

**MURDERS
WITHOUT
BODIES**

MURDERS WITHOUT BODIES

*The Case Files of America's Top
"No Body" Homicide Prosecutor*

Robert J. Sullivan



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Murders without Bodies:
The Case Files of America's Top "No Body" Homicide Prosecutor

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DEDICATION

This work is dedicated to the families of Robert Wiles, Heather Ann MacCrossen, Autumn Traub, Kimberly Mimmovich, C.H. Kindred, and Emon "Moses" Harper. Thanks to very dedicated investigators and America's greatest no body homicide prosecutor Cass Castillo, voices have been given back to the voiceless

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FOREWORD

(by Homicide Detective Kevin Allen)

I was hired by Sheriff Sadie Darnell, Sheriff of Alachua County, in 2013 to investigate cold homicide cases. Sheriff Darnell is the Chair of the Florida Sheriff's Association Cold Case Advisory Commission. I first met Cass Castillo in Tampa, Florida, in 2015, after I found myself completely frustrated by a missing person case, which I knew was a murder. As a matter of fact, the more I looked into the target of the investigation, it appeared he had committed multiple murders as he was the last person seen alive with two other missing persons. He had "relationships" with all three victims and could best be described as the "Poster Child" for domestic violence as he had beat up every girlfriend he ever had. Did I mention he also threatened the victims before they disappeared without a trace?

I had thrown myself "all in" to these cases and spent countless hours interviewing the victims and witnesses and acquiring the reports to someday bring criminal charges against this suspect. I even found his ex-wife. After hearing her story, I was convinced someone had to take this guy off the street as she told me he beat her EVERY day.

Working with a crime analyst at the Sheriff's Office, a PowerPoint presentation was created which memorialized the suspect's criminal history of domestic violence, which emphasized his relationships with our victims before their disappearance(s). After writing my investigative summary, I made an appointment with our local State Attorney, at which time I requested an arrest warrant for the suspect before he killed again. My meeting was with the Chief Prosecutor of Crimes Against Women and Children. I thought his title was perfect for my cases. Was I ever wrong!

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I was shocked when the Chief Assistant State Attorney said no. He also said, “No doubt where there is smoke, there is usually fire, but since there was no body there would be no prosecution.” He said it was mostly a circumstantial case based upon hearsay, and without a body or actual evidence linking the suspect to any of the victim’s deaths, he didn’t believe it was a winnable case. I had been down this road before with prosecutors and would go down this road again soon with this very same prosecutor on another multi-victim case. All I could do was walk away as detectives can’t bring criminal charges, especially murder charges, without the blessing of a prosecutor. These cases were dead in the water as there was no appeal process at the State Attorney’s Office for the police.

Shortly after my meeting, I attended a formal ceremony at the State Capitol in Tallahassee called Missing Children’s Day. I attend this event every year. It is a “remembrance” for families of missing children and is well attended by politicians and law enforcement. I attend to support the mother of one of my long term missing person cases, Tiffany Sessions. I also escort Tiffany’s mother to the stage of the Capitol, where Mrs. Sessions receives a rose from the Governor each fall. There are usually quite a few high ranking cabinet members on the stage along with many sheriffs and chiefs of police. Mrs. Sessions knows many of the VIP’s as she is a vocal advocate for missing persons and sits on an advisory board for the Florida Department of Law Enforcement. Sometimes she introduces me to some very important and influential people.

But on this date, all the stars had aligned, and fate would set a course in motion because of who Hilary Sessions introduced me to that day, Emery Gainey. Emery was the law enforcement liaison to the Attorney General in Florida. After a little chit chat, Emery gave me his business card and suggested I could call him if I ever needed assistance. I didn’t wait to call him as I needed assistance right then, so I explained I was investigating three missing persons cases from three different circuits in the State of Florida with one common denominator. That common denominator was a violent sociopath who truly enjoyed beating up girls and women. I told him there was no doubt in my mind these women were dead, and we may never discover their burial sites. Emery looked at me, and simply said this: “Today is your lucky day.” He explained the Attorney General, Pam Bondi,

FOREWORD

had just hired a prosecutor from Tampa whose specialty was prosecuting homicides wherein the body had not yet been discovered. Emery suggested I contact his newest Statewide Prosecutor, Cass Castillo.

My experience with attorneys, over forty years in law enforcement, was that they are, at times, a bit difficult to work with. A frequent complaint I've had has been their time is more important than mine. They also tend to be elitists as they like to give speeches as if they were Moses speaking *down* to the masses from the mountain. So let's just say I was a bit skeptical and nervous when I drove down to Tampa for my first face to face with Cass Castillo. I was hoping for the best but preparing for the worst. I knew the bottom line here was if Mr. Castillo wasn't interested in prosecuting my suspect, this would be the end of the road for these critical cases. I had sent him my report as well as the PowerPoint documenting all of the victims. It was a pretty impressive presentation and included reports, crime scene photos, hospital records, 911 calls, and handwritten affidavits by the murder victims, before disappearing, pleading for help. Cass had a pretty good understanding of the case(s) when I walked into his office on September 8, 2015.

From the minute I sat down in his office, I knew Cass was the real deal. I had attended hundreds of similar meetings in the past as a police detective. These meetings were basically called a case filing appointment. The detective brings over all the police reports, evidence receipts, witness interviews, photos, autopsy (if homicide) etc. then the prosecutor and detective discuss the merits of whether the case is ready to be charged, or if it required additional investigation. The third option, and this always feels like a defeat to the detectives, is when the prosecutor decides to decline the case right then and there. Cass let me know pretty darn quick Door #3 would not be an option with these cases. He told me in light of the long history of violence against women, the defendant was a worthwhile target for his office and that he would personally do everything in his power to bring him to justice for some, or all the victims. One of his many "Cassisms" and my personal favorites is: "Until the jury decides, justice has not been done." I drove back to Gainesville that day relieved as I now knew the victims had a voice, and that voice belonged to Statewide Prosecutor, Cass Castillo.



America's top no body homicide prosecutor Cass Castillo during trial. (Photo courtesy of the Lakeland Ledger).

INTRODUCTION

A homicide case is considered 'cold' when no actionable leads are produced in twelve months. Over the years, there have been thousands of homicides committed in the United States which have gone unsolved. This has resulted in justice having been denied not only to the victims but also their grieving families. Also, because the murderers were never apprehended, some have very likely gone on to commit additional murders. In 2019 the National Institute of Justice (NIJ) reported that since 1985, there are over 250,000 cold homicides in the United States, with that number growing by 5,000 each year. They estimate that over one-third of those cases are missing persons that are presumably dead, thus, bodiless homicides.

There are innumerable reasons why cold cases are extremely difficult to solve. Too often over the years and even decades, crucial physical evidence has been lost, discarded, or destroyed, and key witnesses have disappeared or died. Because of the very complex nature of such cases, prosecutors are often reluctant to invest the time and reputational risk, necessary to pursue prosecution.

