

Summary of Significant Facts in The Case of

ERNEST WOODMANSEE
San Quentin Number A-7445

Woodmansee was convicted of murder and sentenced to life imprisonment. Joseph Trujillo, with whom he was jointly tried, was convicted, sentenced to death and executed.

The convictions were brought about almost entirely on the strength of testimony given by one Thomas Foakes, who swore to facts which resulted in the indictment of Trujillo and Woodmansee.

Shortly before the trial it became apparent Foakes' sworn testimony before the grand jury was false. Thereupon Foakes changed that testimony.

The conviction of Trujillo was unanimously affirmed by the California Supreme Court, but Justice Carter and Justice Schauer filed a vigorous dissenting opinion in the case of Woodmansee, holding, by reasoning which seems very sound legally and, in view of subsequent developments becomes exceedingly significant, that there was no evidence sufficient to make a case against Woodmansee, and that his motion for dismissal should have been granted.

The Supreme Court was not in a position to attack the credibility of Foakes' testimony because the jury had accepted that testimony.

Foakes was a young boy not yet eighteen at the time the crime was committed. He evidently made a good impression upon the jury and he had previously convinced the arresting officers of the truth of

his story.

Since the decision in that case, however, there has been more of an opportunity to appraise the character of Thomas Foakes and I understand that the very police officers who worked on the case and who believed his testimony at the time have now come to the conclusion that he is unworthy of belief.

Foakes was first approached by officers who were trying to implicate him in the murder. At that time he decided that he would save his own neck by implicating Trujillo and Woodmansee. In fact he admitted that his plan to implicate Woodmansee and Trujillo had been formed apparently in advance of any questioning, and as an out for himself in case he was questioned. (Trial Transcript, page 633.)

At the first time he was questioned about the crime he knew that he was "under suspicion". (Trial Transcript, pages 515, 516.)

Foakes then told his story implicating Woodmansee and Trujillo. It was the story of a lad who had overheard conversations in which the two were "planning a job", and then had seen evidences that the job had been done, etc., etc. It was a complete fairy story. He told this story under oath to the grand jury and indictments were returned against Woodmansee and Trujillo.

Even at that time there was evidence which certainly should have put the police on their guard. The gun with which the killing had been committed was found in the home of Tommy Foakes' sister. She had taken a rat-tail file and mutilated the interior of the barrel so it was impossible to make a ballistics identification.

Shortly before the case came on for trial police apparently uncovered some evidence that Tommy Foakes himself had participated

in the crime. The position of the prosecutor at this point can readily be imagined by anyone who has had practical courtroom experience. He offered Foakes complete and full immunity if Foakes would admit his real part in the crime and turn State's evidence. -- This was about a week before the case was to come on for trial. (Trial Transcript, page 615.)

So Foakes changed his story. Tempted by this offer he said he had taken only a minor part in the crime. He was, he said, the lookout who had been left at the wheel of the car to warn the other two in the event anyone showed up. He was, however, dizzy from smoking a marijuana cigarette, put his head down on his hands and so failed to see the night watchman who showed up and who was killed.

On the afternoon of September 8th, 1947, Tommy Foakes was scheduled to go on the stand and tell that story.

He repudiated his story at that time and refused to testify.

It is a matter of record that the prosecutor, after having put on all his other witnesses, went into court and painted a pathetic picture of a poor young lad who had become hysterical.

The prosecutor assured the Court, "Your Honor, we have one more witness, that is the 16 year old Tommy Foakes, whom I left about twenty minutes ago in a state of hysteria upstairs. So, although the day has an hour and a quarter to go, unless counsel wish to proceed with their case, I would respectfully urge the Court that we recess at this time until Wednesday morning, at which time I believe that Tommy Foakes will be in a condition to testify. The matter is completely beyond my control, but I do know that the witness could not under any circumstances testify today." (Trial

Transcript, pages 450, 451.)

