannot prove it? How many more innocent people remain on North Carolina's death row?

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A KNOCK AT THE DOOR



SABRINA BUIE

On Sept. 26, 1983, a family friend discovered Sabrina Buie's small body lying unclothed in a field in Red Springs, a tiny town in Robeson County, one of North Carolina's most impoverished rural counties. She had been beaten and raped and was wearing only a bra that had been pushed up around her neck. The cause of death was suffocation by her own underwear, shoved down her throat with a stick. Nearby lay beer cans, cigarettes and bloody sticks.

Police began searching for suspects, asking specifically about people from out of town. One police officer came across a high school student, Ethel Furrage, who repeated a rumor she'd heard at school: Henry McCollum, the new boy in town, had been involved in the crime.

Henry was 19, and had recently come to Red Springs to visit his mother. He had grown up with his grandmother in public housing in New Jersey, surrounded by cousins, aunts and uncles. Henry was diagnosed with intellectual disabilities and, in grade school, placed in a school for the "educably mentally retarded." At 16, a school psychologist suggested he be placed in a group home. Instead, having failed several grades, he dropped out of school. He had never been convicted of a crime.

"The officers had promised Henry that, if he told them what they wanted to hear, his ordeal would be over. After scrawling his name across the bottom of a document written for him by police, Henry asked, 'Can I go home now?'"

Police had already interviewed Henry once, and he told them he had nothing to do with the murder. He had last seen Sabrina walking to the store, he said, two days before her body was discovered. But on Sept. 28, police showed up at Henry's mother's house after dark, demanding that Henry come with them to the police station. Henry followed them out the door, not knowing it would be his last taste of freedom for more than 30 years.

At the police station, Henry was taken into a room with three officers. One of them was SBI Agent Leroy Allen, who had helped collect evidence at the crime scene and attended the autopsy. This was before laws requiring video or audio recordings of interrogations, so there is no recording of what went on in that room.

After four and a half hours of intense questioning, Henry signed a confession he only vaguely understood, full of details that Allen already knew: the brands of cigarettes and beer left at the crime scene, the flower pattern on Sabrina's clothing. Henry's confession also matched the autopsy findings about how Sabrina was killed.

The officers had promised Henry that, if he told them what they wanted to hear, his ordeal would be over. After scrawling his name across the bottom of a document written for him by police, Henry asked, "Can I go home now?"



HENRY, BOTTOM LEFT, IN A SCHOOL PHOTO

A FALSE CONFESSION SNOWBALLS

In his confession, Henry implicated three other boys, one of whom was his 15-year-old brother, Leon Brown. By coincidence, Leon had come to the police station with their mother, who was waiting in the lobby while police questioned Henry, pleading to see him.

When Henry emerged from the interrogation room just after 2 a.m., police were already interrogating Leon. They brought Henry into the room and forced him to tell Leon he had confessed. Leon is illiterate and profoundly disabled. Without an attorney, he was extraordinarily vulnerable to coercion. Just a half hour later, Leon signed his own false confession.

“Now in jail, Henry wanted to recant his confession. He claimed his innocence over and over again, but no one was listening.”

Five days after Henry and Leon were charged with rape and murder, police went back to Ethel Fumage, the teenager who had led them to Henry. At that second interview, she told police she had never known anything about Sabrina’s death. She had only identified Henry because she thought he “looked funny.” But it was too

late. The prosecution of Henry and Leon was well underway, and investigators had no intention of turning back.

