



November 7, 2008

DADDY'S LITTLE GIRL -- WHO KILLED RILEY FOX?

JOHN STOSSEL (ABC NEWS) (OC) Tonight, we take you to a small town 60 miles southwest of Chicago. Here, a little girl named Riley Fox was sleeping on her living room couch, then she disappeared.

ELIZABETH VARGAS (ABC NEWS) (OC) The tight knit community was devastated, especially when a most unlikely suspect confessed. David Muir with the crime, the confession and one tiny clue that police missed, and a more disturbing question, did they miss it on purpose?

KEVIN FOX (RILEY'S FATHER) Wilmington, it was a great place to grow up.

DAVID MUIR (ABC NEWS) (VO) For Kevin Fox, a drive through Wilmington, Illinois is bittersweet.

KEVIN FOX (RILEY'S FATHER) I've had so many good memories here, but one really bad one.

DAVID MUIR (ABC NEWS) (VO) That bad memory begins early on the morning of June 6th, 2004 in this modest house where Kevin was living with his wife, Melissa.

MELISSA FOX (RILEY'S MOTHER) We were just a happy, young family.

DAVID MUIR (ABC NEWS) (VO) They had two children, 3-year-old Riley and 6-year-old Tyler.

DAVID MUIR (ABC NEWS) (OC) So Tyler came into your room?

KEVIN FOX (RILEY'S FATHER) Mm-hmm.

DAVID MUIR (ABC NEWS) (OC) And woke you up?

KEVIN FOX (RILEY'S FATHER) Yeah. He shook my leg and said, "Dad," and I said, "What's up, buddy?" And he said that, he said, "Dad, Riley is gone."

DAVID MUIR (ABC NEWS) (VO) Melissa was away that weekend, taking part in a walk for breast cancer in Chicago. So Kevin began searching for Riley himself. He thought perhaps Riley had wandered next door to play with a friend or maybe she was hiding in the bushes, but he couldn't find her.

KEVIN FOX (RILEY'S FATHER) So then I started panicking. And then I kept telling myself, like, "This can't be."

DAVID MUIR (ABC NEWS) (VO) Forty minutes later, Kevin called the police.

KEVIN FOX (RILEY'S FATHER) I woke up this morning and my daughter's nowhere, nowhere to be found.

DISPATCHER (MALE) How old is she?

KEVIN FOX (RILEY'S FATHER) Three.

DISPATCHER (MALE) You're kidding me.

DAVID MUIR (ABC NEWS) (VO) The police began searching, too, but found nothing.

KEVIN FOX (RILEY'S FATHER) I would never, ever in a million years wish for any parent to go through it.

DAVID MUIR (ABC NEWS) (VO) Melissa found out about her missing little girl when she called Kevin to check in on the family. By the time she rushed home, nearly the entire town had already heard that little Riley was missing. How did people respond?

MELISSA FOX (RILEY'S MOTHER) Everybody was so supportive. I mean, I still, I can't thank everyone enough. It was really unbelievable.

WILMINGTON RESIDENT (FEMALE) We're a town that comes together in happiness and sadness.

DAVID MUIR (ABC NEWS) (VO) The turnout was a testament to just how close this community is. Kevin and Melissa Fox grew up here. They were high school sweethearts.

MELISSA FOX (RILEY'S MOTHER) I met Kevin my freshman year, his junior year, at a volleyball game.

KEVIN FOX (RILEY'S FATHER) Yeah, actually, she called me that night and, to ask me to homecoming.

DAVID MUIR (ABC NEWS) (VO) Kevin's brother, Chad, left Wilmington to become an investment banker in Chicago. Kevin stayed back home, becoming a young father and working as a painter.

CHAD FOX (KEVIN'S BROTHER) My brother's always maintained that all-American kid, you know, happy-go-lucky type of attitude.

DAVID MUIR (ABC NEWS) (VO) When Tyler and Riley came along, Kevin said he found his true calling, fatherhood.

