

ARKANSAS BLOG

Not guilty of capital murder, Howard likely to be freed in a matter of months

by Mara Leveritt


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ASHDOWN — After 17 years in isolation, more than 14 of them on death row, **Tim Howard** will likely be freed within 90 days.*

On Friday, seven minutes before midnight, a Little River County jury sentenced Howard to 38 years in prison, after finding him guilty of second-degree murder in the 1997 deaths of both **Brian** and **Shanon Day** and guilty of second-degree attempted murder of their infant son, Trevor.

Howard was sentenced to death for those murders at a trial in 1999. A ruling in 2013 that the prosecutor at that trial withheld critical evidence led to the just-ended retrial.


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The graphic features a stylized, abstract composition of human figures in profile, rendered in a palette of dark blue, orange, teal, and light pink. The figures are layered and overlapping, creating a sense of depth and movement. The text 'ARKANSAS / PRESENTS' is centered in white, uppercase letters over the middle of the composition.

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Claiming innocence, Howard rejected a plea agreement that would have sent him to prison for life. At this trial, **Prosecuting Attorney Bryan Chesshir** urged jurors to give him that sentence.

Instead, after deliberating for nearly six hours, they found him guilty of the lesser charges. Three hours after that, they returned to court to sentence him to a total of 38 years for the crimes.

Howard's attorney, **Patrick Benca**, said that Howard would be required to serve half of that sentence — 19 years— and that his good prison record would cut that time in half as well.

As a result, Benca said, Howard's new sentence requires that he serve nine and a half years in prison; seven years less than the time he has already been incarcerated.

Two jurors were seen crying after the guilt phase of the trial, as **Circuit Judge Charles Yeargan** read them the instructions to consider for sentencing.

Before those deliberations began, the jurors heard from Brian Day's brother, **Kevin Day**, who read statements by his brother, **David**, and nephew, **Trevor Day**.

Trevor, who is now 17 years old, wrote about wondering what life would be like if his parents were still alive. "I'm just a teenage boy trying to make something great of myself," Trevor concluded, "so my mom and dad

can look down on me and be proud.”

Karley Day, the couple’s daughter, who is now in her early 20s, read her statement personally. She thanked the relatives who raised her and Trevor, spoke of “the scary dreams and scars,” and told jurors that, though she had recently become engaged, she had not yet “found peace” with the murders.

Jurors returned with their sentencing verdicts in the last minutes of the retrial’s 10th day, which had begun at 8:30 a.m.

Security at the courthouse had been heightened all day because a witness who testified the day before reported finding a note threatening his life when he returned to his car.

Closing arguments in the trial began mid-morning.

Al Smith, the district’s deputy prosecutor, reminded jurors that police found the Days’ infant son, Trevor, “in bag like so much trash,” that his mother had been strangled, and his father found at a farm known as Howard’s field, where he’d been shot and had his skull fractured by “some sort of massive force.”

The murders occurred on a Saturday, Dec. 13, 1997. Smith said that both Brian Day and Tim Howard had arranged deals that were to take place the two previous nights. “Thursday night is Brian’s,” Smith said. “Friday is Tim Howard’s night.”

Smith said Howard had stolen drugs that Brian Day had obtained on Thursday night and that Howard killed Brian because of animosities that had arisen between the two.

After the murders, Smith said, Howard threw a pair of boots, one of which had Day’s blood on it, off a road leading to the farm, where they were soon discovered by a passer-by.

After that, Smith said, Howard drove to the Days’ house, where he strangled Shanon Day. “We don’t know what happened at that house,” the prosecutor said, but he added that Howard drove out of state soon after.

“Tim Howard would have to be the most unlucky human being on the planet to be the last human being to see two people right before they were murdered.”

Little Rock attorney **Patrick Benca** gave the closing argument for Howard. He agreed with Smith that there were two deals planned, but Benca reversed their order. Howard’s deal to sell stolen tires was Thursday,”

Benca said. "Brian's deal was Friday."

Reminding jurors about testimony that Brian Day was dealing methamphetamine with several people, including some from Oklahoma, Benca told jurors that the investigation of the murders had been bungled from the start.

He pointed out that police produced no photos of the shed from which they claim Howard stole Day's drugs; that the crime scenes were not properly handled; and that key items of evidence such as the murder weapon, Shanon's purse, Brian's keys and the cash said to have been made from the deals never were located.

"Everything's gone and hasn't been found," he said, "but what is found is a pair of boots. So the state wants you to think he's smart enough to get rid of just about everything else, but dumb enough to whip out a pair of boots and leave them there for everyone to find."

Benca pointed out that the only gun sent to the state crime lab from this case was one to which Howard was believed to have had access, while the weapons of several other potential suspects were never tested.

"There were a lot of people out there who had motive in this case that were never looked into," Benca said. "They were ignored. Totally ignored."

Benca reminded jurors that Howard was described throughout the trial as a close friend of Brian and Shanon Day and that he was present at the hospital when Trevor was born. He said the idea that, seven months later, he would kill the couple and attempt to kill Trevor, "doesn't make sense."

Prosecuting Attorney Bryan Chesshir said in response that Howard had several possible motives for murdering Brian Day. Using a projector he listed for the jury: money, drugs, a dispute over a gun and an alleged affair with Shanon Day.

"We can't tell you exactly what it was," Chesshir said. "It could have been a combination of any or all."

He asked the jurors to give Howard the harshest sentences possible. Instead, they acknowledged the gravity of the crime while, essentially, freeing Howard.

**A previous version of this post said that Howard would be free this week, but processing through the Arkansas Department of Correction could take as much as 90 days.*

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