

Appeal Campaign for Atif Rafay and Sebastian Burns

FACTS OF THE CASE

A Horrible Discovery

At dusk on July 12, 1994, Dr. Tariq Rafay, his wife Sultana and their daughter Basma were viciously bludgeoned in their home in the quiet suburb of Bellevue, Washington. Four hours later, after dinner, a movie and a late-night snack, Atif Rafay, the son of Tariq and Sultana, returned home with Sebastian Burns, a close friend who was then a guest of the Rafay's, to discover a horrific scene. Numb with shock, Sebastian Burns called 911 and, terrified that the killer or killers might still be in the house, the two boys fled into the street to await the arrival of the police. Within moments a police cruiser passed the house, unable to find the correct address. Burns and Rafay chased after it, pounding on a window to get it to stop.

Police who entered the Rafay home following the murders were shocked and disturbed by the horrible, bloody crime scene. Sultana Rafay was killed by a fatal blow to the head. Basma Rafay was injured and died later in hospital, having suffered repeated blows to the head and body. Dr. Rafay lay in bed, his head completely crushed by a blunt object. The walls, floor and ceiling of his bedroom were covered in blood, bone, teeth and tissue. Tremendous amounts of blood were tracked throughout the property--in the carpets, on the walls, in the downstairs bathroom and in a series of footprints in the garage.

Sebastian and Atif Cooperate With Police

In the hours and days that followed the murders, Sebastian Burns and Atif Rafay accompanied the Bellevue Police for extensive questioning, provided them with their clothing, shoes and, in Atif's case, eyeglasses, and allowed police to perform searches of their bodies and affects using a specialized light designed to detect blood in miniscule quantities. They allowed the Bellevue police to fingerprint, photograph them and subject them to a gunshot residue test. Sebastian Burns and Atif Rafay did not deny a single police request during these days and neither exercised their Miranda right to counsel. Atif signed a search warrant and gave investigators his password so they could search his computer. After the murders Sebastian Burns and Atif Rafay were in Bellevue for 56 hours, spending almost all their waking hours with the Bellevue police.

None of these tests, searches or interviews revealed any incriminating evidence. When not with the Bellevue Police, the two boys, at the behest of police, stayed in a dingy room at the since-demolished Bellevue Motel where they were given little opportunity for sleep. Neither teenager was offered any grief counseling or support.

Police Lies Fed to the Media

On July 15, 1994 the Canadian Consulate in Seattle obtained explicit permission from the Bellevue Police Department to return the boys to Sebastian's parents' home in Vancouver, Canada. The Rafay family had only recently moved from Vancouver to Bellevue, and Vancouver was home to both Sebastian and Atif. Despite their full cooperation with the

Bellevue Police and their escorted and legal return to Canada, the Bellevue Police soon decided they were prime suspects and labeled them fugitives. Then they told journalists in both countries a series of lies:

That Sebastian and Atif had behaved strangely on the night of the murders and the following days, thereby arousing suspicion;

That they had failed to show emotion after finding the Rafay family murdered;

That they did not cooperate with the police in Bellevue;

That they purposefully missed the funeral;

That they "fled" to Canada.

After observing the foul play of investigators at the Bellevue Police Department, friends, family and legal counsel for Sebastian Burns and Atif Rafay recommended that they remain in their home country--Canada.

For more information, see the [Did they flee?](#) page of this web site.

Evidence Exonerates Sebastian and Atif

In the days, weeks and months that followed, the Bellevue Police Department examined the physical evidence at the crime scene and carefully determined the circumstantial evidence by interviewing numerous witnesses and the neighbors on both sides of the Rafay home. Contrary to the investigators' initial theory, all the evidence pointed away from Sebastian Burns and Atif Rafay. Here are the reasons why:

The neighbors independently confirmed that the murders happened when the boys were known to be elsewhere;

The examination of the physical matter at the crime scene failed to produce any incriminating evidence;

No blood, bone or tissue was found on either boy's body or clothing that could possibly suggest involvement in the murders.

Even after all the physical and circumstantial evidence produced by investigators exonerated Sebastian Burns and Atif Rafay, lead detectives on the case persisted in their belief that they were guilty.

Physical and Circumstantial Evidence Points to Other Killers

But the physical evidence demonstrated even more than their innocence: it demonstrated that at least three people, none of them Sebastian Burns or Atif Rafay, were responsible for the murders. This is confirmed by DNA found at the crime scene and by the State's own analysis of the blood spatter in Dr. Rafay's bedroom.

