

NO CHOIRBOY: Murder, Violence, and Teenagers on Death Row

Excerpt

Decatur, Alabama, August 12, 1993 Kevin Gardner was not home, even though it was way past his - eleven-o'clock curfew. Kevin was a good kid, and it was unusual for him to stay out late without calling to let his parents know where he was. When he didn't show up the next morning, his father called the police. That same night a police officer had received a dispatch to meet some individuals at Cedar Lake. They had discovered a body. It was Kevin's. Before long, the focus of the investigation turned to Kevin's friend Roy Burgess Jr. Like Kevin, he was sixteen years old. Roy: The judge said, "Stand up." I was crying bad. I was so nervous. "By the power invested in me by the State of Alabama, I hereby sentence you to die by electrocu—" He couldn't get the word out 'cause I went crying and screaming. In the court there was a big commotion. My mother. My father. My brothers. They was all screaming. Nine or ten police rushed to the courtroom. There were two big redneck policemen—one had juice dripping down his chin from chewin' tobacco. They literally carried me from the courthouse through a catwalk, a tunnel, and straight down to the garage and into a squad car. There were a few ladies there, female judges. Their eyes were filled with tears. They tried to control it when I went by. They had their hands over their mouths, but I could see the tears in their eyes. The officer with the chewin' tobacco had a huge pistol, like a .357, some long-barrel revolver. He said, "You done killed one, but I'm going home tonight, and I'm going home alive." I was still crying. They sent somebody to gather up my property, what little I had. I didn't get to see my family or say good-bye or anything. It's a big mess. A big mess. They put me in belly chains and dragged me, still crying, to a squad car. We rode over five hours, maybe seven, to the state prison. They had the red and blue lights on, but no siren. They were going seventy, eighty. But for the time I came to this prison here—in '96—that was one time I was on the highway after the trial. It was December, around seven or eight o'clock, so it was dark when we arrived. Before we even got there, I could see the prison for a mile or two. It was all lit up like a dome, like an aura. There was razor wire all around, and towers. My knees were knocking so bad. I don't see myself as a monster, man. I can be productive. I can carry a job. I got a work permit when I was fifteen. My first job I worked at Popeyes. I cooked. The second job I had at Long John Silver's. And the third job I got at a steak house. I got something to tell. I'm embarrassed to talk into this tape 'cause I know my grammar ain't so good. I'm into talking about this to you because I don't have many people to talk to here. The other inmates can be hateful. This place can make people hateful. There are some genuine gangsters here. I try to keep that in mind. I was a coward. I still am. To get back to what happened when I went to death row, they searched me and took my measurements for clothes. They found out what I'm allergic to, if anything. They checked to see what I got that I ain't supposed to have. I just had my clothes, didn't have nothin' else with me. Then I was taken to my cell. The cells were in tiers like you see in the movies. Twelve cells upstairs and twelve downstairs. They took me to cell 5-6. That's tier five, cell number six. It was tan, light brown, with steel walls. It got bars in the front of the cell. It was really small. It looked like a closet. Roaches everywhere. There was a steel cot with a mattress that they issue. I didn't get a pillow at first. There was a toilet and sink. There was a shelf over the bed for the tv, if you got one. Your family would have to buy it. The way I understand it, when a guy didn't have a family, other inmates would try to

assist him, or the chaplain would. The thing that tripped me out the most was after they had me processed. See, they took me to my cell. At that time you could have radios. Everybody was playing the blues. Soul music. It creeped me. There was blues all up and down the tiers. You know, I come to like it after a while, but back then it creeped me out so bad. On the street I listened to Led Zeppelin, Shardee, stuff like that. Everything but bluegrass. This was just the blues. There were a few people there who I know'd from the county jail. They spoke to me when they saw me come in or heard me come in. Thank God I made it to my cell without cryin'. I hadn't eaten all day. The guard went to the commissary and brought back a bag of cookies. I'm crying all night. Cryin' and eatin' cookies, all night long. That first night, I thought the state was going to kill me right then and there. I'm thinking that I'd be dead in a month. I didn't understand what the appeals process was about. I thought I only had a few weeks. Oh, man, I was scared. I had seen a lot of movies about prison, but I had never been to prison. And now here I am not only going to prison for the first time, but I'm going to death row, too. Man! *Roy's been in prison since he was sixteen years old. First he was in a county jail and then on death row in a state penitentiary. In 2001, his death sentence was reversed, and he was shifted from death row to a general, maximum-security prison. It's only been a few years since he's been off the row. This year is his tenth year locked up, an anniversary that weighs on him.* The time I was on death row I was a kid, man. I wasn't even able to vote for the politicians who opposed the death penalty. I wasn't able to join the military. I wasn't old enough to buy liquor. How do you sentence somebody that young to death? As long as you're alive and breathing, you got a chance. Once they kill you and bury you, it's over. I got hope, but I ask myself how long is it gonna take? Ten years? Twenty? I'm twenty-six. In twenty years, I'm forty-six. Whew. Can't get that time back. It's a mess. One big mess. I mean, the whole thing happened so fast. You don't take time to care about it. At least I didn't. I know I did an awful thing. If they change me from life-without to just life, the minimum time is seven. Seven years. That's if the family, the Gardners, don't protest. This Friday will be August 13, and I will be off the street ten years. Man. I ain't seen the moon or the stars in ten years. I ain't felt grass on my feet in ten years. Women talk about a biological clock, right? I feel like I have a biological clock. I want a family. I want kids. Man. My whole life, man. I'm done. Man! *Here's what led up to Roy landing on death row. He was hanging out with a group of guys—Kevin M., Demetrus S., and Richie J.—who shared an apartment across the street from Roy's girlfriend's house. They were a few years older than Roy. No one can figure out how these guys paid their rent because only one of them worked, part time, delivering pizza. "See, that's what I don't like about this whole mess." Roy leans forward. "They weren't what I thought they was at the time. They was gang members. I got very little respect for gang members. They were older. The one time I hung out with a tough crowd, it got me in trouble." Roy lived with his family in a middle-class development. His mother worked in a bank. His father worked for an antifreeze company. Though he came from a stable home, Roy had his problems. He was in and out of school. "I want to tell you about that," Roy says. "I was just weak, just coasting through life. Man! I don't even know how to describe myself. "I went to school. I was in the tenth grade when I got locked up, getting ready to go to the eleventh. I had teachers I admired, but I didn't pay them no mind at the time, you know what I'm saying? As far as teachers, man, I had three teachers I wish I could get in touch with now, just to let them know they made some type of impact on me. "That's another thing—I had conflicts sometimes. I can't resist conflicts. Sometimes I bite my tongue about this. I got in trouble a lot. But it was all kid stuff. It wasn't violent. Firecrackers to school. Pranks. I was suspended for saying certain things." What things? "Saying stuff in class." [pause] "Sometimes we all need to grow up. But I never got suspended for fighting or things like that. There was a lot of self-deprecation 'cause I tried to fit in. I was a fair student, Bs, Cs, an occasional A. I liked science.*

