

Clayborn Smith



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On October 18, 1992 Miller Tims and Ruby Givens were found dead in their apartment at 4916 S. Racine Ave. in Chicago. When they failed to be in church, as was their custom, Chandra Methene, Tims' niece, Bivens' granddaughter, and a cousin of Clayborn Smith, all went to the apartment to look for them. They had a key to the apartment and went inside. They found the bodies of Tims and Bivens and called the police. A newspaper account stated that Mr. Tims had been stabbed and Ms. Givens had been beaten. There was evidence that a fire had been set.

Karen Tate and Maurice Martin were picked up for questioning by police. They were held for 3 days, and ultimately named Clayborn Smith, Tims' grandson, as responsible for the murders of Tims and Givens. On October 20th Clayborn Smith was arrested and brought to

Area One Violent Crimes Police Headquarters for questioning.

THE INTERROGATION

Smith was interrogated by Detectives John Halloran, Kenneth Boudreau, and James O'Brien, and Michael Clancy, who have a long record of proven claims of torture of suspects.

After 39 hours of interrogation Smith signed a statement confessing to the murder of Tims and Bivens. Prior to his trial Smith moved to suppress this statement. At his suppression hearing Smith gave extensive and detailed testimony of the torture and intimidation he endured at the hands of the police during his initial 39 hours in custody. The description in the record of that hearing closely follows the script laid out in police manuals¹ on how to use physical and psychological pressure to extract confessions from suspects.

Smith testified that Detective Kenneth Boudreau and another detective took him to a second-floor interview room and his right hand was handcuffed to a ring on the wall. The other detectives who were in the car when he was brought to the station entered the room. One had a legal pad and asked him what happened. Smith responded that he did not know what happened. The detective then told him they had his girlfriend Karen Tate in custody, and it would be best for both of them if Smith told the detective what he knew. Smith again responded that he did not know anything and had nothing to tell. The detective asked Smith where he was that day. Smith said he was at home and he never went over to Miller Tims' house. A detective, Smith later identified as John Halloran, hollered at him that he was lying. Smith continued to deny any knowledge about the murders. Another Detective, Michael Clancy, said Smith would either answer questions there or in the county hospital. Smith refused to respond to additional questions, and Clancy started hitting him in the head with an open hand. Halloran said he was not going to play any games. Smith continued to not respond, and Detective Clancy started cursing at Smith and kicking him in the shins.

Detective Boudreau entered the room and told the other detectives to let him talk to Smith because he knew and had spoken to Smith before. Boudreau then asked Smith what had happened. Smith again stated that he did not know. Boudreau then told Smith that the police would find out "one way or another." Boudreau then told Smith he could either cooperate with him or "let that crazy bastard back in" - Halloran. Boudreau continued telling Smith it would be better for him to cooperate since the police

knew the crime could not have been planned: there were no signs of a break-in and it did not look premeditated.

After leaving Smith in the room to think about it, Boudreau returned and told him Karen Tate was crying and she wanted to go home. If Smith did not want to see Karen go to jail and lose her baby, then it would be best for him to talk. Smith said he was not answering any questions. Boudreau then said if Smith was not going to tell him what happened, then he would tell his partner. Boudreau left the room.

Later Detectives Clancy and Halloran came in. One smacked Smith and asked if he was ready to talk. Smith did not respond. Clancy reached to grab him around the collar. Smith grabbed his hand. Halloran grabbed Smith around his head and held him, so he let go of Clancy's hand. Then Clancy punched him while Halloran held him by his braided hair. They told Smith they had witnesses implicating him in the crime and Karen would go to jail and not be able to see her baby after delivery.

Sometime later, Boudreau came back and told Smith "everybody was pointing the finger at [him];" that he had admitted it to them; and it would be best for him to tell what happened before others get charged. Smith cursed at the detectives telling them to "get the fuck out of my face" and he had nothing to say. Halloran then grabbed Smith by his braids and pushed his head against the wall. Then, they ordered Smith to take his shoes off. Boudreau removed Smith's shoes and socks after Smith refused to comply. The detectives threw his shoes in the corner by the door with his cigarettes and lighter. Smith's shoes were tested for blood and the report was inconclusive. They were behind the door when it was open.