There are inherent challenges in any cold case homicide investigation, but this is especially true in those instances where a body has never been found. Not only does an investigator have to retrieve relevant evidence but has the additional burden of proving the missing person is dead. Some major law enforcement agencies have cold case units, tasked explicitly with addressing crimes that have been rendered cold. On occasion, some agencies will utilize civilian volunteers to review what are often disorganized and voluminous files. Such individuals, more often than not, have previous law enforcement backgrounds and related experience.

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Even if a suspect is identified and seemingly impressive and incriminating evidence is gathered, finding a prosecutor willing to undergo the rigors of a cold case and/or bodiless homicide prosecution is nearly impossible. The fact a case has remained unsolved for an extended period can shy away a careful and career-minded prosecutor. Thus, is it any wonder why most prosecutors abide by the mantra: “No body, no crime.” Enter Cass Castillo, a 40-year veteran prosecutor with a penchant for seeing opportunities rather than challenges.

When Castillo was a student at South Texas College of Law, he fell in love with the power of the law to “do what is fair and just.” According to Castillo, there is nothing more important in the pursuit of justice than arresting, prosecuting, and convicting someone who has wrongfully taken the life of another person. Stetson Law Professor Bruce Jacobs, who is very familiar with the prosecutorial record of Castillo, believes no other prosecutor in the United States has a more impressive record than Castillo in the prosecution of cold case and bodiless homicides. Jacobs warns that murders without bodies are “almost impossible to prove,” but that has never deterred Cass Castillo.

Castillo is a humble man who has not kept track of all of his cases. However, when pressed, he estimates his conviction rate for such cases to be very close to 100%. He believes his role has always been to partner with law enforcement to “right a wrong” no matter how many perceived obstacles may be present. Unfortunately, many prosecutors, because they are elected to office, are only concerned with their win/loss records and are reluctant to pursue the prosecution of such cases. They especially avoid prosecutions with the many impediments that are normally encountered with cold cases and bodiless homicides. Castillo, on the other hand, looks upon these difficulties not as obstacles but as challenges to be dealt with in the pursuit of justice. He regularly challenges prosecuting attorneys and detectives to “dare to succeed.” Statesman and philosopher Edmund Burke warned: “The only thing necessary for the triumph of evil is for good men to do nothing.” Cass Castillo is a good man, and he is doing something.

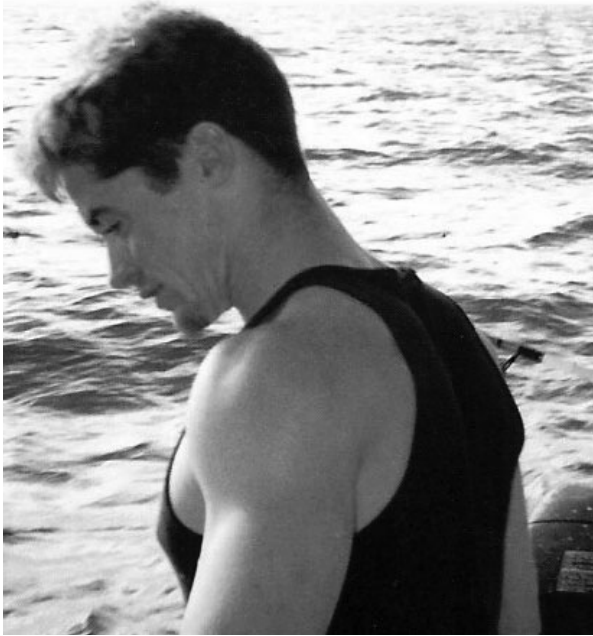
Although he has successfully prosecuted dozens of cold homicides, this book describes in detail the six most important and challenging cold and bodiless murders investigated and prosecuted by Castillo. These true stories are told from those involved through interviews and governmental

INTRODUCTION

reports analyzed and recorded by the author. Each chapter fully covers the case from the initial police investigation, forensic analysis, witness statements, arrest, preliminary court hearings, jury selection, and trial. Readers will get to know the primary investigators, their challenges, fears, and devotion to their voiceless victims. The chapters are not in chronological order but instead placed for specific emphasis on crucial investigative and prosecution tactics, which scaffolds the learning experience of the reader. Fascinating details involving forensic investigations and analyses are weaved throughout each case.

Chapters three and four also detail the appeals process wherein the defendants sought to vacate their verdicts or death sentences. The complete transcripts of the court's rulings are included in those chapters for readers who are interested in the nuances of the sometimes complicated legal issues that arise in no body prosecutions. Finally, the book concludes with an essential chapter dealing with jury psychology, the effectiveness of mock trials, and the psychological strategy Castillo employs when selecting a jury.

Castillo is a controversial figure in the world of jurisprudence. Many defense attorneys and civil rights advocates loathe the idea of prosecuting someone for murder when no body was ever discovered. They lament this practice leads to innocent people being convicted. Readers will be taken into the investigations and read first-hand about the courtroom tactics employed. Upon completing this book, the reader will be able to answer the question as to whether Cass Castillo has imprisoned innocent people or if his actions caused justice to be truly served.



Robert Wiles is a 26-year-old pilot and sales representative for his father's aviation training and maintenance company. Robert has been missing since 2008 and presumed dead. (Photo courtesy of the FBI, Washington D.C.)

CHAPTER ONE

ROBERT WILES

Circumstance, Coincidence, and Cell Phones

BACKGROUND

Robert Wiles is a white male 26-year-old, clean-cut, outgoing young man with hazel eyes and ginger hair. Consistently sporting a weathered yellow cap-visor, he has two passions: Flying and fishing. Robert is the oldest of three siblings, completed high school in Melbourne, FL. and began taking flying lessons as a teen. After graduating from college, his first official job was at his father's highly successful aviation maintenance and flight training company National Flight Service (NFS), where he worked his way up to the position of salesman.

National Flight Service (NFS) was purchased by Robert's father, Tom, in 1972. Headquartered in Ohio, the company expanded into Florida (Lakeland-Linder Regional Airport), Texas, and Canada. NFS specializes in the maintenance and repair of high-end jet aircraft, flight training, and charter services. Robert, who is not married but dates frequently, began at the company in 2005 as an intern and worked his way into the sales position at the Lakeland-Linder Airport facility, a position he found very challenging and rewarding. He enjoyed a great relationship with his very close family but did not see his dad daily as he maintained the business from the Ohio location.

On April 1, 2008, Robert was at his office at Lakeland-Linder airport, probably prepping for an exciting trip the following day to Dallas, Texas. He would be attending a trade show there, something he found very enjoyable. Robert was scheduled to leave the following day at 7:00 a.m., flying

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Southwest Air, and return to Florida on April 5. At 6:59 p.m., Robert sent a work-related email to a client and presumably said “Good night” to his manager Toby Holt as Holt left NFS for the evening. The following morning, April 2, Robert did not make his flight to Texas.

That evening, Tom Wiles was at home in Ohio, contemplating what was for dinner. At precisely 5:59 p.m., he received an email from Robert’s email account (Figure 1.1). The verbatim transcript from that email:

We have Robert. If you hope to see him alive again you must follow our instructions without deviation!

