

BOOK REVIEW

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A Review of *Fatal Vision*

REFERENCE: McGinniss, J., *Fatal Vision*, New American Library, Signet Classics, 1633 Broadway, New York, NY 10019, 1984, 653 pp., \$4.50 U.S., \$4.95 Canada.

The Slanted Vision

The Jeffrey MacDonald Tragedy

Jeffrey MacDonald, M.D., was convicted of murder because it was shown at the trial that his wife and children were brutally killed. There was no conclusive evidence presented that he committed these murders. The prosecutor merely claimed that his account and the physical evidence were inconsistent. Such discrepancy is significant but certainly is not proof of murder.

The account given in the book "Fatal Vision" makes a perfect case that Dr. MacDonald was unjustly convicted and yet, McGinniss reaches the very opposite conclusion, mostly on "psychiatric" grounds.

His "psychiatric" comments are an example of intellectual arrogance at its worst. He picks up a few highly technical psychiatric texts and proceeds to render pseudopsychiatric opinions. His conclusions are sophomoric, which is not surprising considering his lack of familiarity with psychiatry.

The Army investigators believed Dr. MacDonald to be the perpetrator of this crime from the moment they laid their eyes upon the crime scene. Why then did it take nine and one-half years for a group of dedicated zealots, with unlimited resources, to convict Dr. MacDonald of these crimes? The physical evidence was there from day one. The answer in my view is simple. Dr. MacDonald was convicted not by physical evidence but propagandistic persuasion based upon do-it-yourself psychiatry.

Dr. MacDonald, a gregarious man, believed that he could convince the criminal investigators and prosecutors that he was innocent. In the words of Mr. McGinniss, the most important fact of the investigation was that Investigator Grebner "was certain that the murders had been the result of an explosion of rage which had built up within the confines of a troubled domestic situation" [1, p. 99]. This was an amateurish guess on the part of a former school administrator from South Dakota, turned investigator.

Every response of Dr. MacDonald merely confirmed the conviction that he is guilty. When shortly after the crime he reacted intensely, his behavior was interpreted as evidence that he

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committed these horrible acts in a state of "rage." When he was calm and collected, this proved that he did the killings because he did not act in a manner which would be "normal" for a man who lost his beloved wife and two adorable daughters. No one has bothered to ask what is the "normal" response to such a tragedy. How much experience did these self-proclaimed experts have in mental functioning and the unique responses that occur under such circumstances? The answer is: none.

Dr. MacDonald was believed the perpetrator of a horrible crime—an evil person deserving of the ultimate punishment. Some people are willing to be less than fair in relation to such a despicable criminal.

Mr. McGinniss has no difficulty describing his own duplicity in relation to Dr. MacDonald. Dr. MacDonald considered him to be a friend who believed in his innocence but Mr. McGinniss has reached the conviction that MacDonald was guilty and kept it to himself. He had no legal obligation to give Dr. MacDonald a literary equivalent of a Miranda warning. However, common decency required that he tell Dr. MacDonald where he stood. Mr. McGinniss lived in Dr. MacDonald's condominium and accepted all of the benefits of being a trusted friend.

The "psychiatric" speculations about MacDonald's state of mind offered by the prosecution are highly questionable. The jury was told that he suddenly developed a psychotic paranoid rage and killed his wife and one child in a brutal fashion. Within minutes he became a rational calculating psychopath who killed his other little daughter to eliminate her as a witness. He then staged a crime scene, inflicted superficial but potentially life-threatening injury to himself, called the police, and then once again became hysterical. He pretended to lose consciousness and fooled a military policeman into administering mouth-to-mouth resuscitation. He then succeeded in persuading a number of reasonable people that he is innocent for nearly ten years. Would a self-respecting fiction writer present such a story?

This case shows the power of dedicated zealots. Dr. MacDonald was faced with a group of individuals who dedicated their lives to have him convicted. In ten years they accomplished their goal. Dr. MacDonald's supporters, with the exception of his mother, were not singlemindedly dedicated to his cause. Last but not least, Dr. MacDonald's prosecutors had the power and resources of the government behing them.