KEVIN FOX (RILEY'S FATHER) I feel like that's what I was put on this earth to do, honestly. That's my joy in life.

DAVID MUIR (ABC NEWS) (VO) Like so many fathers, Kevin doted on his precious daughter.

KEVIN FOX (RILEY'S FATHER) Big brown eyes, the way she'd look at you, and her smile. She just made your heart melt.

DAVID MUIR (ABC NEWS) (VO) Little Riley served as the flower girl when her uncle Chad got married. As she walked down the aisle of the church, she didn't stop, running straight into the arms of the best man, her father, who was standing in the front of the church.

KEVIN FOX (RILEY'S FATHER) It was fun.

DAVID MUIR (ABC NEWS)(OC) Went straight to her dad, right?

KEVIN FOX (RILEY'S FATHER) Yeah.

MELISSA FOX (RILEY'S MOTHER) Yeah.

KEVIN FOX (RILEY'S FATHER) Yeah.

DAVID MUIR (ABC NEWS) (VO) It was the last time the family would be photographed together. On the night before Riley disappeared, the sequence of events would prove pivotal. With Melissa at that walk, Kevin made plans to go to a street festival in Chicago with one of Melissa's brothers. He would leave Tyler and Riley with his mother-in-law.

KEVIN FOX (RILEY'S FATHER) And then we went to the festival and stayed there for a while, then went back to Wilmington.

DAVID MUIR (ABC NEWS) (OC) I know that you were partying somewhat. I mean, how, how big of an issue was alcohol that night?

KEVIN FOX (RILEY'S FATHER) Oh, it wasn't a big issue at all. You know, I had some beers. You know, I was definitely not wasted.

DAVID MUIR (ABC NEWS) (VO) Kevin said he couldn't drink too much because he needed to pick up the children. It was about 1:00 in the morning when Kevin returned home with Tyler and Riley both fast asleep. He put Tyler on the chair in the living room and Riley on the couch, covering her with that yellow blanket. The kids were sleeping in the living room.

KEVIN FOX (RILEY'S FATHER) Right, yeah.

DAVID MUIR (ABC NEWS) (VO) And you went to bed?

KEVIN FOX (RILEY'S FATHER) Yes.

DAVID MUIR (ABC NEWS) (VO) And what's the next thing that you remember?

KEVIN FOX (RILEY'S FATHER) Tyler waking me up and said that Riley was gone.

DAVID MUIR (ABC NEWS) (VO) It was not long before the rest of the family would learn Riley was missing. Uncle Chad and his new wife were racing to the scene.

CHAD FOX (KEVIN'S BROTHER) And when we pulled into town, there were searchers out in the, out in the woods, you know, and I knew it wasn't very good at that point.

DAVID MUIR (ABC NEWS) (VO) At about 3:30 that afternoon, volunteers Kristine Lopez and Lisa Romano were searching along the banks of this creek, a two and a half mile drive from the Fox house.

VOLUNTEER (FEMALE) I can't even explain it. I just had this really bad feeling about this place, and that's why I came here.

VOLUNTEER (FEMALE) We went in a little ways, and the brush started getting thicker.

DAVID MUIR (ABC NEWS) (VO) And then Kristine noticed what she first thought was a bag of groceries in the water.

VOLUNTEER (FEMALE) And that's when I saw her. She was face down in, she was face down in the creek.

DAVID MUIR (ABC NEWS) (VO) The police were called immediately. But it would be some time before Kevin and Melissa would learn of their daughter's death. Police brought them in for questioning before they got the news.

DAVID MUIR (ABC NEWS) (OC) Do you remember the moment that you found out?

MELISSA FOX (RILEY'S MOTHER) I think we just both collapsed. But it was just crushing. I couldn't even imagine what life would be like without her.

KEVIN FOX (RILEY'S FATHER) I think, like, I punched the wall a couple of times, the black wall. I didn't wanna believe it.

DAVID MUIR (ABC NEWS) (VO) It would be hard to imagine a grislier crime. Riley had been sexually assaulted, bound and gagged with duct tape and then drowned. Through their grief, the family resolved to find the killer.

