

J'accuse: this man must not languish in jail

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Like Alfred Dreyfus before him, Eddie Gilfoyle is in prison for a crime he did not commit. He should go free now

On June 9, 1899, Alfred Dreyfus boarded the cruiser *Sfax* and began the long journey home to France from captivity in Devil's Island. He had spent almost five years in prison, almost all of it in silence, forbidden to speak or be spoken to. And if it hadn't been for the extraordinary efforts of his brother Mathieu, and of one honest army investigator, he would surely have died there in silence too.

Dreyfus was returning because the case against him — that he was spying for Germany — had now collapsed. His conviction had been secured by secret documents pointing to his guilt that had been given directly to his judges and not been shown to him or his lawyer. Now these documents had been shown as prosecution forgeries, and the forger had killed himself.

The handwriting evidence that convicted him — always dubious, controversial even at his trial — had been utterly discredited. The letter full of French secrets had, it was now obvious, been sent by someone else, and the culprit had fled. There was nothing left of the case against Dreyfus. His innocence had been proven.

Yet two months after his return, a military tribunal found him guilty again. This time with “extenuating circumstances”, whatever they were. The President of France saw this as sufficiently embarrassing that he pardoned Dreyfus. But it was a full six years later before Dreyfus's conviction was finally reversed and he was restored to the army as a major.

This second, entirely ridiculous conviction of Dreyfus is a wonderful example of one of the most striking features of miscarriages of justice. When all the evidence lies in tatters, when the case for quashing the conviction has been clearly made, when no one can any longer properly doubt that an injustice has been done, still the conviction persists. The tenacity with which the legal system and those responsible for the original case hold to their story and to their insistence that they were not in error is astonishing. Doubt it? Then read the history of the Birmingham Six, or the Guildford Four, or note that even now the conviction of Timothy Evans for murder stands, decades after the discovery that the main prosecution witness was a serial killer living in the same house. Or read the history of Eddie Gilfoyle. A man who languishes in jail after two failed appeals even though the case against him — one that was, in my view, always hard to credit — has now little left to it. Eighteen years ago in June, Eddie Gilfoyle's wife Paula was found dead in their garage in the Wirral. She was hanging from a beam, with a ladder behind her. There was no sign of a struggle and she had left an anguished suicide note telling her husband not to blame himself. Merseyside Police who attended the scene were confident it was a suicide, and were, as a result, quite cavalier with the physical evidence. But over the next few days the police began to think they had got it wrong. Paula's friends said she had shown no signs of depression and wouldn't have killed herself when she was in the last month of pregnancy. A psychology professor backed up their speculation that Gilfoyle had tricked her into writing a note for a course he was attending. Professor David Canter said that the note showed signs of being faked. So was born the bizarre prosecution theory that Gilfoyle had tricked his wife into writing a suicide note, and had then somehow fooled her into climbing a ladder and had then put a noose round her neck without provoking a struggle. And this theory carried the day at Eddie Gilfoyle's trial, sending him to jail for life. The more obvious idea, that Paula was disturbed, and that she mounted the ladder herself, failed to persuade the jury.

Why did this story prevail? Three pieces of evidence were absolutely crucial. The first is that it would not have been possible for Paula to ascend the ladder at that stage in her pregnancy. She would then have been too short to throw the rope over the beam. Video of a pregnant policewoman of similar height attempting the feat and failing was used to emphasise the point. The second thing to count against Eddie was evidence that the time of death would have allowed him to be home from work in time to kill Paula. And finally there was evidence that pregnant women as near to birth as Paula simply don't hang themselves. Most powerful of all, however, was something that wasn't really proper evidence at all. It was simply Paula's friends saying that they couldn't imagine her killing herself. Such was the weak, rather unlikely, body of evidence that sent Eddie Gilfoyle to prison. It is surprising that it ever resulted in a conviction. But that he should still be in jail now is a scandal.

Just as with the Dreyfus case, the evidence against Gilfoyle has collapsed. Police notes from the scene were not available at the trial. For years, even when this newspaper pushed hard, the police said they couldn't find them. Now they have been found and show the doctor thought the time of death to be a moment when Eddie was still at work.

The video with the pregnant policewoman has been revealed to have employed a different rope, floppier than the real one, and less easy to throw — giving a misleading impression that Paula couldn't have thrown it round the beam. The — almost quaint — idea that pregnant women don't hang themselves has been shown up as nonsense. And Professor Canter, after years of study, has bravely returned to the case and concluded that the suicide note was definitely written by Paula unaided.

Eddie Gilfoyle is not guilty. Yet still, weeks from his 49th birthday, he languishes in jail. In his fine book, *Why the Dreyfus Affair Matters*, Louis Begley tells how the captain's conviction tore France apart. And he makes a grand comparison to Guantánamo Bay.

The case of Eddie Gilfoyle lacks this political majesty. And I do not make grand comparisons. But in the end Dreyfus was just an innocent man wrongly imprisoned and crying out for justice, and so is Gilfoyle. He is a test of our capacity to admit error and to allow truth to triumph. Where are the legal lions who will free this man?