

April 26, 2012

Testimony of Brooks Douglass - Victims Rights Amendment

First I would like to thank Congressman Trent Franks and his staff for giving me the opportunity to tell my story to this committee. I would also like to thank the members of the committee for taking the time to read and listen.

My name is Brooks Douglass and I am the survivor and victim of a crime that took the lives of my father, Reverend Richard Douglass, and my mother, Marilyn Douglass and in which my sister Leslie and I were shot.

On October 15, 1979 Glen Ake and Steven Hatch came to the door of our home, located on a small acreage just outside of Oklahoma City. They said they needed help locating one of our neighbors' homes and wanted to use the phone. I let them in and within minutes Hatch brandished a double-barreled shotgun. When I turned back to Ake he had a .357 magnum pointed in my face.

We were forced at gunpoint to lie face-down on our living room floor. They took my mother, father and me, each in turn, throughout the house to look for money or anything else of value. Then they hog-tied us, hands and feet behind our backs and gagged us with clothes and curtain sashes. After they tied all of us but my 12-year old sister Leslie, Glen Ake took her through the house looking for telephones, which he tore out of the walls, and money. But he didn't stop there, ultimately he took Leslie into her bedroom and raped her. Although we could not see this we could clearly hear as Leslie pleaded and begged him not to do this. The sound of her tearful sobbing will ring clearly in my mind for the rest of my life.

I tried to comfort my mother who was laying next to me. When I spoke to her, Steven Hatch put his shotgun to the back of my head and told me that if he heard any more talking he would blow our heads off. My father lay there powerless to protect his family.

When Hatch wasn't standing over us he was rummaging through dresser drawers, closets and anything he could find that looked like a hiding place for money. When Ake was finished raping Leslie, Hatch went in and took his turn with her. While Hatch was with her, Ake was threatening and terrorizing us. Then Ake went back and raped Leslie again.

Afterward, they hog-tied and gagged Leslie along with the rest of us, then sat down and ate the dinner my mother had been fixing before they arrived. About 3 hours after they came to our home Ake sent Hatch out to "Start the car and listen for the sound". He then shot all of us in the back. He unloaded the 6-shot revolver into us hitting my mother and me with one shot each and my father and sister with 2 shots each, and ran out of the house leaving us all for dead. When they left they took my parents' wedding rings, a couple of credit cards and \$43 in cash.

I told Leslie to go find a knife as I struggled to untie my mother and father with my teeth.

I managed to get my mother untied but she died before she could help me. My father also died there in front of me.

Leslie was eventually able to get herself loose and cut me loose as well. I drove us about 6 miles to the nearby town of Okarche to a doctor's home where we were initially treated. The Oklahoma Highway Patrol was called and came to question us immediately. We were taken to a hospital in Oklahoma City where we underwent surgery and spent a week and half in intensive care and three weeks in the hospital, altogether. We weren't able to attend our parents' funeral.

We were kept under guard at the hospital, and then in a home owned by our church until Ake and Hatch were caught 6 weeks later. While on the run they murdered two other people in TX. They met up with a woman at a carney, to whom they gave my mother's wedding ring. When they were caught, my father's wedding ring had to be sawed off of Glen Ake's finger. When they arrived in Oklahoma they both confessed to the murders and shootings. Ake, in fact, gave a 44-page, signed, confession detailing the events of that night along with their travels before they were caught.

A few days after Ake and Hatch were captured in Colorado, we held an auction to pay for our medical bills and the expenses for our parents' funerals. Virtually everything we owned, including the house itself, was sold. When I left the hospital I was given only an hour to go through the house and get the things I needed. Most everything was covered with fingerprint dust. I left the house with 2 grocery sacks of clothing. Almost everything else was sold.

Leslie and I were separated once we were no longer under guard. She went to live with my mother's cousins in a small farm town about an hour and a half outside of Oklahoma City. I remained in Oklahoma City living with members of our church, since I was starting my last semester of high school. We tried as much as possible to get back to a normal life, but obviously this was completely impossible. Although we were able to go to school, the focus of our lives became the collection of evidence and prosecution of Ake and Hatch. We met for dozens of hours with prosecutors and investigators. Each time we went through the whole story, whether it was reviewing transcripts, discussing testimony or just trying to psychologically prepare for facing Ake and Hatch again, in court.