MELISSA FOX (RILEY'S MOTHER) I wanna do what I can for Riley. She's not here anymore, but she's still my daughter.

DAVID MUIR (ABC NEWS) (VO) But what Kevin and Melissa did not know was that police were beginning to suspect that the killer was closer to their home than anyone ever imagined.

COMMERCIAL BREAK

VOLUNTEER (MALE) We found her, so won't be searching for - her anymore today.

REPORTER (MALE) Neighbors try to comfort Melissa Fox tonight, but there's no...

REPORTER (FEMALE) Their hotline...

REPORTER (FEMALE) Hundreds of volunteers searched...

DAVID MUIR (ABC NEWS) (VO) The abduction and murder of 3-year-old Riley Fox had so saddened the people who heard about it that thousands turned out for the wake and the funeral. The steady stream of mourners even outnumbered the population of Wilmington.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) We don't have a lot of those cases, but it just terrifies the community.

DAVID MUIR (ABC NEWS VO) Professor Ann Burgess of Boston College has worked with the FBI, profiling the kind of people who would commit such a horrific crime.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) She was thrown into the water alive. And so that the haunting factor always is, how long was she alive?

DAVID MUIR (ABC NEWS) (VO) Riley's body was found just outside the town. And because of that, the investigation would be taken over by the Will County Sheriff's Office. And as is typical in cases like this one, Riley's parents, Melissa and Kevin, and the rest of the family all agreed to be questioned, and to provide DNA samples.

CHAD FOX (KEVIN'S BROTHER) An investigation initially is supposed to look at family and friends and exclude them.

DAVID MUIR (ABC NEWS) (VO) Melissa and Kevin even allow investigators to interview their son, Tyler.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Okay. How old are you, Tyler?

TYLER FOX (RILEY'S BROTHER) Six.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Six years old?

DAVID MUIR (ABC NEWS) (VO) Tyler was asleep next to Riley in the living room, seen here on the crime scene video. Police thought the little boy might offer some new clues in the case.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Where were you sleeping?

TYLER FOX (RILEY'S BROTHER) On the chair.

DAVID MUIR (ABC NEWS) (VO) From the beginning, the Foxes believed it was an intruder who came into their house and kidnapped Riley.

KEVIN FOX (RILEY'S FATHER) It's very hard to accept still. That, that I was home and someone came in my house and took my daughter.

DAVID MUIR (ABC NEWS) (OC) But investigators believe the intruder theory doesn't ring true. They don't believe the house showed any signs of forced entry. And more importantly, they think it would take a great deal of planning or luck for the killer to be able to sneak into the house and snatch Riley during the few hours when her father was asleep, and on this night when her mother was not home.

HAL DARDICK ('CHICAGO TRIBUNE") It's a pretty risky thing to do.

DAVID MUIR (ABC NEWS) (VO) Hal Dardick covered the Fox case for "The Chicago Tribune."

HAL DARDICK ('CHICAGO TRIBUNE") To go into someone's home in the middle of the night, take the child and exit while other people are there.

DAVID MUIR (ABC NEWS) (VO) So while investigators put some energy into that intruder theory, canvassing the neighborhood and interviewing local sex offenders, the sheriff's detectives instead grow more and more interested in the last known adult to see Riley alive, her father. In fact, investigators had been watching Kevin from the beginning. This is surveillance video taken at Riley's funeral.

DAVID MUIR (ABC NEWS) (OC) When you would hear all the questions being asked about Kevin, was there ever, you know, a quiet, dark moment when you thought, "Is my husband capable of this?"

MELISSA FOX (RILEY'S MOTHER): Absolutely not. No.

DAVID MUIR (ABC NEWS) (OC) Go on.

MELISSA FOX (RILEY'S MOTHER) I know Kevin way too well. I watched him be a parent to our children every day.

DAVID MUIR (ABC NEWS) (OC) Did you have anything to do with the death of your daughter?

