

## **Ivan Smith**

Ivan Smith, age 18, was arrested in November 1991 in Ripley, Tennessee for two gang-related shootings in Chicago that left three dead and three others injured. On the evening of August 7, 1991, Smith, a member of the Black Disciples street gang, drove by a building in the territory of the Gangster Disciples gang – a rival gang – in a Chevette and yelled a Black Disciples slogan while throwing up a gang sign. One of the bodyguards shot at Smith's car from inside the building and Smith reportedly drove away and said he would be back.

Around 10 or 11 that night, George Cruthird, and Jerome Taylor were selling drugs in front of the same building with 13-year-old Rhenardo Bussle, who was Taylor's cousin. Cruthird stated that three cars drove up to the building, and the taxi, which was in the middle of the other two cars, rolled down its windows and began shooting at them before driving away. Rhenardo Bussle later died of his gunshot wounds. A few minutes later, the same taxi was reportedly used in a second drive-by shooting, killing John Coleman and Gregory Archibald. There were several witnesses who identified the taxi but there were mixed reports on who was driving the taxi.

Two detectives investigating the shootings, James O'Brian and Joseph Stehlik, found a taxi matching the descriptions given by witnesses in an abandoned lot nearby, although no fingerprints were found inside. The following day, O'Brian found a gray Chevette with bullet holes in it that had a temporary license plate identifying Ivan Smith as the owner. The car then disappeared until it was eventually found a year and a half later. The Chevette was not examined by police when O'Brian initially found it. Although Cruthird and Taylor eventually gave statements implicating Smith, they did not mention him in their initial discussions with police shortly after the shootings.

Ivan Smith went to Tennessee shortly after the crimes, where his mother lived. He was arrested in November 1991 and taken to Lauderdale County jail in Tennessee where he was held for two to three hours. While there, he was handcuffed and choked by arresting officers for being a "city slicker" and accused of coming to Tennessee to cause trouble. He was told Chicago police were coming and then transferred to Tipton County jail, where he claims jail guards did not mistreat him.

A day later, he was met by detectives O'Brian, Stehlik, Assistant State's Attorneys Michael Smith and Charles Burns, and court reporter Janet Lupa. When the detectives asked him about the murders, Ivan Smith asked for his mother and a lawyer, both of which were denied. O'Brian, Stehlik and Michael Smith then took him to the cafeteria. Ivan Smith was told that his fingerprints were found in the taxi, although no prints were found, and that his co-defendant Terry Brooks had not yet made a statement, so they needed Smith to testify against him.

When Smith refused, O'Brian slapped his face and asked if he was going to cooperate. When Smith again asked for his mother and a lawyer, O'Brian struck him in the back of his head. Smith, who was handcuffed by the ankle to the desk, stood up in response. Stehlik called Tipton

officers and ordered them to handcuff Smith's hands behind his back. O'Brian asked Smith another question, and then punched him in the chest when he did not respond. O'Brian continued to punch him in the chest and force his shoulders onto the bench. Stehlik then laid a phonebook on Smith's chest and used a stick to strike him on the chest repeatedly, making it hard for Smith to breathe. When Smith remained silent upon further questioning, the beatings continued. The detectives said they would bring Smith back to Chicago and "do it the right way" after which Smith agreed to cooperate and gave a 21-page statement to the court reporter. Smith also claimed in following appeals and post-conviction petitions that Michael Smith coached him on what to say in the statement.

When Ivan Smith was back in Chicago, he asked a guard for medical attention, saying his chest hurt due to the beatings. The guard did not believe him and did not let him seek medical attention. The day after Smith gave a statement, Illinois authorities drove by Elvis Presley's home and ordered him to make gang signs while they took photos. Smith was eventually taken to Cook County jail at 26<sup>th</sup> and California to await trial, where he claims no abuse occurred.

Before his trial, Ivan Smith filed a motion to suppress his confession on February 10, 1993, as evidence on the grounds that it was coerced. In the suppression hearing, Smith and his attorney Rita A. Fry claimed that his confession was obtained as a result of psychological and mental coercion and thereby forced out of Smith. The statement cited the false report by the detectives that there were fingerprints found in the taxi and that the beatings would continue if he did not confess. Furthermore, Smith claimed that he was not read his Miranda Rights, and not given the opportunity to contact a lawyer or his mother, which he asked for repeatedly. In conclusion, Smith asked that any oral or written confession that came from the interrogation be suppressed in the trial. However, the suppression was denied by judge Earl Strayhorn after the prosecutor made a rebuttal argument against it.

The jury found Smith guilty of three counts of murder and two counts of attempted murder on May 12<sup>th</sup>, 1994. Judge Strayhorn found Smith, Brooks and Javan Deloney guilty, but Milshap and Maurice Deloney were acquitted. Smith filed several appeals, all of which were denied. In 1996, he filed a motion stating that ASA Burns should have been cross-examined, in 1997 Smith filed a post-conviction motion which the judge found frivolous and denied, an appeal of that decision was again denied in 2000 and 2001. In 2002, Smith filed a habeas petition in federal court, however the judge ruled the coercion issue procedurally defaulted.

There are many irregularities noticeable in the interrogation and retrieval of Ivan Smith. The sheer size of the group ordered by the Chief of the Cook County State's Attorney's Office's Criminal Bureau to fetch Smith from Tennessee is unusually large, even for a murder suspect. Even the detectives acknowledged in their testimonies that it seemed unnecessary to bring along two detectives and two ASA's as well as a court reporter. Furthermore, both Burns and Stehlik denied that they were there to obtain a confession from Smith, even though it is completely normal to admit that this is the purpose of such a trip. Burns only admitted this fact after long deliberation with a defense attorney. Their unwillingness to admit this only decreases their credibility.