After Smith was left alone for a while, Boudreau returned by himself. He asked Smith why he wanted Karen to go to jail and lose the baby when he could just tell them what happened. Boudreau said he knew the crime was not premeditated; it looked like a fight; and it could be self-defense or manslaughter instead of first-degree murder. Boudreau told Smith he could help Smith if he explained what happened and stated, "I'm the person that let you go last time I had you in custody."

Smith said Boudreau then told him a story about a police officer who killed his wife and Boudreau helped get him off. Boudreau said he could do the same for Smith because he did not think Smith was the type of person who would have committed the crime unless something happened and it just got out of hand. Boudreau said they would get Smith off if he told a good story and suggested he just make something up and they would believe him. Boudreau further explained they could not just let someone walk away with unsolved murders and again stated that people were implicating Smith.

Halloran returned and told Smith he would see to it that Smith and Karen went to jail. Halloran said Smith would either talk by choice or by force and he should make up his mind. Smith told him to get out of his face. Halloran grabbed his braids and hit him in the head with a closed fist multiple times. Halloran asked Boudreau what he thought they should do with Smith. Boudreau replied that he could handle him.

Halloran told Smith he had 15 more minutes to talk or he "was going to be in deep shit." Halloran left. Boudreau asked Smith if he wanted his child to grow up in a foster home; why he would let Karen go to jail if he really loved her; and told him he was not necessarily going to jail. Smith responded that he was not going to jail and had nothing to say. Boudreau told Smith he wanted him to talk to the State's Attorney and advised him to say it was a fight and a spur of the moment incident. He explained if it sounded like self-defense, he could keep Smith from being charged with first degree murder. Otherwise, that is what he would face. Boudreau then left the room.

A man who said he was a State's Attorney entered a while later. The ASA read Smith his rights and asked him if he would like to talk. Smith said no, and he wanted a lawyer. The ASA asked what happened, and Smith said he did not know anything and was not answering questions. The ASA asked him why he wanted a lawyer if he did not do anything. Smith told the ASA he was tired of being hit and kicked and just wanted to leave the police station.

The ASA left and Halloran returned. He told Smith they were not so stupid to call him a lawyer. Halloran reminded him Karen was in custody. Smith argued back and Halloran hit him on the head and punched him in the side. A short time later, the male ASA came in a second time. The ASA told Smith he should talk because he was preparing to charge him and Karen with first degree murder. He told Smith he was aware that he had "copped" to a robbery before and the charge was reduced and suggested the same would happen this time. Smith didn't say anything. The ASA got upset and left.

Later, Boudreau and Halloran came in again. Halloran asked why Smith did not talk to the ASA and started pulling his hair. Eventually, Halloran left, and Boudreau again told Smith he should talk unless he wanted "that bastard" to keep coming in. At another point, Boudreau and another detective came in and Boudreau said, "we got you". The other detective showed Smith a paper and said they found blood on his shoes. They took him downstairs to the lockup. Along the way, Boudreau pushed Smith in the back of the neck. Smith was booked and placed in a cell.

THE CONFESSION

Later, Smith was placed in a lineup and told he'd been identified. He was returned to the detention area. Someone came to take Smith back upstairs. Smith did not want to leave and argued. Boudreau told him the lawyer he had requested was upstairs ready to talk to him. He was brought back to a second-floor interview room and handcuffed to a chair. ASA Laura Lambur was there and introduced herself to Smith. Learning she was a State's Attorney and not a lawyer for him, Smith got upset and said, "I ain't got nothing to say to this bitch." Boudreau grabbed Smith and pulled him and the chair he was sitting in out of the room. They told Smith they would not tolerate him disrespecting Lambur. Boudreau continued to explain that they had evidence against Smith, and he should give a story to avoid the death penalty or possibly end up with a lesser conviction than first degree murder. Boudreau then showed Smith a room where two people whom Smith knew, Clint Tramble and Leo Green, were talking to ASA Lambur.