KEVIN FOX (RILEY'S FATHER) Not at all. Not at all.

DAVID MUIR (ABC NEWS) (VO) But investigators are not convinced. They take special interest in a security video from a gas station located between the Fox home and the creek where Riley was found. Investigators believe it shows a car similar to Kevin Fox's Ford Escape passing the station around the time of the murder.

HAL DARDICK ("CHICAGO TRIBUNE") Having Kevin on their list of suspects, they thought, "Well, if we can show that his car was out at a time, in the middle of the night, when he said that it wasn't, that that would be good evidence to have in the case."

DAVID MUIR (ABC NEWS) (VO) And police believed there was another lingering question, just why did Kevin wait 40 minutes after realizing his little girl was missing before calling the police?

KEVIN FOX (RILEY'S FATHER) Yeah, I was wondering if you can send an officer over here.

PROFESSOR ANN BURGESS (BOSTON COLLEGE)

Well, the police think that any father whose child is missing should immediately call 9-1-1.

KEVIN FOX (RILEY'S FATHER) The only time that I was taught growing up to call 9-1-1 is if there is a fire, you know, like, big events like that. I never thought my daughter was kidnapped. Never, never in 1,000 years.

DAVID MUIR (ABC NEWS) (VO) As the summer wears on and with no named suspects, Kevin's brother Chad begins urging him to get a lawyer.

CHAD FOX (KEVIN'S BROTHER) No obligation. No admission of guilt or anything. It's just the right thing to do.

KEVIN FOX (RILEY'S FATHER) I got really upset with him. I got mad at him, saying, you know, "Why do I need to talk to an attorney? I did nothing."

CHAD FOX (KEVIN'S BROTHER) And I felt pretty hopeless. And at that point, I hate to say it, I gave up.

DAVID MUIR (ABC NEWS) (VO) And as the weather begins to cool, so does much of the public support for the Foxes. A blistering TV report portrays them as partiers, apparently indifferent to the death of their baby girl.

WITNESS (MALE) They shop till they drop. She's got a new diamond ring, doesn't seem to be the behavior of grieving parents.

DAVID MUIR (ABC NEWS) (VO) And the rumors start swirling.

DAVID MUIR (ABC NEWS) (OC) Could you sense that the community was turning at all?

MELISSA FOX (RILEY'S MOTHER) Absolutely. I mean, we went from being the victims of the crime and having everybody's sympathy to, all of a sudden, we were bad people. It was awful.

DAVID MUIR (ABC NEWS) (VO) And there was another dynamic at play. As the chief prosecutor Jeff Tomczak was dealing with increasing pressure to solve the case, he was also fighting for his political life. Election Day was approaching.

HAL DARDICK ("CHICAGO TRIBUNE"): Tomczak seemed to be in an increasingly losing battle for the state's attorney's race.

DAVID MUIR (ABC NEWS) (VO) Would a high-profile arrest help? A week before that election, Melissa and Kevin get a phone call. They say Will County detectives told them there's something new in the case. The parents head to the station, believing there's finally a break. But they would soon be in for something else.

KEVIN FOX (RILEY'S FATHER) They separated us. They took her down a hallway, and they took me, it was like a room up on a stage. We walked up the stairs, and then it was a real, real small room.

DAVID MUIR (ABC NEWS) (VO) And there, the interrogation would begin.

KEVIN FOX (RILEY'S FATHER) And then they were asking me about the night. And then, all of a sudden, out of nowhere, he – he looked at me and said, "We have reason to believe that you killed Riley."

DAVID MUIR (ABC NEWS) (VO) Kevin says over the next 14 hours, he is grilled about the murder of his own daughter.

DAVID MUIR (ABC NEWS) (OC) What kinds of things did they do to you?

KEVIN FOX (RILEY'S FATHER) They broke me down mentally, physically, emotionally. But I stayed strong. I knew - I denied everything,

DAVID MUIR (ABC NEWS) (OC) They asked you, "Will you take the polygraph test?"

