

The Cruel Art of Deception

Police Slammed for Trickery in Eliciting Confession

By BRENDAN SMITH

While shackled to the wall during a four-hour interrogation, 24-year-old Donnell Vaughn learned that the grandmother who had raised him, the woman he described as “my heart,” was dead.

D.C. Metropolitan Police Department Detective Anthony Greene told Vaughn his grandmother was frightened by officers and suffered a heart attack during a search of her home for evidence linking Vaughn to a gunbattle in Southeast D.C. that injured two women.

“You’ve got your grandma laying in the motherfucking hospital with tubes in her because she had a fucking heart attack over some shit you did,” Greene told Vaughn during the videotaped interrogation. “You basically telling me you don’t give a fuck about your grandma.”

Vaughn later sobbed and banged his head against a table after an officer told him his grandmother died at the hospital. Fearing his family would never speak to him again and appearing exhausted, Vaughn eventually confessed to being one of the shooters.

Vaughn’s grandmother, however, was alive and well, and the lies MPD investigators told were part of a tangled web of deception that ultimately undermined their case. On July 21, D.C. Superior Court Judge Herbert Dixon Jr. ruled Vaughn’s confession was inadmissible because Greene and Sgt. Joseph Thomas “exceeded the bounds of permissible police conduct and techniques” and engaged in a “sufficient course of misconduct that had resulted in involuntary and inadmissible statements.” Dixon said the ongoing deceit about Vaughn’s grandmother “crossed the line” and was “the seminal lie in this case.”

According to Vaughn and his defense attorney, Bernard Grimm, Vaughn’s 2005 confession also was false, a product of police coercion and psychological manipulation that left Vaughn overwhelmed and that cost him 13 months of his life while he was held without bond in the D.C. jail awaiting trial.

Four days after Vaughn’s confession was suppressed, the U.S. Attorney’s Office dropped all 14 charges against him,



DIEGO M. RADZINSKI

LIES AND VIDEOTAPE: Donnell Vaughn’s lawyer, Bernard Grimm, says that Vaughn’s case isn’t “the worst confession I’ve heard about, but it was the worst one I’ve heard that I was able to prove in court.”

including assault with intent to kill, aggravated assault, fleeing a police officer, and several firearms offenses. The case hinged on Vaughn’s confession because no physical evidence or witness accounts linked him to the shooting or to a machine gun recovered in the street.

Now 25 years old, Vaughn is living again with his grandmother while searching for work to support himself and his three young daughters. Before his arrest, Vaughn’s only encounter with the MPD had been for a public-drinking violation, and he has no prior adult record at D.C. Superior Court.

“You’re locked up for something you didn’t even do,” Vaughn told *Legal Times*. “The government now don’t even care. All they want is a conviction. They don’t care if they take somebody’s life or not.”

The courts typically have given police broad leeway during interrogations, allowing investigators to lie to suspects about the evidence to trick them into confessing. But threats of harm, promises of leniency, or a combination of interrogation tactics

that overbear a defendant's will are more problematic and can violate due-process protections.

The lies about Vaughn's grandmother are "among the most outrageous police tactics I've ever seen," says Steve Drizin, associate clinical professor at Northwestern University School of Law and legal director of the university's Center on Wrongful Con-victions in Chicago. The case also shows the need for more training of MPD detectives on permissible interrogation tactics, says Drizin, a nationally recognized expert on false confessions.

"As long as police officers feel confident to engage in these type of tactics on tape, the Washington, D.C., police department is going to have a problem with obtaining false confessions from suspects," he says.

Officials from both the MPD and the U.S. Attorney's Office say detectives receive ongoing training in interrogation techniques and the legal complexities surrounding involuntary or false confessions. But they say Vaughn's case will trigger a reassessment of that training to determine whether it is sufficient.

"There's not a historical record of MPD officers or detectives coercing confessions in D.C. That has not been a problem area at all," says U.S. Attorney Kenneth Wainstein. "MPD has some great interrogators, but they play by the rules, by and large."

The videotape of Vaughn's interrogation shows the corner of a dingy interview room at the MPD's 7th District station, where chunks of plaster have fallen from the wall and crumbled into a fine, chalky dust on the black floor. A police officer handcuffs Vaughn's right hand to a bolt protruding from the pockmarked wall before leaving him with Greene, the lead detective on the case.

