

"SIMPLY UNFORGETTABLE." —JOHN GRISHAM

BRINGING BEN HOME

**A MURDER,
A CONVICTION,
AND THE
FIGHT TO REDEEM
AMERICAN
JUSTICE**

**BARBARA
BRADLEY HAGERTY**

NEW YORK TIMES BESTSELLING AUTHOR

Additional Praise for
BRINGING BEN HOME

“As a member of the San Antonio Four who served thirteen years in a Texas prison for a crime that never occurred, this book dredged up a lot of feelings and memories—frustration, helplessness, and finally hope when someone on the outside believes you.”

—ANNA VASQUEZ, director of outreach and education, Innocence Project of Texas

“A spellbinding story of resilience and faith. It’s a fascinating account of a broken justice system and what people are doing to help mend it.”

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“*Bringing Ben Home* achieves a rare feat: it is simultaneously infuriating, fascinating, and inspiring. The author’s personal commitment to her subject and his family filled me with awe. This is a luminous book.”

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*A Murder, a Conviction, and the Fight
to Redeem American Justice*

+—+

BARBARA BRADLEY HAGERTY

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147902104

*For Jim McCloskey, who changed the world
And for Wade Goodwyn (1960–2023), who graced our lives with his stories and friendship*

I am not quite sure where to begin with the details of this case, but I can assure you that wherever I start, that it will be the truth. The proverbial problem for me has been trying to figure out, what's significant and what's insignificant? My fervent prayer is that I will not fail in my objective in pointing out the serious wrong that has been imposed upon me, my family and the family of the victim, Jeffrey Young. My prayer is that after reading about the details in this particular case, that you can find it in your heart to help come up with a solution to this problem of injustice. May God bless you richly and grant us favor in this request.



BENJAMINE SPENCER
Inmate #483713
Coffield Unit, Tennessee Colony, Texas
September 5, 2016

INTRODUCTION

A Specimen in Amber



On July 13, 2016, at ten thirty in the morning, I called Jim McCloskey and asked a simple question.

“Jim, what’s the case that haunts you?”

“Oh, that’s easy,” he replied. “Ben Spencer’s case. There’s not a day that goes by that I don’t think about Ben.”

At the time, I did not foresee the catalyzing effect his answer would have—for me, for people I did not yet know, for a long-settled murder conviction. Why would I? I was just chatting with a source, an exercise I had conducted thousands of times in my thirty-five years as a journalist. But I should have anticipated this, for McCloskey specialized in necessary upheavals. He had been haunted by stories like Spencer’s since the early 1980s, when he left his studies at Princeton Theological Seminary to reinvestigate the case of a prisoner he believed was wrongly convicted, and persuaded a judge that the man was innocent. A decade before the Innocence Project was founded, McCloskey was already freeing innocent prisoners and launching a revolution in criminal law from his rented bedroom in Princeton.

By the time we spoke on this July day in 2016, McCloskey had won the freedom of fifty-four men and women, some within days of execution. Benamine Spencer, who had been in prison in Texas for twenty-nine years, was McCloskey’s unfinished business, his heartbreak.

The story of Benamine Spencer, a Black man convicted of robbing and killing a white man in Dallas in 1987, unfolds on two levels: the procedural and the personal. Procedurally, his experience mirrors that of thousands of innocent men and women in prison. It boils down to this settled fact: Convicting an innocent person is easy; undoing the mistake is almost impossible.

His journey also spans the modern innocence movement that began with Jim McCloskey. One year after Spencer was sentenced to life in prison, DNA exonerated a prisoner convicted of rape—the first time the technology was employed to free an innocent person in the United States. Suddenly, the judicial system, the media, and the public at large saw that the foundation on which prosecutors had always built their cases was rickety at best. DNA could offer irrefutable evidence that someone else, almost certainly not the suspect in custody, had raped or killed the

victim. DNA proved that evidence such as eyewitness testimony, ballistics, hair comparisons, fingerprinting—even confessions from the suspect—could be flat-out wrong. But if DNA is the deus ex machina for innocent prisoners, it is a selective god, visiting only 10 to 20 percent of crime scenes. Like the vast majority of prisoners who claim to be innocent, DNA could not help Ben Spencer. Without unassailable forensic evidence, Spencer’s several appeals failed.