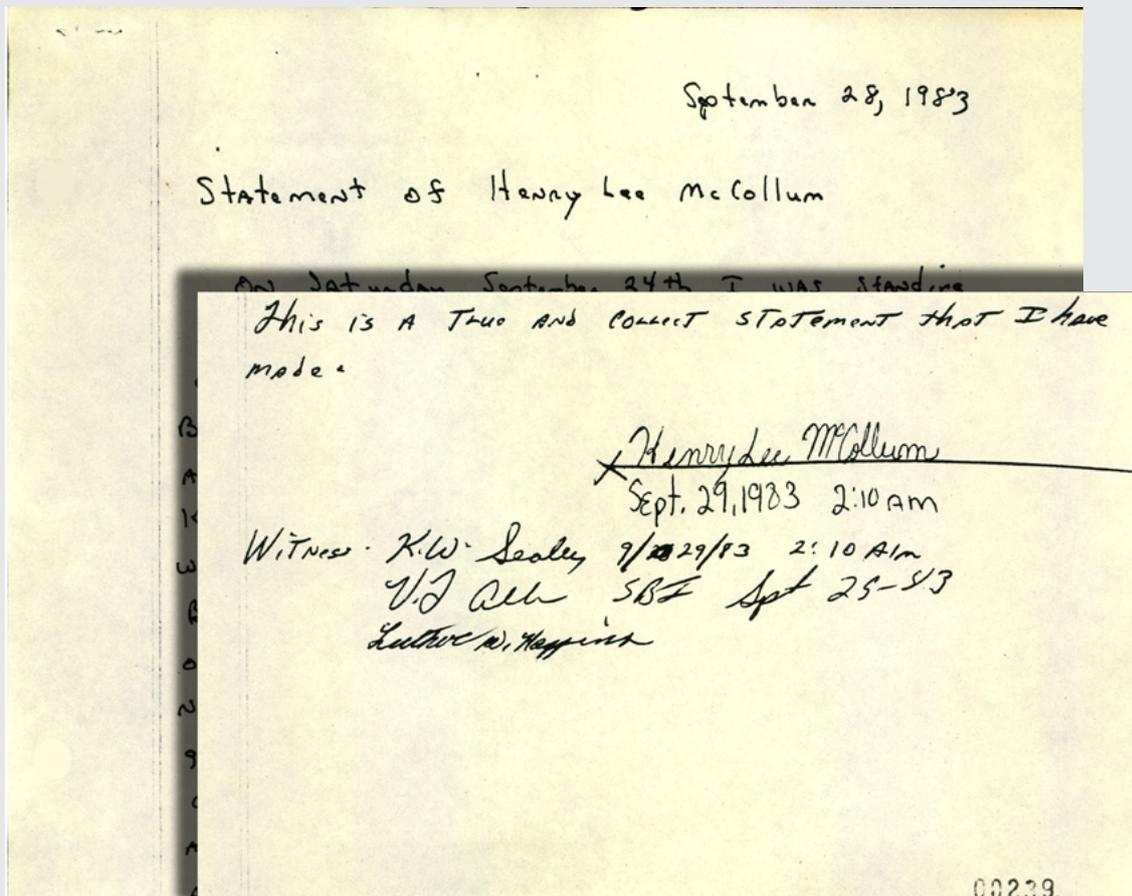
In hindsight, the red flags are obvious. Despite their mostly accurate descriptions of the crime scene, Henry and Leon’s confessions conflicted in significant ways. From who was involved in the crime, to how they met up with the victim, to the details of how the crime was carried out, their stories didn’t match. Most damning, the other boys implicated in the confessions were clearly not involved. One had been out of state. Police were never able to collect any evidence against the other boys, and none of them was ever arrested or charged.

In addition to ignoring the problems with the confessions, the state withheld critical evidence that might have helped Henry and Leon prove their innocence. Defense attorneys never saw Ethel Fumage’s conflicting statements, or a lie detector test showing that a trial witness who accused Henry actually had no knowledge of the murder. They never saw a document showing that the state failed to follow through on efforts to find the owner of an unidentified fingerprint left at the crime scene, which did not belong to Henry or Leon. Had the

fingerprint comparison been carried out, the real killer might have been identified before Henry and Leon were convicted. By law, all of those documents should have been turned over to the defense.