Detectives O'Brian and Stehlik also contradicted each other at the suppression hearing when asked if they had told Smith everything they knew about the crime during their interrogation. O'Brian stated they had not, while Stehlik claimed they had. Stehlik also denied that anyone had requested a room for the interrogation, however O'Brian told the TIRC that officials at Tipton served prisoners their food in their cells for the specific purpose of using the cafeteria for the interrogation. It is unlikely that the jail authorities would go to such great lengths if a specific request had not been made, speaking further against Stehlik's credibility.

Finally, there were several claims by those present during the interrogation that claimed they had to get a typewriter for the court reporter from another county, however Tipton sheriff Buddy Lewis claimed they had plenty of typewriters in the building, and have never needed to fetch one from somewhere else. Ivan Smith's claim that he was interrogated for roughly two hours, as opposed to the authorities claim of 30-60 minutes, could be explained by the fictitious lack of a typewriter at the jail.

There are many other factors that support Smith's claim. One is the abuse of Smith's co-defendants, specifically Curtis Milsap. A Cook County jail guard, Roland Allen, testified that he would not accept Milsap into his wing at the jail because of bruising and a noticeable limp. Milsap alleged he had been slapped in the face and kicked in the testicles during his interrogation. Milsap said no one believed him until he started peeing blood. Co-defendant Javan Deloney also cited abuse by interrogators, although he was not able to identify them at the trial. He stated that he saw guards strike and knock Maurice Deloney to the ground at the station.

The majority of supposed evidence against Ivan Smith is based on the testimony of George Cruthird and Jerome Taylor, who were members of Smith's rival gang the Gangster Disciples. There are two major inconsistencies with these testimonies. One is that Cruthird and Taylor have varying accounts of what exactly happened that night. Cruthird said he saw three cars with the taxi in the middle, while Taylor remembered only seeing two cars. Taylor also testified that he was not able to see the driver's face. Another key hole in their credibility is that George Cruthird was facing drug charges at the time of his statement. It is likely that Cruthird was given special treatment in the trial in return for his statement, given that he received the minimum sentence for his crime. Taylor, whose cousin was killed in the shooting, said he was under immense pressure from his aunt, who was Rhenardo Brussle's mother, to give a statement implicating Smith. This proves that both key testimonies are possibly based on false grounds.

Much of the evidence that was mounted against Smith, besides the testimony of his gang rivals, were based on eyewitness accounts of the crime. Many of these accounts don't specifically mention Smith, only different variations of a man driving the taxi. One witness stated seeing only one man in a white hat emerge from the taxi. The majority of the witnesses, even those wounded during the shootings, recanted their identification and some of the detectives involved in the initial case have pleaded the fifth amendment in other cases. It is insufficient that no one could initially identify Smith, and more problematic that these key eyewitnesses recanted their previous claims.

One of the most compelling bits of evidence supporting Smith's claims is that detective O'Brian has a total of 36 complaints filed against him, one of which – by George Anderson – was also

against detective Stehlik. Of those cases, two were deemed valid, 21 were deemed invalid by the court, eight were unfounded, and O'Brian was exonerated in four of the cases. Although O'Brian was essentially cleared in most cases against him, the sheer number of complaints speak against him. Of the total number of complaints, 18 were supplied by the Chicago Police Department, and 12 of those complaints cited physical force used to obtain or attempt to obtain a confession. Thus, O'Brian has a clear pattern of abuse during his interrogations.

Of these complaints, the two most notable are those by George Anderson and Robert Wilson. Anderson filed a complaint against both O'Brian and Stehlik, claiming that the two detectives forced his confession by placing a phonebook on his chest and beating him with a pipe or hose, which is strikingly similar to the account of Ivan Smith. Robert Wilson's complaint against O'Brian was deemed "not sustained." He was charged with slashing a woman's face at a bus stop. He was detained where he was slapped multiple times in the face by O'Brian, and told to confess. Wilson confessed after 30 hours in custody. Five weeks after his arrest, five similar attacks on women occurred, but a judge at the trial refused to admit these attacks as evidence in court. After the victim recanted her statement, claiming that she had initially told O'Brian and other detectives that the attacker looked much older than Wilson, however the detectives told her they needed an identification. Wilson was later exonerated after he was retried, and received \$3.6 million in settlement money in 2012 in a lawsuit against O'Brian, the city and Cook county. Again, Wilson's allegations of being slapped in the face by O'Brian is very similar to those of Ivan Smith, proving further that these torture methods were used often by O'Brian.

On January 20, 2016 The Illinois Torture and Relief Commission concluded that by a preponderance of the evidence, there is sufficient evidence to conclude that Ivan Smith was tortured, due to several factors including the contradicting statements and claims of abuse of the co-defendants, O'Brian's patterns of abuse, Stehlik and O'Brian's reluctance to admitting that they were in Tennessee to obtain a confession and acknowledgement that this was the reason there was such a large group there, the strong likelihood that a co-defendant of Smith was also tortured, and that neither of the detectives nor the Assistant State's Attorneys present took any notes during the initial interrogation.

Ivan Smith is currently incarcerated at Hill Correctional Center serving his life sentence.