Even as some states have tried to avoid mistakes with new procedures and better science, they cannot fix two problems at the root of the US criminal justice system: the human mind and the human body. Can a witness accurately record and replay a crime that takes place in a split second on a dark, moonless night? What if the witness is poor or has an axe to grind; can science erase the motive to lie? Jailhouse informants play a leading role in murder convictions, an astonishing fact unique to the United States: What is to stop these criminals from trading bogus “confessions” from the suspect for a shorter sentence for themselves? Police, rushing to find the culprit while the trail still has scent, have been known to discard or ignore evidence that points away from their suspect. Prosecutors have rationalized burying a piece of evidence because it muddies the clear story they are trying to tell in the interest of serving justice.

If convicting the innocent is the natural result of human error, undoing the mistake is thwarted by the legal system—specifically, by the concept of “finality.” Appellate judges rarely overturn jury verdicts; after all, they did not sit in court listening to evidence and assessing witnesses, so who are they to second-guess the jury? And while Americans now recognize that the government routinely convicts innocent people, Congress and the US Supreme Court have narrowed the path to freedom for the wrongly convicted by systematically blocking the federal courts’ ability to review a jury verdict, even in the face of obvious innocence.

On a personal level, Ben Spencer was twenty-two years old when he was arrested, newly married to Debra, and expecting a child. At first confident that the police would sort things out, he watched in disbelief as he was indicted, convicted, sentenced to life in prison, and denied parole year after year. The toll on Spencer, on his wife and son, on his family and friends, on their faith in God and in the law can never be calculated. These private narratives are almost always hidden. But Ben and Debra Spencer have allowed us the rare privilege of surveying the wreckage the system has wrought.

For several months during 2020 and 2021, I lived in Dallas, trying to uncover new evidence and solve the murder of Jeffrey Young. My efforts felt futile at times. Once the Texas legal system found Ben Spencer guilty, it was as if that judgment sealed him in amber, and he needed an extraordinary instrument, such as DNA, to free him. Without this scientific cudgel, Spencer’s lawyers and investigators had to make do with something akin to an ice pick, trying to chip away at his conviction, filing writs and parole applications, petitioning one district attorney after another, hoping that these efforts would eventually crack apart his case and release him as an innocent man.

The thirty-seven years since Spencer was incarcerated have seen a reckoning. Defense attorneys across the country began publicizing wrongful convictions. The public noticed, as did judges, legislators, and a new breed of prosecutor. Rather than simply denying the mistakes, most states began to recognize that prosecutions can go off the rails, and some have tried to

eliminate the most egregious flaws. In a happy surprise, on this issue the most progressive state in the country is Texas. In part because the cost of error is so high—the state executes more people than any other—Texas has set up a number of guardrails and is by far the state that most generously recompenses its exonerees.

Thus Texas is the perfect starting point to begin and end the story of Ben Spencer, the logical place to examine the failure of American justice and the incipient attempts to redeem it. For this journey, Ben Spencer is a consummate guide.

Part 1

Conviction



Chapter 1

A MURDER IN DALLAS



You let the man lay there, like a dog in the street?

—GLORIA FAYE CHILDS, *WEST DALLAS WITNESS*

What were those last minutes like for the man locked in the trunk of his car? Was he awake, aware, terrified? Did he open his eyes, blind in the cramped space, and grope for a lever, a tool, anything that might release the lid to his escape? Or had the savage blows to his head hurtled him into unconsciousness?

As the stolen BMW turned right onto Inwood Road and crossed over the Hampton Road Bridge spanning Dallas's Trinity River, did he recognize that he was crossing a boundary, from affluence to poverty, from safety to peril? As the car carried him into West Dallas—a poor neighborhood reeling from the relentless violence unleashed by crack cocaine—did he know that his brain was swelling and slowly shutting down, his fragile life caught in a riptide inexorably sucking him down and out to sea? Maybe he was tempted to surrender—maybe, that is, until he imagined his wife, whom he had loved since high school; his daughter, only eight years old; his middle child, a ten-year-old son; his oldest, a boisterous, twelve-year-old boy.

