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# WHO KILLED BETTY GAIL BROWN? MURDER, MISTRIAL, AND MYSTERY

BY ROBERT G. LAWSON (UNIVERSITY OF KENTUCKY PRESS, 2017)

BOOK REVIEW  
BY: PROFESSOR WILLIAM H. FORTUNE

This book is a must-read for several reasons. First, it's a straightforward account of a famous Kentucky murder case, written in Robert Lawson's no-nonsense style. Second, it's a good example of lawyers' *pro bono* representation of an indigent defendant charged with a serious crime. Finally, it's the story of a confession, never retracted, that might or might not be true.

Most people know Bob Lawson as the "Evidence King of Kentucky," author of the Kentucky Rules of Evidence and of the leading evidence treatise. Perhaps you know him as the primary author of the Kentucky Penal Code. You might know him as two-time dean of the University of Kentucky College of Law, or as the University's go-to person in NCAA athletic investigations. If you're one of Lawson's ex-students, you certainly know him as an excellent teacher who was twice selected by students as a University of Kentucky Great Teacher.

What you probably don't know is that, as a young attorney, Bob had a general practice in Lexington with Amos Eblen, a former UK law professor and Court of Appeals judge. In 1965, Judge Eblen was appointed to represent Alex Arnold Jr. who had confessed to the 1961 murder of Betty Gail Brown. Ms. Brown was strangled with her bra as she sat in her car in front of Old Morrison on the Transylvania University campus in downtown Lexington. In 1965 there was no public defender, nor were there funds with which to pay lawyers appointed to represent indigents. The trial judge appointed Judge Eblen to represent Arnold, and Judge Eblen asked Lawson to serve as co-counsel. As Lawson recalls his response,

*I had done a lot of work of work for indigent defendants since getting my law license (in 1963). I've been asked to serve in quite a few cases and I've never been able to turn down a single request. I always think that I have no choice but to provide help to defendants who are in serious trouble and can't help themselves.*

Without pay and at their own expense, Lawson and Judge Eblen gave Alex Arnold a million dollar defense. They pursued every lead, talked to every witness, and analyzed and compared police notes to the confession and newspaper accounts. They located the car in which Ms. Brown had been killed (it had been returned to her parents and sold) and discovered that the physical facts didn't match Arnold's account of the killing. To support the story of a late-arriving alibi witness (Arnold's aunt), they verified the aunt's four-year old recollection of the crucial date through County Health Department records.

In his confession Arnold had said that Betty Gail was hugging and kissing another girl when he walked up and asked them for a match; they had cursed him; he got mad and jerked the car door open; the other girl fled and he killed Betty Gail. However, there was scant

proof of the "other girl," there was no physical evidence and no one who saw Betty Gail with another girl in a compromising position. Lawson and Judge Eblen reasoned that by showing Betty Gail to be strictly heterosexual, they could cast doubt on the confession. Showing a significant part of a confession to be false tends to prove that the confession as a whole is false. To prove that Betty Gail Brown was heterosexual, the attorneys subpoenaed her minister, an ex-boyfriend, a sorority sister, and—significantly—put her parents, Hargus and Quincy Brown, on the stand to give convincing evidence that Betty Gail was not attracted to other females.

Relying on newspaper accounts, police records, and his own notes and memory, Lawson, in his own matter-of-fact way, tells the story of the murder, the extensive investigation, Alex Arnold's belated confession, the defense and the trial. The defense team showed that the police had written the confession to minimize the differences between the physical facts and what Arnold said happened. They also showed that Arnold's confession could have been gleaned from the extensive media coverage of the case.

False confessions are not uncommon; what is very rare is a false confession that is not retracted. After his aunt told him she was sure he was at her house on the night of the murder, Arnold expressed uncertainty—"I don't know whether I killed her"—but he never retracted his confession. He told his lawyers he was "99 percent sure he'd killed her" and, on cross-examination, told the prosecutor, "I saw her bra on the back of the seat, and I hung it around her throat and strangled her."

How is it possible to believe you committed a murder that you didn't commit? In the epilogue, Lawson suggests that Arnold came to believe he killed Betty Gail because he was mentally impaired, drunk on the day in question, near the scene of the crime, and exposed to extensive newspaper coverage of the crime and investigation. Over time, perhaps what he thought could have happened became what he was 99 percent sure did happen. If so, his reconstruction was not accurate—he made mistakes and added an event—the "other girl"—that didn't happen.

In the end, after hundreds of hours talking with Arnold, investigating and trying the case, Lawson concludes:

*Did Alex Arnold kill or did he not kill Betty Gail Brown? If put in a position where I had to choose between those options, I would say that Alex Arnold did not kill Betty Gail Brown, But, very quickly I would also say that I am not absolutely sure that he did not kill her.*

**WILLIAM H. FORTUNE** is a 1964 graduate of the University of Kentucky College of Law. After five years in private practice he began a long career at the UK College of Law in 1969; he retired in 2012.