- 1. Do not speak to anyone about this including family tell everyone Robert is ill*
- 2. Do not contact ANY authorities or private parties*
- 3. Obtain an item of luggage of appropriate size and place in it \$750,000 in small unmarked untraceable bills.*
- 4. Place the luggage containing the money in a plain cardboard box and ship it to your lakeland facility with detailed instruction that it is highly confidential materials for a special project that your son is working on. You should instruct someone you trust to place the box unopened in your son’s office.*
- 5. This must be completed by the evening of the 8th. NO EXCUSES! NO EXCEPTIONS!*

Remember we are watching everything and if you think you can outsmart us it will cost your son his life.

Group X

Figure 1.1 Actual transcript of kidnapping/ransom note. The note was emailed to Tom Wiles, father of Robert. (Courtesy of the FBI, Washington, D.C.).

Once the terror and shock of the email’s content was processed, Tom’s initial reaction was to follow the demands precisely. He attempted to contact Robert by calling his cell phone, but the call went to voice mail. Tom then verified with Southwest Airlines, and his contact at the Texas trade show, that Robert never made his flight, nor did he show

up in Texas. It appeared to Tom that Robert was indeed the victim of kidnapping.

Tom notified the local law enforcement authorities who assisted as best they could before referring him to the F.B.I. field office in Ohio. Ever since the passage of the Federal Kidnapping Act 18 U.S.C. s 1201 the F.B.I. has investigative authority over kidnapping cases. Once F.B.I. agents received the preliminary statements from Tom, as well as viewed the ransom demand; they instructed Tom not to attempt to make contact with the kidnapers. They then referred him to the F.B.I. field office in Tampa, Florida.

Special Agent Dan Kelly was assigned the kidnapping/missing person case of Robert Wiles. Kelly was a strategic analyst with a background as a certified public accountant before joining the F.B.I. During a preliminary contact with Tom, it was suggested by Tom that Kelly empower Toby Holt to serve as his liaison to the family and National Flight Services. Holt, the operations manager for NFS, was trusted by Tom and had access to all of the company's employees and facilities.

Stobert "Toby" Holt is a stocky, blond-haired 42-year-old who dressed and lived the part of an executive. He drove a new sports car, enjoyed the finer things in life, and appeared to be the consummate professional. Holt, who was married but had no children, was employed by Tom in 2004 to oversee and manage NFS operations at the Lakeland-Linder airport facility. During his tenure with the company, Holt was able to cultivate loyalty amongst most of the staff at the Lakeland location. It certainly seemed reasonable to honor Tom Wile's request to ask Toby to assist in this investigation and allow him to be of any value he could in the effort to bring Robert home safely.

INVESTIGATION

Under the direction of Agent Kelly, F.B.I. agents from the Central Florida Region converged upon the NFS facility in Lakeland. On behalf of the company, Toby Holt provided permission for the agents to conduct a consensual search of the entire premises. An intensive interior and exterior search of the extensive facility, including Robert's office, as well as all other offices, including Toby's, was conducted. The object of the search was to locate any evidence, trace, latent, or macro-physical, that may be

indicative of a struggle or violent confrontation. It would also be critical to obtain any data, written or electronic, that might be relevant to Robert's disappearance. After multiple days of exhaustive search was completed, agents and forensic investigators consolidated all of the physical evidence they had gathered and submitted it to the FBI crime lab. Agent Kelly was a bit disappointed because the search did not reveal any obvious or apparent evidence that would lead to Robert's location. He would, however, anxiously await lab analyses to determine if any of the submitted items would provide any evidentiary clues.

A kidnapping investigation has two primary objectives: First, to locate and rescue the captive and second, to gather critical and admissible evidence to identify and prosecute the abductor. Agent Kelly was keenly aware of those challenges and was also mindful of the fact every employee of NFS was a potential suspect. He asked and received permission to obtain all employee's personnel files and cell phone numbers. It was also noteworthy that the syntax and writing style of the ransom demand held potential clues of identifying the author. Punctuation was inconsistent and, at times missing, for example, there were also capitalization issues, but it appeared the author was, at the very least, of average literacy.

Apparently, the kidnapper became impatient and was concerned Tom had not read his email (ransom demand) from the previous day. The suspect called Tom from Robert's phone on April 3 at 5:46 p.m. As Tom was unprepared for this call, he allowed it to be sent to voice mail. One minute later, at 5:47 p.m., Tom received a text message from Robert's phone (Figure 1.2).

Mr. wiles, I suggest you read your lakeland email if you ever want to see your son again. We can't imagine why you wouldn't answer a call from your son.

Figure 1.2 Actual transcript of the text message sent to Tom Wiles, the father of Robert Wiles. (Courtesy of the FBI, Washington, D.C.).

Although not formally trained in linguistics, Agent Kelly noted the syntax of the message appeared similar to the ransom note and was comfortable with the assumption they were both written by the same person.

As the kidnapper was becoming impatient, Kelly knew a critical decision was imminent.

Sting Attempt

There are two policies the federal government is known for: First, not negotiating with terrorists, and second, not paying ransom demands. Tom, who was desperate for the safe return of his son, was adamant about meeting the kidnapper's demands. He also had ready access to \$750,000 as he and his wife had recently divorced, and she was relinquishing her share of NFS for the exact same amount. This newly discovered piece of potentially valuable information caused a furrowed brow on the stoic face of Kelly, but nonetheless, a plan had to be devised.

From Tom's cell phone, a text message was sent to Robert knowing the kidnapper possessed his phone. The text indicated the demands were being agreed to, and the ransom would be placed in Robert's office two nights before the deadline in the fashion demanded by the kidnappers. Instead of cash, Kelly utilized coffee! He determined the exact weight of \$750,000 in small denomination bills and filled the luggage with the same weight in coffee. The luggage was placed in a box, and Tom delivered it to Robert's office under the exact rules dictated by the kidnapper. Before the delivery, and while NFS was closed, F.B.I. technicians installed numerous covert surveillance cameras throughout the business that would clearly capture the image of anyone coming or going into or out of Robert's office. There were also cameras installed within Robert's work area.

A 48-hour sting operation was underway at NFS-Lakeland. Agents could remotely view the images from the surveillance cameras and an F.B.I. S.W.A.T. team was staged to execute an immediate and dynamic felony arrest upon whoever retrieved the package. A dynamic arrest is one in which a dangerous subject is ordered to the ground at gunpoint, at which time handcuffs are applied, and the suspect is searched. As some of the surveillance transmitters within the NFS building required batteries, it was convenient that Toby's office was located next to Robert's, and he had been trained by FBI technicians on how to change the batteries. Additionally, Toby was able to easily change the V.H.S. tapes, utilized for video recording.

The deadline came, the deadline past. There was no ransom pick-up and no further contact from the kidnapper. What had become of Robert Wiles?