Whatever he was thinking, the man managed to find the lever that opened the trunk and, in a burst of strength, hoisted himself out, falling headfirst onto the unforgiving pavement of Puget Street. There he lay, in this neighborhood riven by gangs, where a young man risked his life by walking down the wrong street. A small crowd gathered around the man, who was wheezing and struggling to sit up. In that moment, Puget Street became a demilitarized zone, any urge toward violence stilled by the sight of a man whose life was ebbing away.

When Jeffrey Young unlocked the door to 1127 Conveyor Lane at 8:21 p.m. on Sunday, March 22, 1987, he had no reason to think this would be his last trip to the office.^[1] The warehouse for FWI, a clothing importer, was Young's domain. At thirty-three, he would soon run the company as its new president. It was his habit to spend Sunday evenings preparing for the week and sending faxes to his suppliers in Asia, where the Monday workday had begun. Often, his sons would accompany him, but this was spring break, and his wife and three children

had left for vacation.

Young lit an Antonio y Cleopatra cigar, and at 8:45 p.m., he called Troy Johnson, a friend whose company managed FWI's computer software. He said he needed access to the computer, but Johnson told him he would have to wait an hour until the weekly system maintenance was finished. They chatted for five or six minutes. At 9:45 p.m., the maintenance complete, Johnson called his friend to say he could now access the computer. Johnson let the phone ring twenty times before hanging up. He tried again, five times in all, before deciding that Young had left the office for the night.

No one witnessed the sequence of events leading to that final unanswered call. Dallas police and prosecutors believe that two men either crouched behind Jeffrey Young's BMW in the empty parking lot or flattened themselves against the far side of the stairwell, waiting for Young to come out. When he did, the thieves forced him back inside. They hit him on the head with a blunt instrument, grabbed his wallet and extracted his cash, slid the watch off his wrist, yanked the wedding ring off his finger, and snatched a portable TV-radio from the back room before dragging him down the concrete stairs and toward his car.

If this was supposed to be a robbery, it was going badly. According to his wife, Young had less than a hundred dollars in his wallet.^[2] The assailants decided not to leave him in the parking lot, where he could call police, but placed him in the trunk of his car. The men had to subdue him, for Young was strong, five foot eleven and 170 pounds, fit and in the prime of life. They slammed him on the forehead with a blunt object, hit him on both temples, smashed the base and the back of his skull—the latter which is, the medical examiner later testified, “the thickest part of the bone and would require an extraordinary amount of force to cause it to shatter the way it has.”^[3] It was a frenzy of blows, and when the assailants were done, they had cracked his skull in five places.

During the struggle, it is possible that Young scratched one of the thieves and snagged a tiny bit of skin. This would not matter in 1987, before DNA technology began solving crimes, but would matter two years hence. Once he was subdued, they closed the BMW's trunk and drove to West Dallas.

Only the killers know precisely what happened that night in March 1987. No security cameras recorded the assault. No neighbors pulled out cell phones to capture who was riding through West Dallas in a late-model, two-door BMW, as the technology had not yet been invented. There isn't even agreement on whether there was one culprit or two, much less their identities. For some time, at least, there was no conclusive evidence to indicate how Jeffrey Young exited the car: Was he dumped from the passenger's door, as one witness told police? Or did he manage to escape from the trunk?^[4]

Details begin to fill in the picture around ten thirty that night. Seventeen-year-old Donald Merritt, who lived in West Dallas, was walking his girlfriend home when a neighbor ran toward them—and away from something on Puget Street. *Don't go down there*, he warned them, and

hurried away. Curiosity piqued, they continued down Puget and soon came upon a white man lying in the middle of the empty street, struggling to breathe. They were terrified.

