

The Case of the Doomed Innocent

Nothing could save this suspect from the electric chair—except a man who read the Bible

By WILLIAM T. BRANNON



ILLUSTRATION BY NORMAN BAER

ON A BALMY NIGHT in June, 1956, Charles Drake, an elderly merchant, was watching television when a man broke into his home near Jefferson, Ga. Drake resisted the intruder and was fatally shot. The killer searched his victim's pockets but found only \$10, which he took.

The telephone wires were then pulled out of the wall so Mrs. Drake was unable to notify the police immediately. By the time the sheriff arrived, the killer had vanished.

Tearfully, Mrs. Drake described the robber as a man in his 40s, short and stocky, with dark curly hair and dark piercing eyes. The sheriff ordered the description broadcast and roadblocks set up on all roads leading out of the county. Several suspects were picked up and cleared. A few hours after the murder, a man named James Foster, 40, was stopped at a roadblock. Though he was not stocky, his hair was dark and his eyes were dark and fiery.

Mrs. Drake positively identified him as the killer. Foster went on trial for murder. Three friends testified that they had been with him throughout the evening and that they had never been closer than seven miles to Jefferson. But Mrs. Drake pointed out Foster as the killer. He was convicted and sentenced to die in the electric chair.

"I didn't do it!" Foster cried. "I didn't!" His lawyers, James H. Wood and Floyd Hoard, believed him. So did many other Jefferson people, who raised a defense fund. The attorneys questioned Foster's three companions, who insisted they had told the truth. The attorneys retraced the steps Foster and his friends said they had taken; several people thought they had seen the four, but were unwilling to swear they had.

Months passed while Wood and Hoard questioned thousands of people. They tried, unsuccessfully, to find the .38 caliber revolver that had fired the fatal shots. The date of execution was postponed several times as the lawyers filed more appeals.

Then, as their efforts began to appear hopeless, they were called to a South Caro-

lina prison, where a convict told them he knew the identity of the Drake killer. He said a man named Charles P. Rothschild, who owned a .38 caliber revolver, had been tipped off that Drake regularly carried \$5,000 in cash; that was why he had shot the elderly man.

The attorneys knew about the money. It had been sewed into Drake's shirt pocket, where it was found intact after he was killed. Charles P. "Rocky" Rothschild had been convicted on a burglary charge and was in prison in Columbia, S. C. The lawyers questioned him, but he denied any knowledge of the murder of Drake. Then they arranged to have Mrs. Carmina Drake look at him.

"That's not the man who killed Charlie," she said.

What could the lawyers do against the positive testimony of Mrs. Drake? They didn't question her integrity, but they were convinced she was mistaken. More than two years had passed and their last appeal had been denied. Foster again was in the shadow of the chair; a new date for the execution was only a few weeks away.

Then, on July 4, 1958, Rocky Rothschild confessed that he had killed Charles Drake. He had gone to the merchant's home looking for the \$5,000.

Foster was freed, and at a brief trial Rothschild was convicted of murder. He was sentenced to life imprisonment. In a public statement, Rothschild revealed why he had confessed, even after Mrs. Drake had mistakenly vindicated him: "The killing has been constantly on my mind, and I have read the Bible. One verse from the Bible convinced me I should tell the truth: 'Blessed are they which are persecuted for righteousness sake, for theirs is the kingdom of heaven.'

"Foster was definitely persecuted. May he have a long and happy life."

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