Boudreau brought Smith back to an interview room, and ASA Lambur entered. She started asking him questions and wrote down his answers. Smith told her he was at home on October 17th and only left once to go to the store. ASA Lambur said she was going to have his statement typed up and left the room.

Halloran returned and said Karen did not back up his alibi. He and Smith started to scuffle. Boudreau called for help. Smith said, "I heard him say, O'Brien." O'Brien came in and they beat Smith. O'Brien pulled his fingers back and both punched him. ASA Lambur returned. Smith refused to change his alibi. O'Brien and Halloran held him and beat him again.

ASA Lambur left and came back with a court reporter. She started by asking Smith basic questions about himself, Tims, and Bivens. Smith answered. Lambur then asked him what time he went over to the Tims house. Smith said he did not know. Boudreau interjected and asked Smith what time they told him in their earlier conversations. Smith responded 7:43. The questioning continued, and Smith gave answers because he was worn down and could not put up a fight anymore. He said Boudreau continued to participate in the questioning; he responded to both him and Lambur.

Smith was presented with a typewritten statement. Initially, he refused to sign it but did so after Boudreau, O'Brien and Halloran pressured him.

THE TRIAL

There was a bench trial. The state's primary witness against Smith was Clinton Tramble. Tramble testified he lived in the same building at 5138 S. Bishop as Smith. On October 17, 1992, he said they smoked crack together in his room in the late morning. That evening, Tramble saw Smith who he said told him he "had just done something real bad" and could be spending a lot of time in jail. He said that Smith asked him if he knew how to use a cash station card. Tramble said he told Smith he'd need the PIN for the code. Tramble said that Smith left and returned a short time later with a wallet, dumped its contents out, and looked through them. Tramble said Smith found a receipt with some numbers written on it and asked if they could be the code. Tramble said he would try them with the card if Smith could find someone else to go along. Tramble said he and Smith went to see Leo Green, who lived downstairs. Tramble and Green then went to a cash station at 47th and Ashland with a card bearing Miller Tims' name as the card holder.

Tramble said Green tried to use the card a few times without success. They returned to the apartment on Bishop. He said Smith came to his room to get the card back. Tramble said that Smith told him he had "done his uncle and auntie" --that he had hit his auntie with a skillet and iron and put gasoline on his uncle. Tramble said Smith thought his uncle was dead but was not sure about his aunt.

Tramble testified he next saw Smith the following morning. He said Smith had Miller Tims' checkbook, and asked him if he knew anyone who could cash a check. Tramble said he told him he would need identification. Tramble testified that he (Tramble) took one of the checks and made it out to his brother Cornelius. Tramble stated that Cornelius refused to try to cash it, so he threw the check and the card away. Tramble testified that Smith had left the contents of Miller Tims' wallet and other of Tims' items in his apartment, and that when he heard about the murders, he threw it all away.

A few days later Tramble heard the police were looking for them. He went to a police station and told them everything, including where to find the items he threw away. He identified a check, voter registration, and driver's license belonging to Miller Tims.

Leo Green, 14 years old, also lived in the building on Bishop with Smith. He testified that he saw Smith and Tramble on the night of October 17, 1992. They wanted his help with trying to use a cash card to get money. He went with Tramble to 47th and Ashland to try to do so with a card belonging to Miller Tims.

Note: Neither Tramble nor Green ever said Smith went with them to either the cash station or to Clinton Tramble's brother, Cornelius to ask him to cash the check that Tramble said *he* (Tramble) made out. It was Tramble who admitted he had Tims' wallet, checkbook, and cash station card, and that he threw them away, later leading police to where he threw them. Tramble stated that he got these things from Smith. That's the only connection between Smith and Tims and Bivens – Tramble's word, and Smith's tortured confession. Tramble denied any knowledge of the crime. He gave his statement to police who questioned him regarding surveillance video of photos of him and Green at an ATM attempting to access Tims' account.