Donald Merritt's cousin, Charles Stewart, was not. He was walking home from Warner's Pool Hall. The twenty-year-old noticed a light gray BMW driving slowly, perhaps fifteen miles an hour. When the car turned onto Puget Street, he saw "a man get pushed out of the car," he testified a year later in court. Stewart kept walking: "I had tickets at the time and I didn't want to stop."^[5] Residents began to gather around the injured man, among them Gloria Faye Childs, then thirty-two years old, who was riding in the bed of a truck with her coworkers from Church's Chicken. "He was already dying when we got to him," she recalled thirty-five years later. "I've never seen a person die. I'll never forget it. I looked over and I say, 'You all right?' He was trying to say something to us." She paused, reliving the moment. "'Help me,'" she croaked. "All these goddamn people looking, ain't nobody saying shit. I say, 'Y'all ain't call no goddamn police or nothing?! You let the man lay there, like a dog in the street?!'"

Finally, at 10:46 p.m., someone—officials don't know who—called 911. By the time paramedics arrived on the scene and examined the man, Jeffrey Young's eyes were not reacting to light—a sign of a head injury or oxygen deprivation for an extended period of time.

"This individual had massive head and possibly internal injuries," a paramedic testified later. "I checked his chest, his ribs. His ribs were pretty well bashed in. No external trauma per se, where there was a loss of blood, but you could tell from the injuries as they existed that he—he had been beat up pretty bad."^[6]

While Jeffrey Young was loaded into an ambulance, two young Dallas patrol officers arrived. Nancy Felix, the more seasoned officer with two and a half years' experience, began canvassing the dozen or so witnesses gathered near the body. She got nothing from the crowd. "People saw it, they ain't gonna talk," Gloria Childs noted. Finally, one witness told the police he saw a white man being thrown out of a small sports car. He couldn't tell the color of the car or how many people were inside. The officer elicited no other information.

At twenty-three minutes past midnight, Robert Mitchell called police and reported a BMW abandoned in an alley about two blocks from where the white man lay. By then, the victim had been rushed to Parkland Memorial Hospital, the same hospital that had received the city's most famous murder victim, President John F. Kennedy, in 1963. When the two officers arrived in West Dallas, Jeffrey Hutchinson called in the BMW's information and learned the car belonged to Jeffrey Young. Hutchinson's partner, Aaron Perkins, began interviewing witnesses and found these spectators chattier than the ones who had surrounded the victim on Puget Street.

Witnesses in the area state that complainant Young had been thrown out of the vehicle," Perkins wrote in his report, "and suspect, a black male, parked the vehicle in the alley and got in a small sports car and fled in an unknown direction."^[7] One person thought the driver might be a thirty-nine-year-old man named Van Mitchell Spencer, who had served time for robbery and had just been released on parole. Unfortunately, Officer Perkins failed to ask witnesses for their names.^[8]

The BMW was towed to a police lot sometime between 1:00 a.m. and 1:15 a.m. By this point the police knew that the victim was close to death. Jeffrey Young died at 3:05 a.m., and at that

moment a robbery became a homicide.

The investigation into Jeffrey Young's death could hardly have been more highly charged: the murder of a white man dumped in a poor Black neighborhood at the height of Dallas's drug wars. It was off to an inauspicious start. Police investigators could not persuade witnesses to talk. When they did elicit some details, they failed to gather names and could never find the witnesses again. They neglected to take pictures of where the BMW was parked in the alley or even draw a crude map. They did not protect the crime scene: Forensic experts never secured the alley; rather, they allowed the BMW, itself a crime scene, to be towed to an impound lot where it was left outside in the rain before they dusted for fingerprints.^[9]

Three decades later, private investigator Daryl Parker asked Jesus Briseno, the lead detective on the case, why no one took pictures or drew a map of the alley before they towed away Young's car. For violent crimes, experts from the Physical Evidence Section (PES) are supposed to secure and memorialize the crime scene, taking fingerprints, photographs, and gathering any other evidence that may be important in the case.

"Because he wasn't dead," Briseno said. "He was still alive."

"But he had still been assaulted," Daryl observed.

"Well, yeah. But most of the time they don't call the PES out there because they figure: Well, he's going to be okay," Briseno explained.