Math intimidated me. The more I do math, the more beauty I see in it. I wish I had applied myself more." According to the trial records, Roy had been picked up for petty thefts, but he had no significant prior criminal activities. "I was an ass." Roy sips his Coke. His thoughts are beyond this room, in some other place. The small space where we are talking is quiet but for the humming of the air conditioner. On the day of Kevin Gardner's murder, all the guys were hanging out at the apartment, drinking beer, smoking weed. They got to talking about how they needed some money. One of them said, "Let's go steal a car, or a car stereo, or something at the mall." They all hustled over to the mall. While the others went inside, Roy hung around the parking lot talking to someone in a white, sporty-looking pickup truck. Roy hitched a ride from one end of the parking lot to the other with the driver of the truck. Later, at the trial, the man told the court that Roy stopped him outside the mall and asked for a ride, asked about his speaker system, asked if he had any money and did he want to buy a gun. The prosecutors used this to suggest that Roy was trying to carjack the truck. It had nothing to do with Kevin Gardner. According to Roy, what he was trying to do was sell the man a broken-down pistol. After not coming up with money at the mall, Roy and his friends went back to their homes. Later in the day, Roy returned to the guys' apartment and asked Richie and Demetrus if they wanted to go to a party at Cedar Lake. Kevin Gardner, a kid in his class, was waiting to drive them in his blue Firebird. Roy introduced everyone and climbed into the front seat. Richie sat in the back behind Kevin. Demetrus sat behind Roy. The stereo was blasting so loud, Richie and Demetrus later said, they couldn't hear the conversation in the front. The car turned onto an unpaved road in an isolated area. Kevin refused to drive farther. They would have to get out and walk. According to Demetrus, Roy opened the door, then quickly turned and shot Kevin in the head. "Oh, shit." Richie and Demetrus said they were terrified about what had happened. They were scared and huddled in the back seat. They wouldn't help move the body. Roy had to do it himself. Then he drove the car back to town. They returned to the apartment to find more guys. When told what had just happened, the new guys later described themselves as shocked and scared. But somehow they all had enough courage to come up with a plan to sell Kevin's car to a chop shop in Birmingham, a little south of Decatur. Roy and Kevin M. drove Kevin's car, and the rest followed in the car of a kid named Hayes. As they caravanned to Birmingham, Roy and Kevin M. threw out items belonging to Kevin. A set of drums was tossed out on the road. Golf clubs he had borrowed from a friend were left at a service station. In Birmingham, they couldn't find a chop shop, so they ended up leaving the car in the parking lot of a go-go club and returned to Decatur. Demetrus and Richie kept the car speakers. Roy went home with some cds and the cd player. He later sold them to a former neighbor, who would testify at the trial. Demetrus also testified against Roy at the trial. He told the jury that he could not stop thinking about the murder. He said that he had trouble sleeping. He described the following day, when all three roommates paid a visit to Demetrus's grandmother, who lived in the Cedar Lake area. First, they stopped to see if Kevin's body was still there. It was. They called the police and said they found a dead body while they were out picking blackberries. On the witness stand, but for a few minor discrepancies, the other two roommates told similar stories. After the police found Kevin's body, they interviewed the three blackberry pickers. There was not much to go on, no obvious leads. One of the police officers had worked in narcotics divisions and already knew one of the guys. Since he knew where to find him if he needed more information, the police let Demetrus, Richie, and Kevin M. go home. Since they were all together in one apartment while Roy was alone at his family's home, there was plenty of time for the three roommates to come up with a single story. Soon thereafter, the police brought the three guys back to the station house and started to interrogate them. By law they could be charged with the murder because they were accomplices. There was plenty of evidence that they took part in the planning of the crime and stole Kevin's car stereo. But

Kevin M., Demetrus S., and Richie J. were promised complete immunity as long as they were not the ones who pulled the trigger. They fingered Roy for the murder of Kevin Gardner, and in return they spent not one day in jail.