This was on a Monday, September 8th. The next day was September 9th, a legal holiday, so the court adjourned until Wednesday, September 10th.

After the trial was resumed it appeared by the testimony of Foakes himself that he had simply refused to go ahead with this story of his because he was afraid to do so. He stated that he was not hysterical, that he was worried and scared. (Trial Transcript, page 617.) Later on, in his cross-examination, he admitted that he had no hysteria, that he had simply refused to testify.

He was asked the specific question, "Would you have called your condition one of hysteria or was it just refusal to testify?" and he answered, "Just refusal." (Trial Transcript, page 624.)

There was evidence given by Woodmansee's brother that he was home in bed at the time the murder was committed. Apparently the jury didn't believe that evidence because it felt the brother would be influenced because of his relationship with the defendant.

There is always this chance of influence but it is also true that a man normally goes to bed in his own home surrounded by relatives and not in the home of some impartial witness whom he has never seen before.

Be that as it may, my associates and I were so strongly impressed with the type of character of Ernest Woodmansee's mother, who swore she knew that he was at home and in bed, that we planned to give her a lie detector test (we had previously made several requests for a lie detector test for Woodmansee and permission had

been refused).

At that time the Adult Authority decided that Woodmansee would be permitted to take a lie detector test provided that test was given by Inspector Albert E. Riedel of the Berkeley Police.

I was present when this test was given. Inspector Riedel and I were at San Quentin prison nearly all day. The lie detector test was so searching that toward the close of his examination Inspector Riedel told both Woodmansee and me that he knew Woodmansee was just about ready to pass out. He apologized for having subjected him to such a strain but said that there were certain things he was very, very anxious to clear up.

At the close of the test Inspector Riedel announced to Woodmansee that he was satisfied that he was absolutely innocent and told me the same thing several times on the trip back to Berkeley. He also told me that police officers who had worked up the case against Woodmansee on the strength of Foakes' testimony had subsequently confided to him that they believed Foakes was unworthy of belief.

I understand that Foakes has been in trouble of some sort. I am informed a man is today serving time because he was convicted of having hired Foakes to commit a crime, but under the vagaries of our jury system Foakes, who obtained a separate trial, was acquitted.

Dr. LeMoyne Snyder and I tried to secure the complete story from the imprisoned man, but he refused to answer any questions, saying simply that the episode was closed insofar as he was concerned, that he would do his time and get out.

At the time of his conviction, Woodmansee was a young "smart

aleck" who was allergic to work. He had been in trouble. However, his record was no worse than that of young Tommy Foakes who was given full immunity in order to build up a case against Woodmansee.

At one time during his cross-examination Foakes was asked if he hadn't deliberately considered putting himself in the role of a minor actor in the crime in order to make it look better for him and put him in a more favorable position before the jury. He answered, "I might have thought about it, but it didn't make much difference. He said full immunity no matter what place I had been in." (Trial Transcript, page 623.)

Note the significance of this remark. If the man had been telling the truth he would have said, "I decided to tell the truth," and let it go at that.

In my opinion this answer unconsciously betrayed the entire process of his thinking. He admitted that he "had thought about it." It is to be noted that he did cast himself in the position of the man at the wheel of the car, the one who had not actually participated in the murder, the most favorable position any participant in the crime could have occupied. If his story had been true there would have been nothing to "think about".

When Woodmansee was sent up he was a typical smart-aleck, juvenile delinquent. It took him some time to adjust himself to life in prison and to a life of work. I think his record for the past few years indicates he has done a very good job of adjustment.

The point I wish to make is that we have a man incarcerated in prison under a life sentence, and that man is, in all human probability, innocent of the crime of which he was convicted.

In the opinion of two justices of our Supreme Court, the evidence against him was legally insufficient to warrant a conviction.

I feel that the sentence should be commuted to time served. Legally I think he is entitled to a full pardon but in view of the circumstances and his earlier record I think the interests of justice will be served as well by commuting his sentence to time served.

Erle Stanley Gardner.