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## Prosecutor-friendly coroners leave disgraceful legacy in Mississippi

A few weeks ago I read two books, a novel published in 1948 and a new nonfiction book. The decision to read them at the same time was a matter of chance, not planning. To my surprise, each was about an African-American man unjustly accused of murder in Mississippi.

The events in the novel and the true crime story are separated by more than 40 years. Yet what is striking are the similarities. "The past," as William Faulkner famously said, "is never dead. It's not even past." Especially, apparently, in Mississippi.

The nonfiction book is "The Cadaver King and the Country Dentist" by Radley Balko and Tucker Carrington (Public Affairs, 2018). It centers on the murders of two 3-year-old girls who lived within a few miles of each other. Levon Brooks was convicted of the 1990 murder and received a life sentence. Kennedy Brewer was convicted of the 1992 murder and was sentenced to death. Both are African-Americans.

The book uses these murders as a jumping-off point to discuss the sorry state of forensic expertise in Mississippi. As late as 1983, for example, 11 of the state's 82 coroners could neither read nor write. (No, that is not a misprint.) But you must understand that until that time one of the duties of Mississippi coroners was rounding up any stray livestock in the county. (That's not a misprint either.)

There was a method to this madness. Between 1882 and 1947 Mississippi led the country in lynchings with 577. Not surprisingly, determining an accurate cause of death was not a priority. For example, in 1935, a black man's body riddled with bullets was found dead in a gully with a rope around the neck. The county coroner concluded it was a suicide. Or consider the case of a black political activist in 1955 shot while he was driving. He was found after his car subsequently

plowed into a house. The coroner found the death to be the result of a car accident.

In those cases where an autopsy was necessary, the job often went to Dr. Steve Hayne. Hayne had a knack for pleasing police and prosecutors. His results always seemed to back up the hunches of prosecutors. They described him as "helpful and useful to law enforcement."

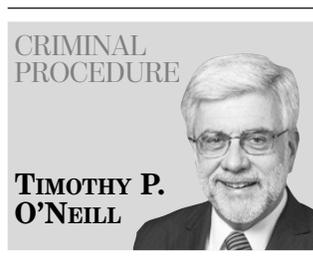
Make that a lot of law enforcement. What McDonald's is to hamburgers, Hayne was to autopsies. Medical standards recommend that a doctor should perform no more than 250 autopsies a year. Hayne testified that during one period he performed more than 2,000 per year. Quantity, not quality, was clearly his watchword.

On the other hand, breadth, not depth, seemed to mark the forensic career of a dentist named Dr. Michael West. During his career he presented expert testimony in the areas of bite mark analysis, gunshot reconstruction, wound pattern analysis, pathophysiology, blood stain analysis, gunshot residue, fingernail scratch reconstruction, tool mark analysis and photo enhancement. And this is only a partial list.

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West had little success in ferreting out criminals. But he did have a talent for substantiating the guilt of whomever the prosecutor thought must be the culprit. Through one of his many areas of "expertise," he always seemed to find conclusive evidence. As one attorney said, "West confirms whatever suspicions the police have."

Both Hayne and West were involved in the successful prosecutions of Brooks and Brewer. But



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there was only one thing wrong: Brooks and Brewer were innocent.

The book tells a compelling story of how DNA evidence not only exculpated Brooks and Brewer, but found the actual murderer. A man named Justin Johnson turned out to be guilty of not just one, but both of the murders.

West had testified that Brooks was the source of a bite mark on the body of one of the victims. He turned out to be wrong on both counts: Wrong about Brooks and wrong that the mark was a bite mark at all. As for Hayne, he testified that the other victim died of strangulation. The cause of death

turned out to be drowning, but, hey, when you are doing 2,000 autopsies a year you have to make allowances.

The book ends with Hayne and West being discredited, while Brooks and Brewer are eventually freed from prison after having served a combined 30 years. But this is not a "happy ending" kind of book. It ends by describing an affidavit recently filed by the American Bar Association complaining that Mississippi state of-

ficials have tried to actively discourage out-of-state law firms and nonprofit legal aid groups from pursuing pro bono criminal cases. Mississippi appears to be trying to impede the very forces working to expose the likes of Hayne and West.

Tragically, Mississippi's defensive posture in 2018 is also reflected in Faulkner's 1948 novel "Intruder in the Dust." It concerns yet another African-American accused of a murder he did not commit. The only people who believe the defendant Lucas Beauchamp is innocent are two teenagers (one black and one white) and an elderly white woman. They both — literally and metaphorically — "dig up" evidence that ultimately shows that Beauchamp is being framed by a white man who actually committed the murder.

What is chilling are the comments by Gavin Stevens, the novel's lawyer, on how white Mississippians should regard Northerners trying to force racial reforms on the South: "That's why we must resist the North.... That's what we are really defending: the privilege of setting [the African-American] free ourselves: which we must do for the reason that nobody else can. ... But it won't be next Tuesday. Yet people in the North believe that it can be compelled even into next Monday by the simple ratification by votes of a printed paragraph."

These words were written seven years before the murder of Emmett Till in Money, Miss.; 15 years before the murder of Medgar Evers in Jackson, Miss.; 16 years before the murders of James Chaney, Andrew Goodman and Michael Schwerner in Philadelphia, Miss.; more than 40 years before the flawed murder prosecutions of Levon Brooks and Kennedy Brewer; and 80 years after the ratification of the 14th Amendment.

Faulkner was right. It's not even past.