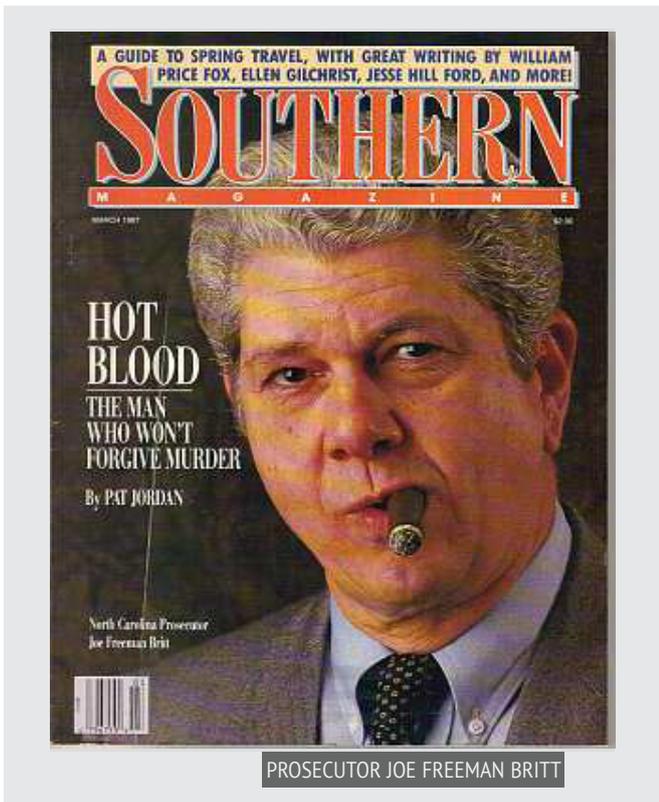
And without recordings of the interrogations, it was nearly impossible for Henry and Leon's defense attorneys to discredit investigators' false claims that Henry and Leon had volunteered all the details in their confessions.

Now in jail, Henry wanted to recant his confession. He claimed his innocence over and over again, but no one was listening.



EXCERPT FROM HENRY MCCOLLUM'S CONFESSION

“WORLD’S DEADLIEST D.A.” TAKES THE STAGE



In 1984, a year after they signed their confessions, Henry and Leon faced a joint trial for their lives. The prosecutor was Joe Freeman Britt, a man with a reputation to maintain.

At the time, Britt's zealous pursuit of the death penalty was making him a national celebrity. He was elected district attorney in 1974, in a county that had not sent anyone to death row in nearly three decades. After just a year on the job, he had won more death sentences than any prosecutor in the country.

With the poise of an actor, he thumped the Bible and waved the bloody clothes of victims before jurors. The Guinness Book of World Records named him “Deadliest D.A.” He ran training sessions for other prosecutors where he advised

them to “go after them and tear that jugular out.” At another, he told the assembled district attorneys, “Within the breast of each of us burns a flame that constantly whispers in our ear ‘preserve life, preserve life, preserve life at any cost...’ It is the prosecutor’s job to extinguish that flame.”

Now, an 11-year-old girl had been brutally murdered in his county, and Britt pulled out all the stops to get a conviction. He ignored evidence pointing away from Henry and Leon and toward a serial predator, whom Britt himself had tried for murder just a few weeks earlier. Instead, he relied heavily on the flawed confessions, using his dramatic flair to paint a vivid portrait of a child begging for her life.

Henry took the stand to proclaim his innocence, but he was no match for Britt's theatrics and hammering cross-examination. “Didn’t that touch your soul at all when that little girl was down on the ground hollering?” Britt asked Henry. In his closing arguments, Britt stood silent in front of the jury for five minutes, the amount of time he guessed it took Sabrina to suffocate to death. The jury sentenced the brothers to die. Leon, just 16, became death row’s youngest resident.

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In 1991, the N.C. Supreme Court decided that Henry and Leon were entitled to separate trials. At his second trial, Leon's defense attorneys persuaded the judge to dismiss the murder charge. Leon was convicted only of rape and resentenced to life.

Henry, however, had signed a more damning confession than his brother. His attorneys decided his best option was to take responsibility for the crime and throw himself on the mercy of the jury. Though he had steadfastly maintained his innocence in prison, Henry's attorneys talked him into conceding guilt. The strategy backfired and a second jury sentenced him to death. In the public's eye, Henry remained the character Britt had painted at his first trial – a ruthless child killer and rapist.