I testified against Ake and Hatch in the preliminary hearing in February, 1980. Hatch was tried before a Judge who found him guilty of 2 counts of murder and sentenced him to death in February, 1980. Leslie and I both testified at this trial.

Ake plead insanity and was also initially found incompetent to stand trial. Later that year, after undergoing psychiatric treatment he was found competent to stand trial, by independent psychiatric evaluation. Another psychiatric examination found that he was legally sane at the time he committed the crime. He finally did stand trial and a jury found him guilty of two counts of first degree murder and sentenced him to death.

Throughout the process we discovered that we were really nothing more than a piece of evidence. We were treated kindly and respectfully by the prosecutor's office and Sheriff's department. Yet all along it seemed as all of this was just happening TO us rather than something in which we were participants, with a voice.

Leslie and I really thought this would be the end of it. We believed that while we would have to wait some time, eventually the sentences would be carried out. That was not to be the case.

I left for college the next fall thinking I could now go on with my life. I dropped out, before I flunked out, of 2 colleges and quit 2 good jobs before I finally began to settle and get my head in the game. I remember waking up one morning about two years after the crime and realizing I had just slept through the night. It wasn't til that moment that it dawned on me that I hadn't slept for more than a few minutes at a time since the crime.

I was 18 years old and was just beginning to get a grip on what was happening. I continued to have problems and was eventually suspended from Baylor University. I returned to Baylor after the suspension only to be notified that due to a recent court decision, Hatch was being given a new sentencing hearing and that Leslie and I would have to testify again. My grades dropped again and I narrowly escaped being permanently kicked out of the school.

In the fall of 1984, at the beginning of my senior year, I found out that the U.S. had agreed to hear Glen Ake's case. Just before I graduated in 1985, the Supreme Court vacated Ake's conviction and sentence, in a landmark decision, and sent the case back for a new trial.

Frustrated by the system, and frankly not sure what else to do, I decided to go to law school. I started law school in the fall of 1985 and in February of 1986 I testified against Glen Ake again. This time although he was convicted, he did not get the death sentence but life in prison. This meant that I would need to attend parole hearings every two years for the rest of my or Glen Ake's life, whichever came first. Ultimately my grades fell and I was suspended from law school. I sat out for two years and then returned to law school in the fall of 1988.

All told, Leslie and I testified against Glen Ake and Steven Hatch 9 times trying to keep them behind bars.

During law school I clerked for the Oklahoma Attorney General's Office as well as for the Oklahoma Supreme Court. While working in these capacities I found that there were many ways the system could be improved. So during my last year, I decided to run for the Oklahoma State Senate. I won the race and was sworn in as a State Senator in November, 1990.

To be perfectly honest about it, I realize that the members of this committee had very noble reasons for running for the high office they now hold. I know that they want to

make the world a better place for their constituents. In my case I was about to graduate from law school and needed a job. I saw an opening when my predecessor announced he wasn't running again.

At first, I avoided the subjects of Criminal Justice and Victims Rights altogether. I never talked about them in my campaign as I didn't want to come off as a crusader. But a year into my first term I found out that the Hatch case was the slowest moving case on death row in Oklahoma and partly so because the Oklahoma Court of Criminal Appeals had lost the file, for over two years. Just by the chance of a few events I happened to go on the Appropriations Committee and was actually assigned to the Judiciary Subcommittee. When the Chief Judge came to a hearing asking for a supplemental appropriation I had the chance to hold him accountable. Miraculously the file was found and a decision handed down within about 30 days.

What I realized at that moment was that I had never known of another crime victim who was able to be in that position -- the position to hold someone accountable who wasn't doing their job. To hold someone accountable who had so much control and impact on their lives. It angered me that anyone should ever have to be in that position. So when I got up from that table I went straight to my office and called in our staff. I told them how for years I had been told about victims' rights yet I had never, in fact seen one. I wanted to know what we had on the books, if there was anything being proposed and what any other state had done or was proposing to do. Within a few weeks I filed the first Victims Rights Act in Oklahoma history, which became law later that session. All told, over an 11-year period there were 28 laws dealing with victims' rights signed into law, including an Oklahoma Constitutional Amendment. Once we got this through the legislature by referendum, it passed a statewide vote with 90% approval.

Some of the laws passed were things that had touched my family personally. The car that I drove to the doctor's house the night we were shot was towed and impounded as evidence by the OSBI. The charges for this were \$117 and I know this because that is what I had to pay to get my car back.