Suspects Immerge

History has taught investigators when someone is murdered, an excellent place to begin an investigation is first to evaluate the potential involvement of family members. Indeed, there is a family member who is also involved in the business, namely Tom Wiles. However, does a kidnapping make sense for Tom? Agent Kelly must now consider whether or not this was a kidnapping case and also if Robert was a murder victim. It was time to begin to focus a bit more attention on Tom.

Investigators must be extra cautious when dealing with family members who are also included as possible suspects. They are grieving their loss (or conversely, if involved in the crime, hoping they do not get caught), and law enforcement must navigate these sensitive waters. This investigative sensitivity is a skill that can be developed over time and requires considerable emotional intelligence. In addition, the fact Tom had \$750,000 on hand, aroused Agent Kelly's suspicion. Tom had also purchased kidnapping insurance for his employees the year before. Tom explained to Special Agent Kelly this is not uncommon as many companies that have worldwide operations require their members to travel internationally and provide their employees with kidnapping insurance. What appeared highly intriguing, however, was the amount of coverage which corresponded exactly to the amount being demanded by the kidnapper; \$750,000! According to Tom, most employees were aware of this coverage and the amount.

A former member of NFS also quickly developed on the F.B.I.'s radar screen. Steve Lindsey was an extremely gifted aviation mechanic that had been dedicated to the company for years. However, his drinking had become problematic to the point he would regularly report to work intoxicated. Supervisory intervention had not been successful, and his employment was terminated. Approximately a week before Robert's disappearance, Steve appealed to Tom to rehire him. Tom was not willing to take the chance of re-hiring a mechanic with a history of alcoholism,

so he refused the request. After being turned down, Steve was overheard, saying he would like to “break a chair over Tom’s back and breach load the splinters.” Agents sought to interview Steve, but he had vanished from the area and could not be located.

Employers who provide computers and email accounts for their members maintain sole authority over those modes of communication. The employee does not own an email if it is generated from a work-related account; therefore, the employee has no expectation of privacy with their email. After all of the interviews conducted thus far, Agent Kelly had not developed information on anyone having hostility against Robert Wiles. Kelly’s next move would be to analyze the voluminous emails sent to and from National Flight Services from all employees who had email access. He sought and received permission to access the data from Tom and Toby Holt.

Anyone who believes major crime investigations are glamorous, high adventure, and full of adrenaline has certainly never investigated a major crime. Spending days (and nights) reading and analyzing emails and other paper trail documents is arduous, tedious, and frankly, quite boring. Kelly, however, was just the determined and perseverant investigator needed. After pouring over thousands of communications, Kelly began to develop a slight theme: Toby was frustrated with Robert’s work habits.

One month before Robert’s abduction, numerous emails were generated from Toby to Robert, wherein Toby was criticizing Robert’s “over-promising” of services to clients. Many of these and other tersely written emails implied Toby felt that Robert was not qualified for his position. Additionally, emails were discovered between Toby and other upper-level managers wherein Toby was soliciting their internal support to have Robert transferred from the Lakeland operation. It was apparent Toby was not happy with the impression Robert was trying to create that he (Robert) would one day become “heir to the throne.” That prospect, according to email evidence, was entirely unpalatable for Toby. However, those emails do not seem that atypical; they were work product that illuminated many leadership and management discussions. Was any of this paper trail indicative of abduction, or even murder?

Toby Holt was happy to discuss the emails with investigators; after all, he was the go-to helper and liaison to the F.B.I. Toby indicated he was

frustrated that Robert seemed at times to be aloof of the business world and lacked the professional maturity needed for his position. He went on to say that though he, at times, felt disrespected by Robert, he felt Robert was a very engaging and loyal individual. Toby assured investigators he held no personal grudges, and his overall relationship with Robert Wiles was cordial, professional, and enjoyable.

A Cold Chill

A case is considered cold when there have been no definite leads developed in 12 months. There were no further communications with the kidnapper(s), and the laboratory analyses of items collected from the NFS search yielded nothing of evidentiary value. Weeks of poring over emails revealed nothing other than Robert's supervisor Toby was unhappy with Robert's professional performance. Tom may have been a suspect, but even though the \$750,000 coincidence was indeed eyebrow-raising, there was no apparent motive. Steve Lindsey certainly had the motive to hurt the Wiles family, but he had, like Robert, disappeared without a trace. Finally, could Robert have staged this act as an opportunity to simply run-away from his current life? His barber mentioned this possibility to investigators as she alleged that Robert, while getting a haircut, had mentioned disappearing and starting a new life. As he left her that day, he asked her never to repeat what he had told her.

During the fall of 2008, Tom Wiles appeared on Good Morning America, The Today Show, and CNN to plead for his son's safe return. At the beginning of 2009, he and Robert's mother took to the media again to offer a \$250,000 reward for information that would lead to the safe return of Robert Wiles. If Tom were actually involved in his son's disappearance, he was doing an exceptional job of acting. To any observer, Tom Wiles was a completely broken man in deep mourning for his missing son. In the final analysis, the Robert Wiles case had gone cold.

Sometime later, Agent Kelly passed by his supervisory special agent (SSA) in the hallway of the F.B.I. office and small talk ensued. The SSA inquired about the cold Wiles case, and Kelly told him he thinks, with renewed vigor and attention, it could be solved. The SSA encouraged Kelly to create a 'Wiles Task Force' and "solve this thing!" This was a good day

indeed; Kelly had been re-empowered to give the Robert Wiles case another shot and utilize fresh eyes from diverse backgrounds. Kelly recruited homicide detectives from the Florida Department of Law Enforcement, Lakeland Police Department, and Polk County Sheriff's Office. He also hand-picked another F.B.I. agent who had an extensive background in homicide investigations. F.B.I. Special Agent Jim Bucenell was a no-nonsense, flat-top wearing lawman with a square jaw. He was assigned to the Tampa F.B.I. office in Tampa and was often teased that he looked more like a marine drill sergeant than an F.B.I. agent. Before he joined the F.B.I., Bucenell served in local law enforcement, most recently as a homicide detective, so he had a depth of knowledge as well as key local contacts in the area.

Wiles Task Force

Law enforcement task forces are created by a hosting agency, in this case, the F.B.I., in order to address and investigate a critical issue or set of issues. It is generally staffed by officers or agents who have a stake in the outcome, and these officers serve full-time on the task force until the principal issues are resolved or once again comes to a dead end. The benefits of a task force is that it is a force multiplier of officers who are experienced in the particular discipline and dedicated to one task; in this instance, finding Robert Wiles dead or alive.

Agent Bucenell, being the taskmaster he was, set up a "Wiles War Room" in an investigative office that would house the task force. One of the first things he told his fellow members was organizational order needed to be brought to the tens of thousands of investigative documents that had been created regarding Robert's abduction. The records must be analyzed, prioritized, and placed into workable files. The task force's first assignment, one that would last weeks, was to pour over paperwork in the Wiles War Room. It did not take long before this astute band of investigators came upon a lead that certainly needed follow-up!