DNA Evidence: Investigators found physical evidence at the crime scene that they believed must have been left by the killers. This key evidence was tested and re-tested, but was found to only contain DNA that did not belong to Sultana Rafay, Basma Rafay, Tariq Rafay, Sebastian Burns or Atif Rafay. These key pieces of evidence are:

A coarse body hair or pubic hair found on Dr. Rafay's fitted sheet;

DNA in the downstairs shower mixed with Dr. Rafay's blood;

DNA in a footprint in the garage mixed with Dr. Rafay's blood.

Blood Spatter Evidence: Ross Gardner, the state's expert who examined the blood spatter evidence, concluded both in his report and in trial that at least three people were in Dr. Rafay's bedroom while blows were being struck. While on the stand, this expert

said, "I cannot explain the stains in any other way."

The Bellevue investigators didn't just have physical evidence telling them other people murdered the Rafays: they also received three independent tips, all vetted by other law enforcement agencies, that clearly implicate other parties and other motives, among them Islamic extremism.

Dr. Rafay Had Enemies

Dr. Rafay was a prominent Sunni Muslim who was active in his religious and cultural community, first in Vancouver, then in Bellevue. He was co-founder and President of the Canadian-Pakistan Friendship Organization and he published a paper and developed a controversial computer program indicating Muslims in British Columbia weren't facing Mecca when they prayed.

About a month after the murders, an FBI informant told Bellevue investigators that a Muslim cleric in Seattle had ordered Dr. Rafay killed because of his teachings of the Koran. This informant also believed a baseball bat was the murder weapon, which in fact it was. He provided this information at a time when Bellevue investigators knew a baseball bat was one of the murder weapons, but before this fact was made public. Incredibly, the Bellevue Police Department did not investigate this or two other tips they received shortly after the murders were committed.

For more information, see the [Other Suspects](#) page of this web site.

Similar Murder: Unsolved

Back in 1994, Bellevue investigators obviously didn't believe murders could be motivated by ideas or religious extremism. They probably thought it was more likely a family member was responsible. But tragic events continue to suggest Islamic extremism remains a threat both domestically and abroad: in January 2003, Riasat Ali Khan, a close friend of Dr. Rafay and also a former president of the Canadian-Pakistan Friendship Organization, was murdered outside his home in Vancouver, BC. His murder remains unsolved.

Illegal Undercover Operation

Nine months after the murders, frustrated by the lack of evidence suggesting the guilt of Sebastian Burns or Atif Rafay and uninterested in evidence implicating other parties, the Bellevue Police Department obtained the assistance of the RCMP. In response, the RCMP chose to initiate an undercover sting operation that is illegal in the United States. Although legal in Canada, these tactics are also known to have elicited false confessions from other teenagers suspected of murder.

In this undercover operation, known in Canada as "Mr. Big", two undercover officers made the acquaintance of Sebastian Burns. They then revealed their phony identities as violent criminals and coerced Sebastian's involvement in their group by putting him in the position of "knowing too much". Using threats of death and violence, promises, and even pretending to have underworld connections to the investigation in Bellevue, these police officers coerced false confessions from Sebastian Burns, Atif Rafay and their friend Jimmy Miyoshi. All three were subsequently arrested.

For more information, see the [False Confessions](#) page of this web site.

Later, the RCMP threatened Jimmy Miyoshi with a charge of Conspiracy to Commit Murder, even suggesting to him that he may face the death penalty if he did not tell the police that Sebastian Burns and Atif Rafay were guilty. Jimmy Miyoshi signed an immunity agreement and provided the RCMP with a number of statements. Every single statement contradicts the last and each one contradicts the physical evidence at the crime scene. At trial Jimmy Miyoshi, who lives in Japan, refused to return to North America to testify. Instead, a deposition recorded months earlier was shown to the jury.

Before giving this video-taped deposition in court, Jimmy Miyoshi phoned Sebastian Burns' lawyer, Jeff Robinson, and asked him for help. Jeff Robinson could not do anything for him because Jimmy was a witness for the prosecution. When Mr. Robinson asked about this call during his deposition, Jimmy Miyoshi lied, claiming he contacted Jeff Robinson because he feared Sebastian Burns and Atif Rafay.

False Confessions

These confessions and the statements provided by Jimmy Miyoshi are not merely unreliable, having been coerced by threats and promises. These confessions are false.

How do we know these confessions are false? They are proven false beyond a reasonable doubt because every material element of the confessions is refuted by the evidence obtained by the state. The material elements determined by the state's own experts (arrived at both during the investigation and in trial) that do not match the confessions include:

- The number of killers (state's expert concluded at least 3 killers);
- The identity of a murder weapon (wounds on Dr. Rafay's neck show a sharp object was used in the attack);
- The timing of the murders (two independent witnesses confirm the murders were definitely over by 10:15 p.m.);
- The use of gloves (state's expert said in a pre-trial interview that he would have found glove marks at the scene if gloves were used--he didn't find any);
- Details of Basma Rafay's attack (state's expert concluded Basma moved from her bed to the floor--she never walked around as the newspaper reports and later the confessions claimed);
- Movement of the murderers in the house (blood evidence shows the killers were in the garage).