The "Rape Kit" used to collect evidence of the rapes from my sister, once we made it to a hospital, cost over \$500 and was part of our medical expenses when we were discharged. In both this instance and the return of my car, there was no provision in the law to reimburse us for these expenses.

While visiting family in Tennessee during the holidays following the shootings we received an urgent phone call that we needed to return to Oklahoma early so that they could pull hair from our bodies. They needed this so they could distinguish our hair from samples taken from Ake and Hatch and those found at the house. It was humiliating and expensive to change our flights, at our own expense. But we did it because it was expected of us if we wanted to successfully prosecute these guys.

One day I realized that 14 years after my parents' murders we still weren't able to get their wedding rings back because they were being held as evidence. A provision

mysteriously appeared in a bill permitting the District Attorney's Office to return the rings to us.

As a member of the Oklahoma Senate I discovered that it wasn't just the need for laws, if we wanted to change things. There needed to be a change in the culture of the criminal justice system. We passed statutes allowing for victims to give victim impact statements, something Leslie and I were never permitted to do in any of the trials or hearings.

A year or so after the first bill passed I received a call from an acquaintance of mine whose mother had been murdered asking if the victim impact statement (VIS) had become law. I told him it had. He went on to tell me that the person who committed the murder had just been convicted and was about to be sentenced. He and his family began preparing to make their statements to the jury when the judge told them he would not allow them. The prosecutor had pleaded with the judge, citing the statute as well as the fact that the U.S. Supreme Court had recently ruled that victim impact testimony was admissible during the sentencing phase of the trial. The judge still refused. My friend asked me to contact the judge and I did.

When I called the judge, he in effect told me that he didn't like VIS and that he would not hear them. He didn't think they were constitutional no matter what the Supreme Court said about it. He said that he didn't like being told what to do in his court room and to sum up he said, "What are you going to do about it?" My answer was that I was going to file a bill that day creating a judicial review panel that dealt with decisions regarding crime victims. I informed him that there would be at least one victim, if not a majority of victims, on that panel. Their job would be to review decisions like this one and if they found that a judge had wrongfully denied a victim of a right under the laws of Oklahoma they would ultimately have the power to take away the judge's pension. That judge decided he was going to hear the evidence and did so that afternoon.

I could site dozens of such examples that happened during my time in office and continued even after we had an amendment to the Oklahoma Constitution. The fact is that judges and courts, defense counsel and even prosecutors will ignore the rights of victims when it proves inconvenient or difficult to enforce or apply them. Victims and their families are shut out of court proceedings as a matter of course. They may not even be informed of hearings or other events regarding their case unless they are a witness or stay on the back of the prosecution. They are not usually informed when there has been a plea agreement or when the offender has been released from incarceration.

There are many inequities that may never be able to be fully addressed. Offenders, by virtue of their incarceration, are fed, housed and clothed and provided with free medical care. And while it may not be particularly desirable it may be better than the conditions in which they left their victims. They can also get a free college education and some even earn law degrees, at taxpayer expense. My college education wasn't paid for. In fact, I worked several jobs along the way and took out student loans, which I'm still repaying.

But when it comes to the fairness of the system, we have forgotten the ones the system was designed to protect in the first place. The **civil** court system is designed specifically to redress wrong-doing and make the victims of a **civil** offense whole. At its core, that is what the **criminal** justice system is about. A crime, at least a violent crime, presumes a victim. It is the job of the state to seek justice on behalf of that victim, even if it does so in the name of the state. Our founding fathers understood that but sought, as they should have, to protect the rights of the accused. There are 23 enumerated rights in the constitution to protect the accused. There are **none** for the victim. Arguably it is because during their time the founding fathers were dealing with a system that effectively had no rules. The accused were locked up and held without bail, without trial and with no counsel or opportunity to confront their accusers. This is not the system we have today and I'm glad. I fully support every right that the accused has guaranteed to them under the constitution of the United States. But what we have now is a system that literally steps over the body of the victim to read the criminal those rights. This is unjust. We have forgotten the reason we bring offenders to justice in the first place and for whom we do it.

As long as the rights of victims are not on the same footing as the rights of the accused, there will be no justice or fairness and the statutory rights, both federal and state, provided to victims will continue to be ignored and trampled over. An amendment to the U.S. Constitution for victims is not designed to infringe on the rights of the accused. It serves to force courts to take victims' rights seriously and to balance them with the rights of the accused in such a way as to protect both. Sometimes this is difficult but they do it every day in every other area of the law. There is no area of the law as important as this.

