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**From:** Ed [REDACTED]  
**Sent:** Friday, August 31, 2012 10:45 PM  
**To:** Epstein, Jeff  
**Subject:** My review in WSJ Saturday: Is Jeffrey Macdonald innocent, after all (See note at end)

<http://on.wsj.com/T1hFWf>

The Girl Who Rode The Rocking Horse  
Wall Street Journal, September 1, 2012  
By Edward Jay Epstein

When military police arrived at the Fort Bragg, N.C., home of Capt. Jeffrey MacDonald at 3:50 a.m. on Feb. 17, 1970, they found a bloody massacre. The captain himself, a 27-year-old military doctor, had multiple wounds, including stab wounds in his stomach and chest. His wife, Colette, 27, and their two daughters—3 and 5 years old—had been beaten and stabbed to death. The word “Pig” was scrawled in blood on a wall. The police saw signs of a struggle, including a table standing on end, torn and bloody clothing, and a paring knife, icepick and club. After MacDonald was revived through mouth-to-mouth resuscitation, he described an attack by four intruders: three men and a blond woman who wore a floppy hat.

To the crime’s investigators, the murder scene was open to two interpretations. First, home invaders had carried out the slaughter, as MacDonald claimed. Second, MacDonald had murdered his wife and daughters and staged the appearance of a home invasion by upsetting furniture, throwing objects around and inflicting deep wounds on himself.

The first scenario had a well-publicized precedent in the home invasions of the “Manson family”—two incidents, instigated by Charles Manson, in which seven people were murdered and the word “pig” was scrawled on a wall. The incidents had occurred just six months earlier in Los Angeles. Fort Bragg was an open base, making it possible for a band of intruders to enter the base and break into the MacDonald home.

But investigators did not buy the home-invasion scenario. To them, the husband’s guilt seemed more plausible. For one thing, husbands are statistically the most likely perpetrators of spousal murders, having means and opportunity and, if there is marital conflict, motive. (On his logic, Roman Polanski, the husband of Manson-victim Sharon Tate, could have been a suspect if he had not been in London shooting a movie at the time of that home invasion.)

There is a forensic problem, however, with husbands as suspects. Their fingerprints, blood, hair and clothing fibers are not in themselves incriminating because, whether a man is innocent or guilty, the same traces of his presence will be found in the home. In a case like MacDonald’s, where there are no witnesses, signs of staging a crime—i.e., faking up the crime scene—become evidence of guilt.

Military prosecutors got the ball rolling in May 1970 by presenting a case—in what is called, in the military, an Article 32 hearing—that MacDonald had indeed staged the scene of the crime, to cover up the murder of his family. The prosecutors never did present a motive: There was no apparent estrangement between MacDonald and his wife, and no lucrative insurance policy. The presiding officer in the hearing, Col. Warren V. Rock, dismissed the case for lack of evidence.

Then, in 1975, after MacDonald had re-entered civilian life, he was indicted by a federal grand jury, partly as the result of the efforts of his wife’s father, who had agitated continually for a civilian trial, convinced of his son-in-law’s guilt. A four-year delay allowed to adjudicate MacDonald’s claims of double jeopardy. Finally, on Aug. 29, 1979, he was convicted of first-degree murder and sentenced to life imprisonment. He is in prison to this day.

In the years after the verdict, the prosecution's narrative of the crime—evil husband, perhaps on amphetamines, murdering his family and concocting a story about hippie-like intruders—was burnished in the public mind by Joe McGinniss's 1983 best seller about MacDonald, "Fatal Vision"; by a TV miniseries based on the book; and, later, by "The Journalist and the Murderer" (1990), Janet Malcolm's analysis of Mr. McGinniss's wily interactions with his devious subject. Most people, including me, assumed that there was no reasonable doubt about Jeffrey MacDonald's guilt.