The case of Robert Wiles' kidnapping generated an electronic foot-print. Yes, part of that foot-print was an email that had already been reviewed. However, what about all of the cell phone activity? Who else had been called from Robert's phone? After-all, one thing was for sure; the kidnappers had used it. Bucenell believed it essential to obtain the

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phone tolls (numbers called and received) from Robert's phone as well as the previously listed suspects: Tom Wiles, Toby Holt, and the missing Steve Lindsey. In order to facilitate this investigative tactic, Bucenell would prepare a federal court order to be presented to the primary cell phone providers to determine which provider held the data. They would then, pursuant to the warrant, provide all phone call data made and received from those phones, including dates and times.

Phone call intelligence would undoubtedly provide some illumination into what occurred on that fateful evening of April 1 and the subsequent days, but were there more telephone-related electronic footprints? Was there a way to determine where those phones were physically located at specified times? Agent Bucenell also constructed an additional court order for cell phone tower activity. Active cellular telephones continuously emit a signal that registers, or pings with the closest cell tower, which can then transmit the signal to the next tower. Could those pings, accompanied by call activity, actually show investigators where Robert's phone was located when the ransom demand text was sent?

Upon retrieval of the cell tower and phone data, the Wiles War Room was crowded with meticulous investigators analyzing massive amounts of paperwork attempting to organize it chronologically. After days of combing over the data, investigators found the corroboration of the phone calls from April 3; one was the call to Tom that went unanswered, and the other was the text. There was also other activity on Robert's phone on the evening of April 3. It appeared the user was accessing Robert's voice mail. Interesting information was indeed being gleaned, but Agent Bucenell was looking forward to digging into the cell tower data. That analysis required the investigators to compare times, dates, and locations with a level of precision that an impatient individual would find unimaginable. However, after much painful and quite boring exploration, something rather intriguing was developing. Investigators were now able to view the route that Robert Wiles' cell phone was traveling after he was kidnapped, and it appeared the second ransom text was sent while in transit.

Agent Bucenell knew there was more. He wanted photo evidence of the cell phone ride. By fortunate happenstance, the majority of the route taken by Robert's phone, and assumedly his abductor(s) was on a toll road. It was again time for Bucenell to construct yet another court order directed

to the Florida Department of Transportation with the goal of accessing the toll camera footage. Adrenaline and anxiousness permeated the Wiles War Room as investigators felt that finally, they were making progress. Yet, they had to wait for the Florida Department of Transportation to provide photo data.

Finally, after a week, investigators received their new batch of data, this time photographic. After hours of analysis of a particular date, April 3, they identified a vehicle that traversed through the toll at the western barrier of the Polk Parkway. At 6:04 p.m., a BMW traveled through that toll, and, at 6:09 p.m., it moved through the next toll at the Central Toll Plaza. Between 6:04 and 6:10 p.m. Robert Wile's cell phone was utilized to access his voice mail. The toll camera captured the front of the vehicle, and it appeared the driver was utilizing a cell phone (Figure 1.3). This access pinged the cell tower at 2226 Peterson Road and then transferred to the tower at 4345 U.S. 92. With this information, it was highly probable that Robert's phone was traveling in that BMW. Upon exiting the toll plaza on U.S. 92, the toll camera captured the rear of the BMW illuminating the license plate: X4D BTL (Figure 1.4).



Figure 1.3 Image from toll camera depicting the driver possibly utilizing a cell phone. The object, believed to be the cell phone, is visible in the subject's right hand. (Photo courtesy of the FBI, Washington, D.C.).



Figure 1.4 Image from toll camera of BMW. Toll cameras capture a photograph of the front and rear of vehicles passing through. The tag number is clearly visible, leading to the identification of the owner. (Photo courtesy of the FBI, Washington, D.C.).

It is essential to realize that pinging technology cannot identify an exact location for a cellular phone. Still, it can generalize a rather specific geographical area about where that phone is located. Again, on April 3, from 6:11 p.m.–6:19 p.m., Robert’s cell phone was utilized to check voice mail. The cell tower on the eastern barrier of the Polk Parkway received these transmissions. At 6:18 pm, the BMW traversed through the eastern barrier toll plaza. Agent Bucenell had to ponder: Was Robert alive and driving a BMW, or was the abductor inadvertently sending an electronic trail? One of the most straightforward tasks now was to check the vehicle’s registration information. However, what was more challenging to digest was the name of the registered owner of the BMW: Stobert “Toby” Holt!

A Substantial Lead

Agents Bucenell and Kelly now shifted their focus onto Toby Holt, the man highly trusted by Tom Wiles. He seemed an unlikely suspect as there appeared to be no motive for his involvement. However, good investigators must follow the evidence. They noted from the photographic data from the toll plaza it appeared the driver of the BMW had a phone up to his ear while traveling through the toll. This exciting tidbit corresponded

to the time someone was checking Robert's voice mail. It was now time to turn the Wiles War Room into a band of investigators set out to learn all they possibly could about the NFS manager.

One of the first orders of business would be to check Toby's phone tolls and cell tower pings. Toby made numerous and consistent phone calls to six different women over an extended period. Could Toby have abundant girlfriends? On the evening of April 1, the last time Robert Wiles was seen, Toby placed calls to four gun shops. Also, on the night of Robert's disappearance, a call was placed to information (411) that was forwarded. At 8:35 pm, Holt called his wife. Bucenell was able to determine, through toll analysis, the phone call to information occurred at 8:41 p.m. and was then directed to a Home Depot store. The cell tower pings were extremely enlightening as well. Toby's phone was pinging the same cell towers as Robert's at precisely the same times over a four-hour period on April 3! That revelation created the strong assumption that Robert and Toby's cell phones were together. The two savvy F.B.I. agents agreed it was time to take a very close look at Toby. Bucenell and Kelly were anxious to interview Toby about these new revelations, but they had more questions at this point than answers. Being the expert interrogators they were, they knew the most advantageous time to conduct an interview was when you had more answers to those questions; time for more gumshoe activity.

The night of Robert's disappearance, Toby made that call to Home Depot on South Florida Avenue at 8:41 p.m., and now, a year later, Bucenell was determined to know why. The agent visited Home Depot and asked for any credit card receipts for all purchases made from 8:41 p.m. until the time of closing at 9:00 p.m. on April 1, 2008. No credit card transactions belonged to Toby Holt. Bucenell then widened his net and asked for all cash receipts during that period. After thumbing through fifty or so, one particularly caught his attention. At 8:54 p.m., someone purchased two rolls of duct tape and a roll of 6 mil plastic sheeting (Figure 1.5). Bucenell pondered, "why would someone need duct tape and plastic sheeting late at night?" "Perhaps to wrap a dead body?"

A photo line-up is a collection of photos, including the suspect. Typically, six photos are utilized, and all of the subjects should be relatively similar in appearance. Of course they must also be of the same sex and

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Figure 1.5 Photograph of the receipt from Home Depot indicating purchase of duct tape and sheeting. These items were purchased just prior to the store closing and within the time frame of the phone call made to the store by Toby Holt. (Photo courtesy of the FBI, Washington, D.C.).

very close in age. A photo line-up was prepared that included Toby's picture and was presented to the cashier working that evening (one year ago). Unfortunately, due to the lapse in time, the cashier was unable to identify from a photo line-up, the person who made the purchase.