The prosecution claimed that Dr. MacDonald killed his wife and one of his daughters in a psychotic rage. At the same time the prosecution argued against the admission of psychiatric testimony about Dr. MacDonald's state of mind. The Judge who kept out psychiatric testimony used the prosecution's psychological evaluation to justify imposing the highest possible penalty after the conviction.

The prosecution's case against Dr. MacDonald was in large measure built upon character assassination. Every possible indiscretion that Dr. MacDonald had committed over his lifetime had been paraded before the jury time and time again. However, psychiatric testimony offered by defense was kept out because it was ruled to be "character testimony." This was clearly unfair.

The physical evidence did not show that Dr. MacDonald committed the murders. At best, it showed that it was possible that he did commit them. The only other proof which the prosecution had to offer was the inconsistency of Dr. MacDonald's account with the physical evidence. This fact would be significant if Dr. MacDonald had offered an alibi defense. If one assumes that Dr. MacDonald was a surviving victim of the assault upon his family, then one would have to expect a confused and inconsistent account of what transpired that night. Surely the victim of such an assault and the witness to the brutal murders of his wife and daughters would not be a perfect eyewitness. Had Dr. MacDonald presented a consistent account, one could argue that this was contrived. If one starts with the assumption that he did it, everything can be used to confirm this view. The same thing can be argued if one takes the opposite view. This only shows the ambiguity of physical evidence.

Dr. MacDonald was convicted upon "psychiatric" explanations offered by the prosecu-

tion. It was therefore unfair to preclude the defense from offering psychiatric testimony on his behalf. The prosecution used state of mind inferences to create the belief in the jury that Dr. MacDonald was guilty. Do-it-yourself psychiatry was the hallmark of the trial of Dr. MacDonald. The same holds true for the book about him entitled *Fatal Vision*. The book and the trial were fatal not only to Dr. MacDonald, but also to the sense of justice and would be more appropriately called "Slanted Vision."

There are three possible scenarios of this tragedy. Dr. MacDonald decided to kill his wife and children and did so. This is consistent with the first-degree murder conviction which has been imposed upon him ten years after the homicides.

The second possibility is that Dr. MacDonald did not want to kill his wife and children but did suffer a dissociative episode during which he committed the killings. This version would call for insanity defense and psychiatric testimony.

The third, and in my opinion, the most likely scenario is that Dr. MacDonald did not commit these homicides.

I have studied homicidal behavior for 30 years and find the version presented by the prosecution not persuasive. The notion that he committed these homicides in cold blood is contradicted by physical evidence and the manner in which these killings were carried out. Not even a moron would go about planning a murder in this fashion. If Dr. MacDonald did kill his wife and children, this had to be an unplanned act, and therefore, the first-degree murder conviction is an injustice on the face of it.

The prosecutor argued that MacDonald was guilty because it was possible that he did it, "if the jury believed the physical evidence." The prosecutor then went on to say that Dr. MacDonald's life history is irrelevant, his denials are not credible since he would like to save his life [1, p. 560].

The judge ruled against "the shrink" testimony but permitted the prosecutor to give "psychiatric" reconstruction in closing argument [1, p. 566]. The judge allowed state of mind testimony by Mr. Stombaugh, a chemist, but excluded testimony about state of mind by a psychiatrist.

The judge allowed the prosecution to introduce prejudicial testimony on the grounds that he will be evenhanded and will give the same freedom to the defense [1, p. 503]. This violated a basic principle of criminal law. The founding fathers recognized that an accusation is more powerful than a refutation. It is easier to persuade than to dissuade. The prosecution succeeded ultimately in having Dr. MacDonald convicted because it is possible that he did commit the act. This book shows the frightening capacity of a skillful prosecutor to manipulate a jury.

Reference

[1] McGinniss, J., *Fatal Vision*, Signet, New York, 1984, pp. 99, 560, 566, 503.