In February 1995 I was asked to speak to a group of state leaders at the Oklahoma State Penitentiary, which at the time was home to both Glen Ake and Steven Hatch. I remember feeling terribly afraid as I toured the prison, knowing that Glen Ake was now in "general prison population". I had been told that at one time he could dead lift 900 pounds and could break hand-cuffs both in front of him and behind his back. I had gone into the military and had a great deal of training but I knew if I saw him it was not going to end well.

To make a long story short, I asked to meet with him and Steven Hatch. I was initially told that it would not happen. Having learned by then to assert some of my weight as a Senator, eventually the corrections officials decided to allow the meeting. Hatch initially agreed meet with me then changed his mind. Glen Ake did agree to meet me.

This scene is played out in the movie, "Heaven's Rain", based on my story. But the upshot is that as I was walking to the meeting I was playing out the entire night of the crime in my mind. I relived it all. I became filled with rage, again. I wanted nothing more than for him to die. I began to feel like my life was making sense for the first time in many years. Glen Ake had escaped justice. Maybe the reason I survived, went into the military and had the training I did, went to law school and was elected to the senate was all bringing me to this moment. The meeting would not be happening were I not a senator.

Once I sat across the table from Ake, I felt the anger even more. But over the course of the hour and a half meeting, something changed. I remember my father's teachings came to the forefront of my mind and I couldn't escape them. They had taught me to forgive, and as much as I didn't want to, when it was all over I looked at Glen Ake and said, "I forgive you". I still believe he deserved to die for what he did to my family. He apologized for what he did, and I believe he sincerely meant it. It simply was no longer my fight to make sure he died.

Steven Hatch was executed a year and a half later. We were able to witness his execution because of a statute I sponsored. I am grateful for the meeting I had with Glen Ake but wish I hadn't had to fight to get it.

As difficult as it was for me to be able to participate in the system, I think about how hard it is for those who don't have political power to make things like this happen. They still are without remedy when the system ignores or tramples over them. The only alternative they have is to try and create public outrage. Then the situation is bent to accommodate them, or not. This is completely unnecessary and wrong. People should have confidence that the system is going to recognize their rights. The culture won't change and the system won't change until we have rights for victims in the U.S. Constitution.

I believe that had Leslie and I had the opportunity to give VIS in Ake's last trial, it would have made a difference in the outcome. But we were not afforded that opportunity. If we had maybe it would have gone something like this:

"My parents took our family as they served as missionaries to Brasil for almost 4 years, and then to Oklahoma where my father pastored a 3,000-member church. Watching them, I learned a life of service. My mother was a singer who was accepted to Julliard School of Music to study voice. She decided instead, to marry my father and go along beside him in his ministry. She sang, taught music and directed choirs at every church my father pastored. When we returned to Oklahoma she was appointed by the Governor to serve as a member of the Oklahoma Arts Council. She considered her most important work to be raising my sister and me. Having accomplished these things, she died at the age of 36.

My father began pastoring churches when he was 16 years old. He continued pastoring churches throughout his life, except when he actually started churches throughout equatorial Brasil, throughout the Amazon Rain Forest. But during his life he published over 2,500 articles and one book. He visited the sick in hospitals, counseled with church members. He had his own radio program. He also served 2 terms as President of the Baptist Convention of Oklahoma. All of this before is death at the age of 43.

Now they are gone. I have tried to use the lessons they taught me to keep moving forward, to hope that my life would get better and that one day I could still have a family again, of my own.

I miss them deeply every day. It makes me sad that I will never hear them tell me they love me or are proud of me. I will never be able to tell them how much I love them or how grateful I am to them for the opportunities that their example and reputations have given me.

During college I never got to go home for the weekend or the holidays. I stayed in my apartments and occasionally was able to see my sister. I was usually working 1 or 2 jobs to make money to put myself through school.

The rage that I carried inside me wrecked marriages and friendships. It kept me from succeeding at times when I should have. It changed the way I saw people.

All of this is at least partly related to the Glen Ake having pulled the trigger and senselessly killing my mother and father. For this I think he should be sentenced to death.”

I'd like to thank the committee again, for taking the time to read and hear my story.

Brooks Douglass