Bucenell enlisted the assistance of a friend who worked for the Federal Bureau of Alcohol, Tobacco, and Firearms (ATF) to help him run down the potential leads regarding the calls to the gun shops. An F.B.I. agent needs a court order to view customer documents at a gun store, but an ATF agent does not. The two agents visited the first three gun stores to check for any purchases or transactions that might have been made by Toby Holt. They were disappointed to discover that there was no record of Toby making any purchases. Just because Toby called gun shops did not necessarily indicate that he visited or purchased anything. It was getting late, so the investigators decided to check the last gun shop at a later date.

A few days had passed, and after continuing to analyze phone data, Agent Bucenell decided to take a drive to that final gun shop, Shoot Straight. He was met there by his ATF buddy, and they made the inquiry to the store employee. Again, there were no credit card receipts processed

ROBERT WILES

Cash Register Receipt		Shoot Straight Tampa				
SALE		3909 N. US Hwy. 301				
Stobert Holt		Tampa, FL 33619				
Apollo Beach, FL		(813) 627-8550				
813-349-2210						
Clerk: 04JG	Posted: 4/25/2008 5:34:43 PM	Tran #: 15135	Reg #: 3	PAGE 1		
Item #	Description	Price	Ship Qty	Ext Disc	Net Sale	
34224637	SIG BARREL 229 40SW BLK	189.99	1	0.00	189.99	
DEPOSIT	DEPOSIT	-206.51	1	0.00	-206.51	
Cash Register Receipt		Shoot Straight Tampa				
SALE		3909 N. US Hwy. 301				
Stobert Holt		Tampa, FL 33619				
Apollo Beach, FL		(813) 627-8550				
813-349-2210						
Clerk: 36RJ	Posted: 4/21/2008 5:25:41 PM	Tran #: 5231	Reg #: 4	PAGE 1		
Item #	Description	Price	Ship Qty	Ext Disc	Net Sale	
DEPOSIT	Deposit 40cal barrel for Sig 2	193.00	1	0.00	193.00	
				Subtotal	193.00	
				Sales Tax 1	13.51	
				Total	206.51	
				CASH	300.00	

Figure 1.6 Receipt from the gun shop “Shoot Straight,” indicating the purchase of an aftermarket barrel. This gunshop was called by Toby Holt, and he is named as the purchaser on the receipt. Experts would later testify in court that it is uncommon to replace the barrel of a pistol. (Photo Courtesy of the FBI, Washington, D.C.).

in the name of Toby Holt. A search then commenced for a year’s worth of receipts for items paid in cash. Just as Bucenell was beginning to think this too was a dead end, there it was: A receipt and record of an item sold to Stobert Holt. On April 25, 2008, Toby purchased an after-market replacement barrel for his Sig Sauer .40 caliber pistol (Figure 1.6). Once again, Agent Bucenell had a moment of pondering, “why would you buy a replacement barrel?”

One Strange Case

Turning back the clock for approximately one year, Agent Kelly had conducted an informal interview with Toby Holt. Informal interviews are utilized to glean necessary background information and are not usually targeted towards a particular suspect. The date was April 15, 2008, and

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Kelly had asked Holt, as he had asked Tom Wiles on a prior occasion if he owned any firearms. Holt readily admitted he owned numerous guns, and they were kept at this home. Asked if he had any weapons in his vehicle, the BMW, Toby stated he did not. Agent Kelly asked if Toby would consent to a search of the BMW, and he complied. A consensual search is when an individual waives their right to search without a warrant for a particular instance. F.B.I. Special Agent Charlotte Braziel then conducted a search on Toby's vehicle, and no weapons were found in the vehicle or the trunk. Agent Braziel, known to always think outside the box, decided to also look under the hood. There, wrapped in plastic (Figure 1.7) and contained in a black case, was an unloaded Sig-Sauer .40 caliber handgun (Figure 1.8). How on earth would Toby explain this?

Toby Holt was an exceptionally well-spoken and confident man; he simply is a hard individual to corner. When asked the obvious question of why would one have a gun under the hood of his car, he first replied he did not remember placing the weapon there. Regardless, Toby was not a



Figure 1.7 Weapon discovered by Agent Braziel under the hood of Toby Holt's BMW. The weapon was suspiciously wrapped in plastic. (Photo courtesy of the FBI, Washington, D.C.).



Figure 1.8 Sig-Sauer .40 caliber handgun from under the hood of Holt's BMW. Holt admitted to owning the weapon and stated that he forgot that he placed it under the hood. (Photo courtesy of the FBI, Washington, D.C.).

convicted felon and thus legally possessed that firearm. Three days later, Agent Kelly again asked Toby about the weapon, and he stated he kept it in his car for protection. He continued to explain his job required frequent trips to “sketchy” areas of Miami, and he needed it for security, but under the hood? The gun was not impounded. Now, ten days after that interview and discovery of the gun, Toby buys an aftermarket barrel replacement, can this case get any stranger?

In the world of forensic science, the most crucial part of a firearm is the barrel. The inside of a barrel contains rifling, which is an arrangement of spiral grooves that cause the projectile to spin as it leaves the barrel. During the exiting of the barrel, the projectile becomes marked by those spiral grooves. When a spent projectile is recovered, those striations can be matched to the barrel that it passed through; this is ballistic evidence. Additionally, if someone is shot at close range, the vacuuming effect of the shot emanating from the barrel can cause skin, blood, or other bodily evidence to be sucked back into the barrel; this is known as the blow-back effect. So, if Toby's Sig-Sauer was used to kill Robert Wiles, any evidence from that barrel had been eliminated by the aftermarket purchase. It was now time to schedule another interview, or more of an interrogation, of Mr. Toby Holt.

Alibi's and Coincidence

As expected, Toby showed up for his interview with his typical swagger and confidence. Agents Bucenell and Kelly did not advise Toby of his Miranda warning as this was to be a non-custodial and completely voluntary interview. Miranda warnings are required when a suspect is in custody or feels that he or she is not free to leave the interview; neither of these two elements applied. After the requisite niceties and ice-breaking conversation concluded, the agents asked Toby about the purchase of the aftermarket barrel. Toby advised he had shot so many cheap range bullets through that weapon he feared he had damaged the barrel, so he decided to replace it. He advised it was just a coincidence that he replaced it within ten days of the agents discovering the firearm under his hood. When asked if Toby was aware NFS had a kidnapping insurance policy, he stated he was. Bucenell asked him if he knew what the policy value was, and he replied, "\$750,000." Bucenell nodded to Toby and asked if he thought it strange this was the exact amount of the ransom demand, and Toby replied it was certainly coincidental.