Wearing a white T-shirt, baggy jean shorts, and high-top tennis shoes, Vaughn hunches his 6-foot, 150-pound body over a chair, occasionally scratching his handcuffed wrist or resting his head on the bare white table.

Vaughn tells Greene he simply was in the "wrong place at the wrong time" during the early-morning hours of June 25, 2005, when he was riding in the back seat of a stolen red 1998 Acura 3.0 CL with two friends he would describe only as "T.J." and "Rock." An 11th-grade dropout who grew up in Southeast, Vaughn may not have been in serious trouble with the police before, but he knew one cardinal rule of the street: You don't snitch on your friends. During his entire interrogation, Vaughn refused to name the two friends who escaped arrest or describe their role in the shooting, prompting Greene to shift his focus to implicating Vaughn even though Vaughn repeatedly said he was sitting in the back seat during the shooting.

According to police reports, the driver of the Acura and a man on the passenger's side opened fire with a 9 mm handgun and a .223-caliber Ruger Mini 14 machine gun. The barrage of bullets tore through a Dodge Neon, occupied by two women, at the intersection of 9th and Yuma streets Southeast. The women were victims of an apparent case of mistaken identity, but someone other than the women returned fire on the Acura, shattering its rear window.

"I'm in the back seat, you know what I'm saying? The window bust. Glass flew in my back and all in my shoes," Vaughn told Greene. "I'm like, man, go, go, go!"

One woman suffered a gunshot wound to her stomach and left side, while the other woman was hit in her left leg. Both victims were treated at Greater Southeast Community Hospital and survived their injuries.

Two officers in a police cruiser heard the gunshots and tried to stop the red Acura, speeding northbound on 9th Street Southeast, police reports stated. The driver refused to stop, resulting in a high-speed chase through the streets of Southeast D.C., with the Acura running three stoplights and a stop sign and reaching an estimated speed of 100 mph in a 30 mph zone. An ambulance driver saw an occupant of the Acura toss the machine gun, which officers later recovered on 13th Street Southeast. Two men bailed out of the car when it finally stopped on Raynolds Place Southeast, where Vaughn lived.

Vaughn, the second man to exit the two-door car on the driver's side, was the only one who was caught. He was arrested and initially was charged only with unauthorized use of a motor vehicle. He was transported to the 7th District station, where he was questioned by Greene.

At the beginning of the interrogation, Greene tells Vaughn the written waiver of his *Miranda* rights is "procedural stuff," and Vaughn agrees to sign the form after reading it. Approximately 30 minutes into the interrogation, Greene lies about Vaughn's grandmother suffering a heart attack and says, "It don't look too good for her." If Vaughn will confess, Greene says, he can try to get Vaughn released under police custody to see his grandmother at the hospital or at her funeral. Frustrated by Vaughn's unresponsiveness, Greene even suggests that Vaughn should kill himself.

"You need to come clean, Mr. Vaughn, to give your family some closure for this shit because this is going to eat your ass alive. The stress is going to get so overwhelming you're going to fucking have a heart attack your motherfucking self or want to hang yourself, because what else is there to live for?" Greene says. "You might as well because you ain't helping yourself here. All you want to do is rot in motherfucking jail for something you ain't do?"

Investigators also tell Vaughn what Judge Dixon would later call "the normal assortment of lies to a defendant," or lies about the evidence that routinely have been allowed by the Supreme Court. Greene lies about Vaughn's fingerprints being on the recovered machine gun and witnesses seeing him toss the gun, while Sgt. Thomas lies about a second suspect being arrested who will snitch on Vaughn.

But Dixon ruled the lies about Vaughn's grandmother "went beyond a lie about the evidence" and was "a psychological ploy to create an urgency in Mr. Vaughn to gain his release to pay his last respects to his grandmother."

During the interrogation, Greene repeatedly refuses to allow Vaughn to call his family and ignores his pleas that he is tired and just wants to rest. Thomas also falsely claims that Vaughn could receive a D.C. Youth Act expungement and be released on his own recognizance. A combination of these factors causes Dixon to rule that Vaughn's interrogation is inadmissible from

the point when Greene first mentioned the heart attack. Dixon rules solely on involuntariness grounds, saying he could not determine if Greene and Thomas attempted to get Vaughn to confess falsely.