KEVIN FOX (RILEY'S FATHER) They kept on saying that they knew I'd flunk the polygraph test.

DAVID MUIR (ABC NEWS) (OC) And so you said, "I'll take it"?

KEVIN FOX (RILEY'S FATHER) It's kind of like they were, they were egging me on.

DAVID MUIR (ABC NEWS) (VO) Kevin agrees to take the test, but he flunks. And by the time dawn breaks, Kevin Fox breaks too.

REPORTER (MALE) Now, police say Fox has given a videotape statement, implicating himself.

DAVID MUIR (ABC NEWS) (VO) Kevin confesses to police, offering a statement in which he admits to killing Riley in a bizarre fashion.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) He gets up in the middle of the night. He goes into his bathroom. But also in the bathroom is the little girl, is Riley.

HAL DARDICK ("CHICAGO TRIBUNE") He says he accidentally hit her with the door. She stumbled, hit her head on the bathtub, and then thinking that he'd accidentally killed her...

PROFESSOR ANN BURGESS (BOSTON COLLEGE) He panics and thinks what to do. So in the police theory, that he stages what is called a staging of a sexual assault.

HAL DARDICK ("CHICAGO TRIBUNE") He did something to make it look like she was sexually assaulted and then he put duct tape over her mouth.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) Then he takes the child, puts it in the car and takes it to the river and puts his child's body in the river.

DAVID MUIR (ABC NEWS) (VO) Kevin states to police that he walked down the side of this overpass and left Riley in the water. Just hours after Kevin Fox made that statement, he's charged with murder in the first degree.

WILMINGTON RESIDENT (FEMALE) I just can't believe it. No. Thought he was a loving father, totally.

WILMINGTON RESIDENT (FEMALE) We've been to the ceremonies, we - the benefits - everything for the family. It's all been an act.

JEFF TOMCZAK (LAWYER) These detectives - I wanna say - it's their instincts, their instincts - their investigative instincts that lead to this statement coming out.

DAVID MUIR (ABC NEWS) (VO) The next day, state's attorney Jeff Tomczak announces he's seeking the death penalty.

JEFF TOMCZAK (LAWYER) The young child in this case died a terrible death, and for that reason, the penalty deserves to be death.

HAL DARDICK ("CHICAGO TRIBUNE") That is usually a decision that's weighed for weeks, if not months, before it's made.

DAVID MUIR (ABC NEWS) (VO) The prosecutor denies his decision is motivated by politics, but not everyone is convinced.

HAL DARDICK ("CHICAGO TRIBUNE") Virtually immediately, there are allegations that he brought these charges in order to bolster his chances in the upcoming election.

DAVID MUIR (ABC NEWS) (VO) Kevin insists to his family that that confession was false, and that after 14 hours, he believed it was his only way out of that room.

DAVID MUIR (ABC NEWS)(OC) A lot of people will wanna know, if you didn't kill Riley, how do you possibly confess to it?

KEVIN FOX (RILEY'S FATHER) Say you were, you were trapped in a burning room and there was only one door, and the fire was just flaming around you.

DAVID MUIR (ABC NEWS) (OC) So you looked at this as your only way out?

KEVIN FOX (RILEY'S FATHER) It was my only way out.

DAVID MUIR (ABC NEWS) (VO) But now, having confessed to killing his daughter and facing the death penalty, Kevin Fox needs a champion who will believe him, and he's about to get one.

KATHLEEN ZELLNER (LAWYER) I decided to take a chance on him. I just felt like he was somebody that was really worth trying to save.

KATHLEEN ZELLNER (LAWYER) I like shooting a big gun like this because it's very powerful and I like mastering it.

DAVID MUIR (ABC NEWS)(VO) It would be fair to say that defense attorney Kathleen Zellner is always up for a good fight.

HAL DARDICK ("CHICAGO TRIBUNE") Kathleen Zellner is something of a legend in the state of Illinois.