In 1994, in an opinion having nothing to do with Henry's case, U.S. Supreme Court Justice Antonin Scalia cited Henry's case as the type of crime that makes the death penalty necessary in America.

In 2010, Henry's face appeared on a political flyer distributed to thousands of North Carolina voters, attacking legislators who had voted for a new law that allowed death row inmates to bring forward evidence of racial bias in death penalty trials. It falsely warned that the law could allow people like Henry to get out of prison. "Get to know Henry McCollum," the flyer read. "He RAPED AND MURDERED AN 11 YEAR OLD CHILD."

Thanks To [redacted] death row inmates could leave prison early and move in next door....

Henry L. McCollum
MURDER FIRST DEGREE; CHILD RAPE
DOC NUMBER: 0265106
SENTENCE TYPE: DEATH ROW

1. 8/3/2009 SB 461 (2R) North Carolina Racial Justice Act

asked for by the North Carolina Republican Executive Committee.

Keep Death Row Inmates Where They Belong And Get Rid of Criminal Coddler [redacted]

FLYER DISTRIBUTED TO NORTH CAROLINA VOTERS

SABRINA'S KILLER MURDERS AGAIN

What got lost during all those confessions and trials was the chilling truth that police never really investigated Sabrina's murder – despite good reasons to keep digging. Police never found any biological evidence linking Henry or Leon to the crime. They were tried before the advent of DNA testing, but a fingerprint found on a beer can at the scene didn't belong to them, or to any of the boys implicated in their confessions.

Another red flag was the fact that, just three weeks after Sabrina's murder, another young woman turned up dead in a field in Red Springs.

Much like Sabrina, 18-year-old Joann Brockman had been raped, beaten, asphyxiated, and left nude except for a sweater and bra pushed

up around her neck. Like Sabrina, her body had been dragged through a field and abandoned. In this case, though, the culprit was obvious.

Roscoe Artis had recently moved to Red Springs to live with his sister, whose home was near the field where Sabrina's body was found. Several witnesses saw Artis with Brockman just before her death, and when he was picked up by police, he had Brockman's blood on his shirt. He soon confessed to raping and strangling her.

Just a month before Henry and Leon's trial, Joe Freeman Britt tried Artis for Brockman's murder in Robeson County.

Unlike Henry and Leon, who had no history of violent crime, Artis did. He had three

past convictions for rapes and assaults on women. In 1974, one of his victims testified in court that Artis grabbed her from behind on the street and, when she refused to go into the woods with him,

choked her and threatened to kill her. He stopped only when another person happened upon them in the street.

“Just three weeks after Sabrina's murder, another young woman turned up dead in a field in Red Springs.”

At the time of Brockman's murder, Artis was suspected of another murder in Gaston County. Bernice Moss was found nude except for a bra and blouse, had been raped and beaten beyond recognition with a stick, and had an object lodged in her throat. Authorities never prosecuted Artis for Moss' murder, but only because he was sentenced to death in Brockman's killing.

The similarities between the killings of Joann Brockman and Sabrina Buie were impossible to miss, and local police clearly took note of them. Days before Henry and Leon's trial began, the Red Springs Police Department sent a request to the State Bureau of Investigation, asking the lab to test whether that single unidentified fingerprint – left on a beer can at the crime scene – belonged to Roscoe Artis.

However, before the comparison was completed, Britt went ahead with Henry and Leon's trial – winning a conviction based on their confessions and never once mentioning Artis. The fingerprint request was canceled and the investigation into Roscoe Artis' involvement in Sabrina's killing was dropped.

On death row, Leon, Henry, and Artis found themselves thrown together. Artis, who was sentenced to death for Joann Brockman's murder, befriended the younger men, and regularly told other prisoners that Henry and Leon were innocent. Often, Artis seemed to be the only person who believed in their innocence.



A LUCKY BREAK, LONG OVERDUE

It was Sept. 2, 2014 – more than 30 years since police had first knocked on Henry’s door. The naive teenager was now a middle aged man with downcast eyes and the distinction of being the longest serving prisoner on North Carolina’s death row. He had spent three decades in cages and shackles, watching his friends be hauled off to the execution chamber.