What's surprising is not that the police botched the crime scene; what's surprising is that they were *discovered* to have done so. Early mistakes in an investigation create blisters, like a pebble in one's shoe, which can become infected. Within hours of Young's death, the investigation was infected. Just how catastrophically was not yet clear.

Still, investigators had collected two critical pieces of information: The killer was determined to be a lone Black man who fled in a sports car. And the prime suspect was Van Mitchell Spencer.

Chapter 2

THE DAY AFTER



At the age of twelve, I became an adult overnight.

—JAY YOUNG, SON OF VICTIM JEFFREY YOUNG

When he was twelve years old, Jay Young often accompanied his father to the office on Sunday nights. Jeffrey Young would prepare for the week ahead as his son entertained himself, content to be in his dad’s presence. But in March 1987, his parents decided Jay would spend his spring break in Arkansas with family friends. Which is why, on the evening of March 22, Jeffrey Young was alone when he entered his office, sent a fax, made a phone call, and completed some paperwork before he was accosted, robbed, beaten, and killed.

“I was supposed to be there,” Jay recalled. “That’s the thing that I’ve dealt with for a while.”

His younger brother, Jimmy, nodded and sipped his coffee. It was a steamy Dallas evening in June 2017, but blessedly cool and still inside Jimmy’s town house, elegant with its muted gray walls, a two-story ceiling with skylights, sleek wood furniture, and glistening chrome kitchen appliances. At forty, Jimmy was lean, with an easy, earnest smile and thick brown hair combed straight back. Forty-two-year-old Jay Young was conventionally handsome with a wide face, stocky but fit, recently divorced and pining for his children.

They began the story that has haunted them for three decades. By 7:45 on the morning of March 23, 1987, James Coyle had identified his son-in-law in the morgue. He and his wife drove to Galveston, Texas, where their daughter Jamee, Jeffrey Young’s wife, had brought her two younger children for spring break. Jimmy, then ten years old, recalls seeing his grandparents slowly getting out of their car and thinking, Oh, cool, what are they doing here? As they approached their daughter and hugged her, Jimmy noticed fear flicker across his mother’s face. “They grabbed my mom and they were like, ‘Something’s happened,’” Jimmy recalled. She began to weep, and the adults explained to Jimmy and Jordan, his eight-year-old sister, that their dad was gone. The family caught the first flight back to Dallas.

Jay Young was permitted a few more hours of untroubled childhood. He was lounging around at his friend’s house in Arkansas, the two boys contemplating a day at the lake, when the phone rang. “And all of a sudden, [his friend’s parents] started rushing around saying, ‘Hey, we got to go,’” Jay remembered. He picked up the phone to let his dad know he was coming home. His

friend's father rushed into the room. "Who are you calling?" he asked. "I'm calling my dad," the boy replied. The man grabbed the phone and replaced it in the cradle. "Your dad knows you're coming home," he said. They piled into the car and headed toward Dallas, the parents sitting silently in the front, Jay and his friend in the back, laughing, a five-hour drive home toward unimaginable grief.

Jay's two grandfathers intercepted him at the front door and sat him down on the outside step of their home. An accident had happened to his father, they said. Jay waited, lying down on the stoop, allowing the silence to stretch. Finally he asked, "What hospital is he in? Is he okay?" "He didn't make it," one answered quietly. In a daze, Jay walked inside to a living room crowded with family and friends crying softly and speaking in hushed voices. It was the raw, unbridled grief, not the grandfathers' words, that broke his confusion.

That night, after everyone had slipped away and they were left alone, Jamee and the three children slept in the same bed. "I remember waking up the next day and thinking, Did that really happen? Was this a nightmare?" Jay remembered. He could hear his mom, brother, and sister snuffle and begin to cry. "At the age of twelve, I became an adult overnight," he said. "I just remember going, I'm at a fork in the road. I can either let this define me or I can go down the right path. And I didn't want that to define me."

The two men had never spoken to a journalist about their father's murder, the trial, or the emotional aftermath. They distrusted reporters, with their boom microphones and promises to tell their side of the story—a story that has been hijacked with accusations of racism, ineptitude, and corruption, leaving the victim and his family on the side of the road. They insisted all reporters have an agenda, and as the conversation unfolded, the air in the room vibrated with tension. Finally, I asked: Why did you agree to talk with me?