DAVID MUIR (ABC NEWS) (VO) Over the years, she's built a reputation for freeing the wrongfully accused with DNA evidence. But that reputation was not made by picking risky clients.

KATHLEEN ZELLNER (LAWYER) I decided a long time ago, I did not wanna defend people that I thought were guilty.

DAVID MUIR (ABC NEWS) (VO) The morning Kevin Fox is arrested, his brother Chad goes to Zellner, begging her for help.

CHAD FOX (KEVIN'S BROTHER) I wasn't gonna let my brother be executed before I die. I'm supposed to die first. I'm older.

DAVID MUIR (ABC NEWS) (VO) After just a single meeting with Kevin Fox at the Will County Jail, Kathleen Zellner agrees to take the case.

KATHLEEN ZELLNER (LAWYER) Just looking at him and listening to him, I decided I was gonna take a chance with him.

DAVID MUIR (ABC NEWS) (VO) Kevin Fox had no history of child abuse. What was Kevin like as a dad?

MELISSA FOX (RILEY'S MOTHER) I think a very, just great dad, really hands-on. Always was.

KATHLEEN ZELLNER (LAWYER) (VO) So Zellner believes Kevin when he says his confession was coerced.

KATHLEEN ZELLNER (LAWYER) It fit perfectly. It was a classic case of a false confession.

DAVID MUIR (ABC NEWS) (OC) How can a father falsely confess to murdering his own child?

KATHLEEN ZELLNER (LAWYER) That's the thing that's so difficult for people to understand, but it does happen. Kevin Fox had lost his daughter. She had died. He was unbelievably traumatized by that.

DAVID MUIR (ABC NEWS) (VO) Zellner says that trauma made Kevin vulnerable to what she calls psychological manipulation by interrogators. 14 hours worth, she maintains.

ANTHONY (PARTICIPANT) Hello. My name is Anthony (inaudible).

PARTICIPANT (MALE) Portraying.

ANTHONY (PARTICIPANT) And I am portraying Detective Swaengen.

DAVID MUIR (ABC NEWS) (VO) And she would later shoot this recreation of the questioning based on Kevin's recollection.

KEVIN FOX (RILEY'S FATHER) I didn't kill my daughter, though.

ANTHONY (PARTICIPANT) Yes you did.

KEVIN FOX (RILEY'S FATHER) No I didn't.

PARTICIPANT (MALE) Don't (censored by network) lie to me, you killed your daughter. Don't (censored by network) lie to me.

KATHLEEN ZELLNER (LAWYER) They won't let him leave, they tell him to sit down. Then they start what's basically just a shouting match.

ANTHONY (PARTICIPANT) You (censored by network) daughter murderer. Come on, (censored by network) admit it. (Censored by network) admit it. Don't be wasting our (censored by network) time. Look at me in the (censored by network) eyes. Don't waste my time.

KEVIN FOX (RILEY'S FATHER) It was very intense. Very intense.

DAVID MUIR (ABC NEWS) (VO) Kevin says the detectives then showed him photos of his own daughter's dead body and refused to let him speak to his father or a lawyer. Kevin claims they made graphic threats like this.

PARTICIPANT (MALE) I know people in jail and I'm gonna make sure you get (censored by network) every night.

KEVIN FOX (RILEY'S FATHER) He'd have me raped every day I was in there if I didn't say anything.

DAVID MUIR (ABC NEWS) (OC) He thought this was his only way out.

KATHLEEN ZELLNER (LAWYER) Well, can you tell me another way out? What would you do?

DAVID MUIR (ABC NEWS) (VO) But police say Kevin's account of that interrogation was exaggerated and inaccurate. That he failed the polygraph test. But some offer another explanation.

FRED HUNTER (POLYGRAPH EXPERT) It is pretty much polygraph 101 that you would not want to test a subject who had been interrogated for hours.

DAVID MUIR (ABC NEWS) (VO) Polygraph expert Fred Hunter has years of experience, working for both Will County and Kathleen Zellner. He says a polygraph given to someone interrogated for so long would very likely produce false results.