These details were not known by Sebastian Burns or Atif Rafay at the time of the RCMP undercover operation because they weren't public knowledge and because Sebastian Burns and Atif Rafay are not the killers. The only possible explanation for the serious and numerous discrepancies between the confessions and the evidence is that the confessions are false.

Inconsistent "Confessions"

These "confessions" are false by definition: they are inconsistent with the facts of the case--facts that were determined by the prosecution's own experts. But the manner in which Sebastian Burns and Atif Rafay told these stories also tells us they are false: each boy's confession is internally inconsistent and each contradicts the other's confession regarding what Sebastian was wearing, what they did with the incriminating evidence

and where they obtained the murder weapon. Sebastian Burns and Atif Rafay couldn't keep their stories straight.

Even more importantly, these "confessions" do not contain any additional information that only the killers could know.

Jury Misled

One question remains--if innocence is so clear, why did twelve people decide to convict Sebastian Burns and Atif Rafay, condemning them to life in prison? Probably because the jury's understanding of this case was incomplete. The trial judge ruled key evidence inadmissible: the jury was not permitted to learn about the lead provided by an FBI informant or another lead provided by the Intelligence Division of the Seattle Police--a lead also pointing to religious extremists. Despite the fact that these leads were not investigated by the Bellevue Police Department, they can be related to one another. Considered together, they provide an overwhelming answer to the question of who committed these murders.

The jury was also not permitted to hear from Dr. Richard A Leo, a professor at the University of California and a leading expert on the phenomenon of false confessions. Dr. Leo agreed to present information on what he describes as the "highly counter-intuitive phenomenon of false confessions and how and why police investigators sometimes elicit them from people of normal or superior intelligence." According to Dr. Leo's Declaration to the Court, the purpose of this testimony was "to provide the jury with relevant and reliable social scientific information about the psychological phenomenon of interrogation and false confessions so that the jury can make a more informed decision when deciding the factual issue of the reliability of the defendants' admissions in this case."

Instead of allowing this expert testimony, the judge determined that it was "the province of this jury to decide whether or not in their common experience and common sense these statements made by these defendants to those undercover police officers are voluntary or involuntary ...". This committee suggests that police officers posing as violent murderers to 19-year-old boys could not possibly be part of the common experience or common sense of any jury, and that is why jurors in this trial and many others are unable to distinguish real confessions from false ones.

Furthermore, the judge in this trial did not adhere to his own decision to ensure that the videotaped statements made by Burns and Rafay were judged by the jury alone. During trial the undercover police officers were permitted to deconstruct and analyze Sebastian Burns' behavior during the undercover operation. While on the stand, they repeatedly told the jury that an innocent person would not behave as Sebastian did during the sting. Why did the judge allow the very operators of the undercover sting to masquerade as experts on how innocent people respond to their menacing and coercive tactics? Why didn't the judge allow a genuine expert, with no interest in the outcome of the trial, to inform the jury of how innocent people actually respond to police tactics such as these? In reality, these officers were not providing expertise--they were validating their operation and their tactics. In a fair trial, the defense would have been allowed to introduce an expert to respond to the undercover police officers' inept, self-serving and subjective interpretations of the defendant's behaviour and psychology.

Innocence is Proven Beyond a Reasonable Doubt

The prosecution in this trial managed to convince the jury that Sebastian Burns and Atif Rafay were arrogant, brilliant monsters capable of planning and executing the perfect murder. We ask you, in this age of scientific analyses of crime scenes:

Could two 18-year-olds remove all the minute physical evidence of a bludgeoning from their own bodies, from their car and from a horrifically bloody crime scene?

Could they fabricate evidence at the crime scene indicating at least three people were responsible?

Would they be able to coerce statements from numerous witnesses to confirm an air-tight alibi?

Could they possibly plant other people's DNA at the crime scene?

Would they have the power to plant leads before and after the murders indicating the involvement of violent religious extremists?

Would these same brilliant 18-year-olds then be fooled by two undercover Canadian police officers pretending to be violent criminals?

Of course not. That is why Sebastian Burns and Atif Rafay are innocent.

THIS PAGE IS A WORK IN PROGRESS. We guarantee that all information on this web site is accurate, based on trial transcripts, transcripts of pre-trial hearings, reliable newspaper reports or first-hand accounts. However, as we continue to investigate the facts of this case we will be adding detail and information to this and other pages. Stay posted!