The assumption may well be false. In "A Wilderness of Error," Errol Morris, an Academy Award-winning documentary filmmaker, challenges the established narrative and offers a plausible counter-narrative. The book's thoughtful presentation of the evidence alone makes it worth taking seriously. Just as important, Mr. Morris's tone is temperate and fair-minded. He is not an angry polemicist but, we cannot help feeling, someone trying to get at the truth. His 1988 documentary, "The Thin Blue Line," helped to commute the life sentence of a convicted murderer in Texas. Mr. Morris clearly knows what it is to interrogate conventional views and scrutinize legal documents with care.

The book's affidavits and interview transcripts reveal flaws in the expert testimony, in particular the testimony that argued for the crimes being staged. In the 1970 military hearing, for example, prosecutors focused on a small table found resting on its edge. According to an expert witness, it was not possible for a table to land on its edge, in such a way, as the result of a scuffle; its position had to be staged. Col. Rock, the presiding officer, was unconvinced. He himself went to the crime scene, kicked the table once and saw it land on its edge.

The staging evidence presented by FBI lab experts in the 1979 trial was more complex—involving, among much else, claims about the holes in MacDonald's shirt (supposedly punctured in the wrong shape) and the location of blood. Mr. Morris shows that many of these staging claims were as problematic as that tipped-over table in the 1970 hearing. What's more, the FBI, it was discovered later, had held back exculpatory evidence, like the yellow hairs on a hairbrush in the home, which did not match the hair of any member of the MacDonald family.

The most powerful part of "A Wilderness of Error" is the evidence for a counter-narrative that seems to support MacDonald's version of events. Multiple witnesses saw a girl in the vicinity of MacDonald's home on the fateful night. One of the witnesses was a military policeman racing to the MacDonald house, who saw a woman in a floppy hat. After a description went out, a 28-year-old drug user and narcotics informer named Helena Stoeckley, who lived in nearby Fayetteville, N.C., was picked up and interrogated. As it turned out, she had admitted to at least six people that she was in the MacDonald home on the night of the murder, high on drugs, wearing a blond wig, white boots and a floppy hat and accompanied by three male Vietnam veterans.

Stoeckley recalled details dovetailing with MacDonald's description, including that she had held a candle, as MacDonald claimed. He had said that she tried to ride a rocking horse in the home and answered the MacDonald's phone. (A witness later said that he had called the home that night, searching for a doctor; a female voice answered and hung up.) Stoeckley passed a lie detector test. One of the veterans she named was seen by an acquaintance painting the words "I killed the MacDonald family" on a wall.

Yet the jury never heard the Stoeckley confession. Mr. Morris has leuthed out what might have happened. In 2005, during one of the attempts by MacDonald's lawyers to free their client, the U.S. Marshal charged with bringing Stoeckley to the courthouse for the 1979 trial, a man named Jimmy Britt, gave an affidavit stating that, when he had first brought Stoeckley to see prosecutor James Blackburn, he heard her give a detailed confession to the prosecutor. Blackburn, he said, then told Stoeckley that, if she repeated her account under oath in MacDonald's trial, he would have to charge her with murder. Blackburn, who was disbarred in 1993 for ethical transgressions, denies Mr. Britt's account.) In any case, Stoeckley changed her story in court, saying that she could not recall ever being in the MacDonald house. Without her testimony, the defense could not call any of the six corroborating witnesses because the judge ruled that their testimony would be inadmissible hearsay.

In May 1982, 34 months after MacDonald was convicted, Stoeckley repeated her original, confessional account in a taped interview for BS's "60 Minutes." The producer decided against airing it, however. Mr. Morris suggests that the

show had become “disconnected from [the] reality” of the event, being heavily committed to Mr. Ginniss’s tale of a drug-crazed, murderous, lying doctor. Stoeckley died the following year.

If the members of the jury had been allowed to hear Stoeckley’s account, and the corroborating testimony, I find it difficult to believe they would not have felt a reasonable doubt about MacDonald’s guilt. But they did not hear it, and MacDonald has been in prison for three decades. Mr. Morris has produced a brilliant book about the vulnerability of justice to the preconceptions of prosecutors and the power of certain narratives to crowd out all others, even highly plausible ones. I strongly recommend this book.

Mr. Epstein’s newest book, “The Annals of Unsolved Crimes,” will be published by Melville House in March.

As ever,  
Ed Epstein

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