Others who testified at Smith's trial were Israel Moore (who was 14 at the time of his arrest), Roderick Sisson, and Maurice Martin. They all testified that the police had pressured them to make statements

implicating Smith in the murder of Tims and Bivens. They all said that they had lied when they made the statements demanded by police to the grand jury.

The Fire Inspector who examined the apartment in which Tims' and Bivens' bodies were found said there had been two fires in the apartment, disconnected from each other. In Smith's "confession" he speaks of only one fire. The medical examiner testified that Tims had been stabbed numerous times with a knife. Smith's "confession" makes no mention of a knife. In his "confession" Smith says that he went to their apartment and they let him in. In their statement Methene and her family went to the apartment and found it locked, with the bodies inside.

Boudreau, Halloran and O'Brien, along with ASA Lambur, all testified that for the 39 hours they held Smith in custody they never laid a finger on him, never offered him any deals, and never said he couldn't have an attorney.

On cross-examination, Halloran was brought in the courtroom. Smith identified him as the detective who was beating him. On re-direct, Smith said he never spoke to Lambur alone. Smith stated that he did not make corrections to his statement but followed Lambur's direction to initial where she made corrections. Smith testified that when he told Lambur "I just wish you type it up from there" meant that he was telling Lambur to type up his earlier alibi statement when he told her he was at home and not involved. He also testified that the pauses indicated that Boudreau was interjecting and getting Smith to say certain things.

Smith said he got his shoes back after he gave his statement. They were in the corner of the room the whole time. He reiterated that he was wearing the same shoes as he was when testifying--his black and white Reebok Patrick Ewings.

Smith was sentenced to "natural life".

THE APPEALS

The story told in Smith's suppression hearing testimony above is consistent throughout his subsequent appeals through the years seeking redress, including:

- In 1993 Smith filed a complaint against the detectives with the Office of Professional Standards of the Police Department (predecessor of the IPRA and COPA) before his trial.
- On April 8, 1994 Smith filed a Section 1983 complaint (of the Civil Rights Act of 1871), alleging violation of his civil rights, in United States District Court for the Northern District of Illinois, before his trial had commenced.
- A November 8, 1995 Section 1983 lawsuit in the District Court. An appeal to the First District Appellate Court, which on October 28, 1996 affirms his conviction.
- A petition for leave to appeal the Appellate Court decision, which was denied on December 3, 1997 by the Illinois Supreme Court.
- His writ of certiorari to the United States Supreme Court, denied on May 18, 1998.
- His March 24, 2000 pro se petition for a writ of habeas corpus in the District Court alleging constitutional challenges to his conviction.
- His July 16, 2003 pro se complaint against CPD Detectives Boudreau, Halloran, O'Brien and Foley for violations of state and federal law in the Circuit Court of Cook County, later amended by counsel.
- Smith's October 13, 2004 notice of appeal of the dismissal of his complaint by the Circuit Court.

Smith eventually filed a claim with the Torture Inquiry and Relief Commission (TIRC) about the police brutality he had suffered. Based on the record it is not possible to be certain what actually happened on October 17, 1992, in the apartment of Millet Tims and Ruby Givens. The TIRC concluded that there were “significant inconsistencies between the confession and other evidence in the case” concerning the murder weapons, the description of arson, and other issues. But there was enough in the record for the TIRC to make a determination about Smith’s repeated claims of torture. On May 20, 2013 TIRC found Smith’s claim to be credible and referred the case to the Circuit Court for review. On September 20, 2019 –six years later--Circuit Court Judge Alfredo Maldonado denied Clayborn Smith’s motion for a new trial and the suppression of his confession. Judge Maldonado discounted the TIRC findings that Smith had a credible claim of torture and held that the scores of other documented cases of torture inflicted by Boudreau, Halloran and O’Brien were not relevant to Smith’s claim. Smith is appealing this decision.

ⁱ See *Inbau, Fred E.; Reid, John E; Buckley, Joseph P.; Jayne, Brian C (2011). Criminal Interrogation and Confessions (5 ed.). Burlington, MA: Jones & Bartlett Learning. [ISBN 978-0763799366](#).*