Toby was asked why Robert Wile's cell phone would be riding around in his BMW. Toby explained this could also be coincidental as perhaps the kidnapper happened to be traveling in the same area at the same time. Toby did admit the photos from the toll cameras, in fact, depicted his car with him behind the wheel. He, however, denied being on the phone during the frontal photo; he stated he was drinking a soda, which may have appeared to be a phone. Toby admitted to calling Home Depot at "around 8:45 p.m." He stated he made the call to inquire if the store carried window blinds as he needed to replace the blinds in his office. He denied going to Home Depot that evening and further denied purchasing Duct Tape and plastic sheeting. He also freely admitted to the investigators he currently entertains at least six girlfriends.

Agents Bucenell and Kelly then directed more specific questions regarding Toby's whereabouts on the evening of Robert Wiles' disappearance. Holt's answers indicated a surprising level of particular recall. He stated he last saw Robert at 6:30 p.m. on April 1 as he (Toby) left NFS. He then drove to Hooters restaurant, arriving at 6:45 p.m., where he consumed two beers (Michelob Ultra) and paid with cash. He left Hooters

after approximately an hour and then drove around parking lots, “looking for women.” No women were to be found, so he proceeded to the Outback Steakhouse, where he arrived at 9:00 p.m. Toby had dinner, paid for his dinner with a credit card, and left the Outback Steakhouse at 10:00 p.m. proceeding to the Swann Hotel where he rented a room for the night. The reason for staying at the hotel, instead of going home to his wife, according to Toby, was so he could spend some time with girlfriends. Toby stayed at the hotel for the remainder of the evening. Once again, the two F.B.I. agents were faced with more questions as Toby’s responses and claims of coincidences did not seem to add up. They concluded the interview and prepared for their next investigative step: Confirm or disprove Holt’s alibi.

As investigative luck would have it, the Hooters Restaurant had surveillance cameras in the parking lot that captured everyone who entered and exited the lot and the premises. The agents asked for permission to view the surveillance footage from April 1, 2008, specifically from 6:00–9:00 p.m. Neither Toby nor his BMW entered the restaurant or parking lot during that time frame. The next stop for the agents would be Outback Steakhouse. Bucenell asked for permission to view all credit card transactions from April 1, 2008. The management complied but advised it would take some time, a few days, to accumulate the documents as so much time had passed. That was fine as Bucenell had other paperwork to sift through at the office as he had subpoenaed Toby’s credit card transactions for the time frame in question, and those documents had arrived. What Bucenell did not find was not shocking; there was no credit card transaction from Outback Steakhouse on April 1. This non-find would be enough to convince any investigator that Toby was lying, but Bucenell was not any investigator; he was a tireless and methodical agent that left no stone unturned. When the records became available, he responded back to Outback and hand-searched through them; again, no receipt from Toby’s credit card was found.

Agent Bucenell could finally corroborate something Toby had told him; he actually did check into the Swan Hotel. Records from the hotel confirmed Toby checked in at 9:04 p.m. The Swan also employed surveillance cameras, and Toby was captured on video checking in. Video footage also showed Toby leaving the hotel at 9:13 p.m. and not returning until 11:58 p.m. Toby’s time was entirely unaccounted for from 9:13–11:58 p.m. on the evening Robert Wiles was abducted! Bucenell also surmised his

time was suspect from 6:30 p.m. through 9:04 p.m. as his Hooters and Outback alibis had been compromised as well. Agents Bucenell and Kelly had come to their investigative conclusion: Toby Holt was the only viable suspect in the kidnapping and murder of Robert Wiles. They must conclude Robert was murdered if Toby committed the kidnapping.

After Toby checked out of the Swan Hotel, his life became normal again, and his time could easily be accounted for. He returned to work, made work, and girlfriend phone calls and conducted work-related emails, all verified by investigators. He indeed was not leading a life indicative of holding someone captive. Investigators, particularly those dealing with homicide, develop theories of what could have happened based upon evidence and even the investigator's intuition. Theories are not proof, but they do provide a framework for prosecutors. As Bucenell's investigative theory was developing, he became confident Robert was murdered, and his body disposed of during the evening hours of April 1, 2008. Now, his job was to convince a prosecutor.

Prosecutorial Push

As the Wiles case was classified as kidnapping, and two of the primary case agents were members of the F.B.I., it was proper protocol to present the case to the United States Attorney's Office. If a kidnapping, which is a federal crime, results in a murder, which is primarily a state crime, the federal government can also prosecute the killing. The presentment to the Assistant United States Attorney (AUSA) was painful at best. Many questions were raised, including "How do you know this fella is actually dead?" Additionally, the AUSA was not the least impressed with the multitude of coincidences the case against Toby Hall was built upon. Kelly and Bucenell knew they were wasting their time and finally asked the AUSA if he was providing a declination, which is an official refusal to prosecute; the answer was affirmative.

Bucenell had heard there was an assistant state's attorney in Lakeland who was very aggressive and willing to take on difficult cases. He was ready to take his work to any prosecutor who was prepared to see what he saw, albeit mainly based on coincidence, that Toby Holt was a murderer. After a few phone calls, Bucenell learned the name of that prosecutor and

set up an appointment for three days out. He spent those days carefully prepping his voluminous investigative case file, knowing he had much convincing to do.

When Agent James Bucenell walked into the office of Cass Castillo, he was surprised that the aggressive pit bull-like prosecutor he had heard about did not present himself that way or depict that image. He was taken aback by the soft-spoken, impeccably dressed gentleman wearing scholarly round glasses. Cass sat with Bucenell at a conference table, and the two spent numerous hours dissecting the case with Bucenell on the receiving end of countless questions and challenges. Finally, Cass inquired of the rugged F.B.I. agent, “do you morally believe Toby Holt committed murder?” “Yes Sir, I certainly do” was the reply which was followed by “well then Jim, we have some work to do.” Cass told Bucenell that he would carefully continue to review the case, but at this point, he was a bit skeptical. It was decided they would meet again, over lunch, in two days.

At the lunch table and over relaxing conversation, Bucenell was getting the dreaded feeling in the pit of his stomach that Cass was prepping him for disappointment. Although Cass was a relentless prosecutor who embraced challenge, he was also pragmatic and would not take a case that had no discernable path to conviction. Bucenell decided to attempt one last hail Mary and pulled out the photo of Toby, in his car, traveling through the toll booth while Robert Wiles’ phone was pinging the corresponding tower. As Cass looked at the photo, while taking a sip of soup, his eyebrows raised. He carefully returned his soup spoon to the table, wiped his mouth with the cloth napkin, and replied: “He’s dead.” Bucenell responded, “Ah, yeah Cass, I kind of assumed that Robert is dead.” Cass then handed the photo back to the assertive F.B.I. agent and continued, “No, Toby’s dead ... I’ll take the case!”

More Investigation Needed

Castillo was not only a prosecutor but also had a keen predilection for investigation. He felt the case against Toby had a few additional stumbling blocks that needed Bucenell’s attention. First, prove Robert Wiles was dead. Next, establish the one person with a clear motive for this crime,

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Steve Lindsey, was not involved. Finally, invite Toby Holt for an additional interview wherein he is asked for a handwriting sample. Agent Bucenell decided to attack the Cass grocery list in that exact order.

