

“Oh, are you gay?”
“No, I’m a Unitarian.”

Statement by Tim Newcomb
12 Oct 2013

I wonder why you would read these words. But here we are, you and I, and for my part, it is enough if you find them useful.

Aaron McKinney and Russell Henderson were convicted of murdering Matthew Shepard in 1998 and received consecutive life sentences. Russell pled guilty and agreed to testify against McKinney, who was tried and convicted.

To avoid a possible death sentence, McKinney’s defense team brokered a deal through the Shepard family with the prosecutor, who agreed on condition that I write the agreement and assure him that McKinney would never walk the streets if he signed it. I was called to the judge’s chambers, informed of that and asked to draft the agreement. I did. It was the first time I saw Judy Shepard, sitting in a chair, her chin quivering. It broke my heart.

Two members of my family were murdered and I knew her sorrow.

For the reasons stated earlier, after Russell was imprisoned, I agreed to represent him in state and federal court, in an effort to regain his right to trial. In the course of that, I reviewed documents related to his conviction, including what his trial attorney had worked with, especially criminal investigation notes and reports.

After savagely pistol-whipping, robbing and tying Matthew to a fence so tightly that police officers had trouble cutting him down the next day, McKinney announced to his girlfriend, “I think I just killed a fag.” A few years later, he told an interviewer “Matthew Shepard needed killing,” he was “obviously gay.”

During the time I represented Russell, a man called his grandmother, saying he had been Matthew's lover and had his diary. I called him and asked if that was true. He told me it was, so I asked for a copy. His story shifted; his sister had the diary. I asked that she send me a copy. His story shifted again. She wouldn't show it to anyone because she feared for his life. I asked why he called Russell's grandmother then; eventually, he seemed to suggest that he didn't have enough money.

Our conversation ended but I'm told he became a source for a recently published book rewriting Matthew's murder, claiming that McKinney did not target Matthew because he was gay.

When asked my reaction to the book, I released a simple statement -- I have long been convinced that McKinney targeted Matthew and justified his horrific savagery because he saw Matthew as being gay. My statement was read to the author who indicated that, because I was an appellate attorney and not involved from the get-go, my opinion regarding McKinney's motivation for savagely killing Matthew is not particularly useful.

He may be right. It is quite true that I was an appellate attorney and not involved from the get-go. But, as I end my commentary about that book, I leave to your good judgment whether my words are useful.

Unlike the author, who visited Laramie from New York a year and a half later, I was an attorney living in Laramie, and had been for several years, when Matthew was murdered. I mention that only because Laramie has few people and we tend to know of each other. Hidden truths behind notorious crimes are as rare as windless winters.

These are my memories:

Saturday morning. My phone rang. A friend was calling.

“Have you heard about Matthew Shepard, a gay UW student who was beaten nearly to death and left tied to a fence overnight east of town?”

“Yes.”

“He won’t live much longer.”

“That’s what I hear.”

“Would you mind going to the corner at 15th and Fraternity Row to join people standing for him?”

It was just a quick mile walk but when I arrived only one tall cowboy was at the corner, wearing dusty boots and holding a weathered hat like he was standing in church. I quietly joined him and we stood in silence. After a few minutes, I looked up to him.

“Are you here in support of Matthew Shepard?”

“I am.”

“Oh, are you gay?”

“No, I’m a Unitarian.”

The Unitarians I’d known were very kind people and I warmed up to him. “Do you think we’re in the right spot? I had a call asking me to come stand here.”

“Me, too.”

“Are we early?”

“I bet they’re at Prexy’s Pasture.” Prexy’s Pasture, once the exclusive pasture for the University President’s horse, was now the grassy hub of UW.

We headed there and found a small group of students, grief and tears filling their eyes. Mike Sullivan, Wyoming’s former governor and future Ambassador to Ireland, was talking with them.

Some students had a banner with REMEMBER MATT SHEPARD painted across it, to carry in silence behind the UW’s Homecoming Parade, which was already starting to move.

I looked to the tall cowboy as two students stretched out the banner at the front of their group. "I'll take the right and you take the left; let's make sure that banner finishes the parade." He nodded and we began walking with them, each on one side of the banner.

Ahead of us, music from marching bands danced with the cheering of a jubilant crowd, lining both sides of the parade.

Then I noticed an old woman up ahead. She was tightly gripping her aluminum walker, leaning forward, squinting to read the banner. She looked tough as nails; I assumed she was a ranch wife, in town to watch the parade with her children, grandchildren and great-grandchildren. When she could read the banner, she lifted up her walker, stepped off the sidewalk and into the street, joining the students, her clan right behind her.

That began repeating over and over again.

The most accurate report I have ever read of that day was by Kathleen Moore in [High County News](#) on Nov. 1998. Moore, who wrote [Riverwalking](#), was a visiting professor on research leave from Oregon State University:

"A few more politicians pass by, some fraternity floats, and now here comes a banner - REMEMBER MATT SHEPARD - and behind that, a disorganized crowd of people. First come students from the University of Wyoming's gay community and their friends. Following them come families linked arm-in-arm, babies riding on their fathers' shoulders, students, professors, small children running to keep up, dogs with yellow strips of fabric on their collars, middle-aged women wearing homecoming chrysanthemums, their faces contorted with the struggle to keep from crying. People carry signs: 'Hate is not a small town value.' 'Laramie says NO to violence and evil.' Two parents swing their small son along between them. He squeals with pleasure. A young woman walks alone, weeping. A man carries a dog in his arms.

"The bystanders clap sporadically at first, not sure what to do, but as the crowd of people passes and the street empties in front of them, bystanders step off the curb and fall in behind the marchers. From both sides of the street, lines of people peel into formation, watchers becoming marchers,

and the parade grows and grows, like a Virginia reel gathering dancers, up Ivinson Avenue, past the tack shop, down Second Street, east on Grand Avenue toward the football stands.

“They walk up the street, shoulder to shoulder, the men and the women and the children and the dogs, as if they could drive evil onto the prairie where the wind would catch it up and tear it to pieces; as if they could bring a boy back to life; as if their rhythmic, moving feet could reverse the clock and Matt's skull would slowly come back together, shards of bone knitting into his head. Blood would disappear back into his eyes, and his hair would smooth, and his arms would tense along the fence, and he would be pleading for his life, and there would still be time to save him.”

Watchers became marchers. As we turned east onto Grand Avenue, a giant wave of television reporters and cameras crashed over us.

The rest, you know.

In the national debate that has followed, I have had friends insist that motive for a crime does not matter because a crime is a crime. I disagree for the same reason that it matters whether someone kills another person while driving drunk or to collect a large insurance policy.

Motive matters if justice matters.

"Every system is perfectly designed to get the results it achieves." Edward Deming.

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Tim Newcomb, a Laramie, Wyoming attorney, has practiced appellate law for 25 years; he assists trial attorneys with appellate strategies and trial briefing; Newcomb received his LLM from New York University; has taught advanced appellate advocacy at the University of Wyoming College of Law and co-authored the Wyoming Constitution: A Reference Guide, published by Oxford University Press.