Near the end of the four-hour interrogation, Vaughn finally gives a motive for the shooting and implicates himself as one of the shooters. He says a man who murdered a friend more than a year earlier at a U Street nightclub was supposed to be in the Neon occupied by the two women. After persistent questioning from Greene about which gun Vaughn used, Vaughn mumbles he used the “big gun.”

Vaughn told *Legal Times* he reached his breaking point during the interrogation. “I was tired, and I was trying to check on my family,” he says. “I just said anything. I would say anything they wanted me to say. [Greene] was leading me through that whole thing. He was leading me what to say.”

Greene did not return phone calls seeking comment. In an interview with *Legal Times*, the MPD’s Thomas denied making any promises of leniency, even though he told Vaughn during the interrogation he could “almost guarantee” Vaughn would be released on his own recognizance if he cooperated.

Promises of leniency or threats of harm during a confession are “a denial of the state and federal constitutional guarantees of due process of law,” the Supreme Court ruled in 1961 in *Culombe v. Connecticut*. That opinion also found that if the defendant’s will has been “overborne and his capacity for self-determination critically impaired, the use of his confession offends due process.”

Thomas, who is one of Greene’s supervisors, calls Greene a “very intelligent detective,” but he differed with Greene on his decision to lie about Vaughn’s grandmother. Nevertheless, Thomas, who entered the interrogation midway and talked about religion and God as an interrogation tactic, played along with the lies and even asked Vaughn what he would say to his dead grandmother if she appeared in the room.

“Me, per se, I may not go the route [Greene] went. That’s not my forte. I use a different technique,” Thomas says. “They have all kinds of techniques that detectives use, and it’s almost whatever works.”

Grimm, Vaughn’s defense attorney, who has practiced in the District for 22 years, filed the motion to suppress Vaughn’s confession, stating the interrogation violated Vaughn’s Fourth, Fifth, and 14th Amendment constitutional protections. Grimm questioned Greene during a July 15 preliminary hearing, in which the detective admitted lying about the death of Vaughn’s grandmother. Greene testified there was no evidence linking Vaughn to the shooting other than his confession.

“It’s not the worst confession I’ve ever heard about, but it’s the worst one I’ve heard that I was able to prove in court,” Grimm says. “[Vaughn] was willing to say he was involved

in the Kennedy assassination if it would get him home to his grandmother’s funeral.”

Grimm says Vaughn “ended up confessing to a crime he didn’t do, based even on the government’s own theory of what happened.” Since the arresting officers stated Vaughn was the second person to exit the two-door Acura on the driver’s side, Grimm says it supports Vaughn’s statements that he was in the back seat during the shooting. Grimm says that Vaughn will speak with another attorney this week about a possible lawsuit against the MPD over his case and his incarceration.

Trying to determine the prevalence of involuntary or false confessions, obtained either by the MPD or law enforcement agencies nationwide, is a difficult task that is becoming easier with the videotaping of interrogations, says Drizin of Northwestern. Seven states and the District require that custodial interrogations be videotaped in certain types of cases, with the decision in the remaining 43 states left to local governments or individual law enforcement departments.

Last year the D.C. Council passed an act requiring that the MPD record custodial interrogations of violent-crime suspects when the interrogations take place in an interview room equipped with electronic recording equipment.

MPD Cmdr. Michael Anzallo, superintendent of the detective division, says detectives receive regular in-service training and training from a retired FBI agent on interrogation techniques. But he adds, “The only way to really practice the concepts and techniques that are taught is by doing it.”

The MPD doesn’t tell detectives whether to lie to suspects during interrogations, but “we do what is allowable within the confines of the law,” Anzallo says.

The U.S. Attorney’s Office held a six-hour training class last year with approximately 350 MPD detectives, with 90 minutes focused on Fifth and Sixth Amendment issues, including involuntary confessions, says Daniel Friedman, the office’s director of training. Both Anzallo and Friedman say they will review Dixon’s ruling in Vaughn’s case to see if MPD detectives need additional training.

For Vaughn, any improvements to the D.C. criminal justice system will come too late. He already has lost 13 months of his life spent in the D.C. jail before his case was dismissed last month.

“It was hell. Whatever hell is, it’s got to be something similar to that,” he says about being locked up.

Vaughn says that Greene and Thomas just wanted to make a case and they “went through the extreme to get it done.”

“That was my first time going in for something like that,” Vaughn says. “I’m glad it’s over, but I hate the police.”

Brendan Smith can be contacted at blsmith@alm.com.