Jay sighed, a little impatiently. "I want to make him more human," he explained. "I want someone from his family to say what type of person he was, and what was lost. Father, husband, friend, brother, cousin, all the titles that go with all that. I want to make him not...*invisible*."

This is my goal as well. I have written and called his family and friends, knocked on their doors, slipped letters through their mailboxes. All these attempts have met with silence, or anger. I am confined to the memories of a twelve- and a ten-year-old, which can hardly paint a rich portrait of a vibrant adult. It's not how this story should be told. It is inevitable, and it is unfair.

A more fundamental question has dogged me from the start: Who should tell the story of a young Black man accused of murder and fed into the criminal justice system? Do I, a privileged white woman, have any such right? Because, I *am* white and I *am* privileged, raised in a middle-class family that prized education (and faith) above all else. I received a superb education at Williams College and enjoyed a meaningful career as a journalist. Indeed, several people who spent years trying to free the accused man were white, and virtually everyone involved enjoyed some measure of privilege, possessing advanced degrees in law or theology. Perhaps this is understandable. When you are rowing against a strong current, when you are working to overturn a criminal conviction, you are struggling against superhuman forces. Perhaps you need every hand on the oars, no matter what color, to challenge a rival as storied, powerful, and streamlined as the American justice system.

Who should tell this man's story? One day, I hope he will. But in the interim, he has entrusted that remarkable task to me. And of all the many privileges I have enjoyed in my life, this is the finest of all.

Before Jeffrey Young's sons learned of his death, even before their father had been identified at the morgue, Dallas Police Detective Jesus Briseno was assigned to find the killers. Arriving for his shift at downtown headquarters at 7:00 a.m., he learned that he would lead the investigation. It would require finesse and quick resolution to identify a suspect and arrest him: Not every day is an affluent white man beaten and dumped on the streets of one of Dallas's poorest Black neighborhoods. Although he was in his thirties, Briseno had worked homicides for only a little more than a year. This would be the first high-profile case he would lead.

To begin their investigation, Briseno and his colleague drove to the victim's office and met with an investigator from the Physical Evidence Section. The crime-scene investigator snapped photographs, which captured an office that was messy but not obviously ransacked, except for a cigar on the floor and the victim's scattered credit cards. He dusted for latent fingerprints and lifted what were known as "prints of value" from a chrome rail near the victim's desk. He collected several items for processing at the Dallas police lab: the victim's credit cards, driver's license, petty cash receipts—objects that might determine the killer's identity.

From there, they drove to the Dallas Police Department Auto Pound, where they found the 1982 BMW, still wet from rain, in row 14. The forensic investigator photographed the inside and outside of the car and lifted prints of value inside the driver's-side window, the passenger's side, the back windows. He gathered a few items—a checkbook, a tube of lipstick—to test at the laboratory.^[1]

When he finally arrived in West Dallas, Briseno found the residents afflicted with what he says are common maladies in this part of town: blindness, deafness, and amnesia. He knocked on door after door, paying special attention to the houses around the alley where the assailants had parked the BMW and fled. Just the night before, a dozen people had gathered around the body on the street, and later, near the car in the alley. Someone must have seen something. When Briseno quizzed the residents the next day, they shook their heads, claiming they saw nothing, or refused to answer the door. This was the standard reception in West Dallas. "The only thing we could do was pass out our business cards, and hopefully they would call you sometime later on," Briseno remarked years later. They rarely did. Most murders went unsolved.

As a kid, Briseno wanted to be an FBI agent, and later, a Dallas cop, but he was too short for the five-foot-eight-inch height requirement until the police department rescinded it. He grew up in West Texas, in a tiny town called Marathon. "No crime there whatsoever," he said. He was shocked at the rampant violence of Dallas as a tsunami of slayings washed over the city in the late 1980s and early 1990s, triggered by the crack epidemic. One year, he recalled, the city's twelve homicide detectives handled nearly five hundred murders. "It was very difficult," he observed dryly.