

death. My team was called to interview witnesses, including the doctors, and the defendant, Ken Marsh, and photograph the victim and crime scene. Members of my team physically went to the crime scene and obtained evidence, including a broken ashtray and a towel. I recall that our independent investigation of the crime scene coincided with the defendant, Ken Marsh's statement of events. There was very little blood. We retrieved the evidence, the towel which Mr. Marsh placed behind Phillip's head, pieces of a broken ashtray and took crime scene photographs for our investigation. We did not arrest Ken Marsh because everything at the scene was consistent with what he related to us, that the child fell off the couch and hit his head on a speaker which had an ashtray on top of it, then striking his head on the fireplace hearth.

5. In my professional opinion and based on my training and experience as a homicide detective, the crime scene was not consistent with the doctors' explanation that Phillip Buell's death was non-accidental and caused by physical abuse of a blunt trauma or a fall from a 4 to 8 story building. We checked the Marsh/Buell residence thoroughly because we were told by medical personnel that there should have been a massive amount of blood at the residence.

6. During our investigation, we discovered that Phillip Buell had a history of low blood pressure in which on occasion caused him to fall off of his bicycle and the toilet. At one point during the investigation, after reviewing some medical records, a comment was made that Phillip's mother took her son to the doctor even for a cough. She was very protective and concerned about her son's medical condition and would rush him to get him medical attention for the smallest of reasons.

7. My team and myself, believed that an accidental death occurred. We would have immediately arrested Ken Marsh and charged him with the murder of Phillip Buell, had there been any evidence, whatsoever, that he inflicted Phillip Buell's injuries. Not one member on my homicide team ever objected to our conclusion that the child's death was accidental. I turned our investigation over to the District Attorney's Office and was surprised to later find out that the District Attorney was prosecuting Ken Marsh for murder.

8. I did not personally participate or attend any meetings with the Child Protection Committee at Children's Hospital and the San Diego Police Department did not normally attend those meetings to discuss cases and child abuse.

9. I was unaware that the District Attorney's Office filed a felony homicide complaint against Ken Marsh on June 30, 1983, before a Coroner's Report was written or a death certificate was issued. I find it odd that Mr. Marsh was prosecuted before the Coroner officially stated a cause of death for Phillip Buell.

10. Neither Ken Marsh's attorney nor any defense investigator ever contacted me to discuss my department's investigation prior to Mr. Marsh's trial. Had I been subpoenaed to testify, I would have testified as to the above facts, and the homicide team's conclusion that the crime scene was consistent with Ken Marsh's statements and that in my opinion, Phillip Buell's death was accidental.

11. I also find it odd that Dr. Williams, who performed the autopsy, worked for Childrens Hospital and saw Phillip upon his admission to Childrens Hospital. In my opinion, an autopsy should have been performed by an unbiased party.

12. In my 31 years of working for the San Diego Police Department, Ken Marsh's

case is the only case that I ever had any questions on and in which I believe that an innocent man was convicted.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Diego, California on December _____, 2001.

By: TED ARMIJO