Henry, wearing a rumpled blue dress shirt, stood in a battered metal cage in the Robeson County Courthouse, waiting for his hearing to begin. It had taken a near-miracle to reach this point. Henry insisted on his innocence for years, but his attorneys had few tools to prove it.

When DNA testing became available in the 1990s, Henry asked that the evidence in his case be tested. In 2005, a single cigarette butt from the crime scene yielded a DNA profile – and it did not belong to Henry or Leon. But because of scientific limitations in the testing method, the result could not be compared with the DNA profiles of other known criminals. Absent a definitive match, the test result wasn’t enough to overturn their convictions.

It took Leon’s request to the Innocence Inquiry Commission, which committed years and many thousands of dollars to his case. Unlike Henry and Leon’s defense attorneys, the commission commanded the funding and the legal authority to pursue lost evidence, demand documents, interview suspects, and, most importantly, retest the cigarette butt and compare the result with the state’s criminal database. It was that testing, in early 2014, that finally turned up a DNA match to Roscoe Artis.

When Henry heard of the match, and his attorneys’ hopes that they could now prove his innocence, his excitement was tempered by feelings of betrayal. He had believed Artis was his friend.

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At the September 2014 hearing, Henry stared blankly as the Commission staff detailed the new evidence. Then, Robeson County District Attorney Johnson Britt, a distant cousin of Joe Freeman Britt, told the judge he no longer had any credible evidence against Henry or Leon. He said the new DNA test results identified a “third party” as the killer. The judge took the rare step of not just granting the brothers a new trial, but declaring them innocent.

The courtroom was packed with lawyers and reporters, with people from Red Springs and members of Henry and Leon’s extended families, who had traveled from across the country. Absent were their mother and the grandmother who raised Henry, both of whom died while they were in prison.

Directly behind Henry, in the first row, sat I. Beverly Lake Jr. – a former chief justice of the N.C. Supreme Court who had voted to affirm Henry’s death sentence, a man who had once seemed to believe the criminal justice system infallible. Now, Lake was applauding Henry’s freedom.

As the judge spoke the words that would set them free, Leon smiled broadly. But Henry dropped his head and closed his eyes, the heartbreak of the past 30 years etched into his sunken cheeks. In the back of the courtroom, Sabrina Buie’s family held each other and wept. Their daughter had been dead more than three decades, and justice was nowhere to be found.

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In many other cases, such biological evidence has been lost or never existed to begin with. Sometimes there is no cigarette to prove that a confession was false, a witness lied, or the police erred. Right now, biological evidence is available in less than a third of the approximately 150 cases on North Carolina’s death row. In the vast majority of cases, there will be no independent investigation, no hidden evidence unearthed, no long-buried truth uncovered.

During the nearly three decades before the Innocence Inquiry Commission got involved, Henry had two capital trials. A dozen defense attorneys and 24 jurors reviewed the evidence. As his case wound its way through appeals, more than 20 judges considered it. Still, the truth remained buried.

In 2015, Henry got a different kind of mention from the U.S. Supreme Court. Justice Stephen Breyer cited his exoneration as compelling proof that the death penalty is not just error-prone, but unconstitutional.



HENRY IN 2016 WITH CDPL STAFF MEMBERS KEN ROSE & GERDA STEIN



A NOTE ON SOURCES: CDPL STAFF REPRESENTED HENRY MCCOLLUM FOR APPROXIMATELY 20 OF HIS 30 YEARS ON DEATH ROW. THIS SUMMARY IS BASED ON COURT RECORDS, CASE DOCUMENTS, WITNESS INTERVIEWS, AND PERSONAL KNOWLEDGE OF CDPL STAFF WHO WORKED ON THE CASE.

THANKS TO THE PROTEUS FUND, THE OPEN SOCIETY FOUNDATIONS, AND THE Z. SMITH REYNOLDS FOUNDATION FOR THEIR GENEROUS SUPPORT, WHICH MADE THIS REPORT POSSIBLE.

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