Bucenell assembled impressive facts that indeed were indicative Robert Wiles was deceased. He documented the last time Robert's cell phone was utilized was by the kidnapper on April 3, 2008, well over a year ago. Neither Robert's bank account or credit cards had any activity since before April 1. Robert had been a bit of a social networker, both on My Space and the newly created FaceBook. However, he last posted on both, before April 1 and had not since. Robert's passport had not been utilized since his disappearance, and police had no record since then of having any contact, such as a traffic stop or crime reporting with him. Robert's Social Security number was run through governmental databases, which indicated he had not been legally employed since his disappearance. Certainly, a reasonable person could deduce that Robert Wiles was no longer with us.

Now came the problem of the missing alcoholic mechanic, Steve Lindsey. Through a social security check, Bucenell learned Lindsey had succumbed to lung cancer six months after Robert's disappearance. So, what evidence could exist that Lindsey had nothing to do with the kidnapping and murder of Robert Wiles? Bucenell had a hunch: How well did Lindsey write? The agent went back to his mammoth case file and retrieved copies of Lindsey's work-related emails discovering Lindsey was barely literate. Steve Lindsey was a terrific mechanic, but he wrote like an elementary schooler. Bucenell determined there was no need to employ a forensic document's examiner as it was apparent the well-written ransom texts were probably not authored by Lindsey; certainly, this conclusion should satisfy Cass and a jury.

Cass's item number 3 was to once again invite Toby for an interview. Bucenell phoned Toby, and the interview was arranged. This time, however, Toby was probably slightly more protective as Bucenell would also be requesting a writing sample as well as DNA. Although no suspect DNA was discovered at NFS, and there was really no crime scene, Bucenell has been known to scrutinize every aspect of a case even if it may be lacking physical evidence. Toby arrived at the interview with prominent Tampa Defense Attorney Stephen Crawford. Bucenell

collected, with the permission of the attorney, a buccal D.N.A. swab from Toby's cheek. He also had Toby write out a prescribed narrative in order to evaluate his writing ability, syntax, and skill. The inquisitive F.B.I agent immediately noted, as he already knew, Toby wrote very well. The questioning brought about no new revelations; Toby liked Robert, last saw him at NFS on April 1, and claimed he had nothing to do with his disappearance. When faced with the cell tower data, Home Depot, toll photos, and the remaining evidence, Toby again re-iterated it was all coincidental. After Toby and his attorney left the interview, Bucenell phoned Cass and provided his investigative update; it was now time to move forward.

Prosecution Preparation

Both Cass and Bucenell knew the successful prosecution of Toby Holt would not be easy, but Cass was adamant that "this case deserves to go to a courtroom." However, the parting words of Attorney Stephen Crawford slightly hounded Bucenell. As the attorney and Toby were leaving the last interview, Crawford warned: "You will have a difficult time proceeding with this case without a body; Wiles is probably alive and spending his endless money in the Caribbean." It appeared Crawford assumed since Tom Wiles was a millionaire, Robert also enjoyed an endless stream of cash.

A grand jury was impaneled in Bartow, Florida, to consider the case against Toby Holt. A grand jury hears only evidence presented by prosecutors. The suspect, nor his or her attorney, is present, which has led many attorneys to joke that a grand jury would indict a ham sandwich if the prosecutor so desired. The grand jury issued a two-count indictment: 1) Murder in the 1st Degree, and 2) Kidnapping. A warrant was then issued for the arrest of Toby Holt. Through investigation, Bucenell knew Toby was on a business trip to South America and when he would return. Upon Holt's return to the Orlando Airport, Bucenell approached and arrested the stoic and calm Toby Holt.

During Holt's first appearance before a judge, his flamboyant lifestyle was revealed as a facade. Toby was living well beyond his means and had accumulated an excessive amount of debt; he certainly could not afford

the continued services of Stephen Crawford. The judge appointed Polk County Assistant Public Defender Howardene Garrett. Garrett was very skilled and adept at handling capital crimes and would undoubtedly prove to be an able opponent of Cass. As Holt was facing a charge that carried a maximum of life imprisonment, Cass was not seeking the death penalty; the judge ordered Toby confined without bond.

As the case *State of Florida v. Toby Holt* was anything but typical; national media descended upon the rural venue. The Merriam-Webster Dictionary defines circumstantial as “something that is not drawn from direct observation of a fact in issue but does afford a basis of reasonable inference.” Likewise, it describes coincidence as “an occurrence of events that happen at the same time by accident but seem to have some connection.” The media was fascinated that a murder case was being prepped for trial wherein there was no body, no crime scene, no DNA, no confession, no witnesses, and no other direct evidence tending to prove the guilt of the accused. The realm of coincidence and circumstance is the world Cass thrives in. He believed that it was extremely difficult for a defense attorney to disprove circumstantial evidence. They cannot cross-examine it; they cannot impeach its credibility. Yet, Howardene Garrett was not intimidated.

Garrett filed for discovery wherein she and her team would receive all documents, reports, and evidence possessed by the prosecution. She also spent many hours interviewing the prosecution’s witnesses through depositions. As her investigation progressed, Garrett kept awaiting the seminal or definitive finding the prosecution would hang their hat on. She assumed there would be a significant piece of evidence that Cass would believe could get him past the reasonable doubt threshold needed for conviction; however, that piece was non-existent. Garrett was not at all impressed or intimidated by Cass’s decision to prosecute this case, but she was well aware of his considerable skills. Would Cass attempt to present a completely circumstantial case?

In February 2011, Cass and Bucenell were preparing for trial. Three years had passed since the disappearance of Robert Wiles, a period not uncommon for a capital crime to finally come to trial. The jury had been picked (see the final chapter on jury psychology), and Cass’s opening statement would begin the following morning (Figure 1.9). The previous



Figure 1.9 Cass Castillo (left) collaborating with co-counsel during jury selection of the Toby Holt trial. The selection of proper jurors is even more critical when the body of the victim has not been recovered, and the case is built upon circumstantial evidence. (Photo courtesy of *The Lakeland Ledger*).

day, as was Cass’s ritual, he visited the empty courtroom by himself and paced about in silence. The venerable prosecutor was visualizing what would occur the next day.

THE TRIAL

During the opening argument, Cass told the jury this case was “exclusively circumstantial.” He continued with his theory that Holt concocted the kidnapping after he murdered Wiles to divert attention. Garrett countered that the case was extremely lacking corpus delicti or concrete evidence of a crime, such as a body. She promised, during her opening argument, there were indeed answers for all of the prosecution’s circumstances and coincidences, and by the completion of the trial, they the jury must acquit. Garrett acquiesced to the fact Wiles was indeed missing and potentially dead. What she refused to stipulate to was that Toby Holt had any involvement in either. She concluded her opening “The case against Toby is a house of cards created with assumptions and speculation.”

Cass called his witnesses: FBI Agents Bucenell, Kelly, Braziel, and numerous expert witnesses who would testify to ballistics, and cell tower tracking technology. Tom Wiles, flanked by his daughters (Figure 1.10),