FRED HUNTER (POLYGRAPH EXPERT) The validity of any test results after that are going to be tainted.

DAVID MUIR (ABC NEWS) (VO) But it was more than just the length of the interrogation or the polygraph under duress. It was the content of Kevin's statement which Zellner found most suspicious.

KATHLEEN ZELLNER (LAWYER) None of it made any sense. He told in the details he gave an absolutely impossible story.

DAVID MUIR (ABC NEWS) (OC) Impossible, she believed, on many fronts. If Kevin Fox had really accidentally hurt his daughter inside the home, then why didn't he take her to the hospital or simply call an ambulance? And if he drove off with the little girl, then why was no forensic evidence found inside that car? And lastly, Zellner had serious questions about the story involving this bridge. Kevin Fox told police that he brought his daughter Riley here, and then walked down this steep embankment to the water's edge. And that's where he said that he put the little girl's body into the creek. A notion Zellner considers preposterous.

KATHLEEN ZELLNER (LAWYER) I mean, the chances he could have come down that side are pretty remote.

DAVID MUIR (ABC NEWS) (VO) And it wasn't just the steepness of the slope on the water's edge. Zellner also thought the current there on the south side of the bridge was too weak to carry Riley's body so far.

REPORTER (MALE) A 30-pound bag simulating the body of 3-year-old Riley Fox.

DAVID MUIR (ABC NEWS) (VO) Zellner conducted her own test at the creek.

KATHLEEN ZELLNER (LAWYER) The police gave a scenario of what happened and that's what we're checking out.

DAVID MUIR (ABC NEWS) (VO) She said it proved a body dropped at that site couldn't have drifted to the location where Riley Fox's body was discovered by those volunteer searchers.

KATHLEEN ZELLNER (LAWYER) You couldn't float anything under from the south side.

DAVID MUIR (ABC NEWS) (VO) She also cast a critical eye on that fuzzy video of the car seen passing the gas station that night.

KATHLEEN ZELLNER (LAWYER) They really actually believed that this was strong evidence and that tells you everything about this case.

DAVID MUIR (ABC NEWS) (OC) Did it look like his car?

KATHLEEN ZELLNER (LAWYER) No, it did not. The wheel base is shorter. The angle of the windshield is different. You would have to have the license plate or a very clear picture of his face to ever have that hold up in court.

DAVID MUIR (ABC NEWS) (VO) Perhaps all of this could help establish reasonable doubt in a juror's mind. But still, that troublesome confession. And Zellner knows the odds are stacked against her client.

KATHLEEN ZELLNER (LAWYER) Even knowing, you know, the confession wasn't corroborated, that we could do all of these things at trial, no matter how good an attorney I am, and I actually think I'm quite a good attorney, he was going to be convicted.

DAVID MUIR (ABC NEWS) (OC) So as you're sitting there with your client, what are you thinking are his chances?

KATHLEEN ZELLNER (LAWYER) I felt like I was looking at a dead man.

ANNOUNCER A little girl's murder, her 6-year-old brother grilled relentlessly on camera.

TYLER FOX (RILEY'S BROTHER) I don't know about (inaudible).

KATHLEEN ZELLNER (LAWYER) It is despicable.

ANNOUNCER Would he reveal a clue to the killer? When '20/20' continues after this from our ABC stations.

DAVID MUIR (ABC NEWS) (VO) Kathleen Zellner had a real problem. Her client, Kevin Fox, had confessed to killing his own daughter, Riley.

KATHLEEN ZELLNER (LAWYER) The only way you can trump a confession is with DNA. You've got to have DNA.

DAVID MUIR (ABC NEWS) (VO) But Riley Fox's body was in the water for hours. And when a body is found in water, it is much harder to retrieve a DNA profile that will lead back to the killer. Zellner feared she'd been robbed of the silver bullet which had worked for her so often in the past.

DAVID MUIR (ABC NEWS)(OC) And you thought any chance of DNA had washed down the river.

KATHLEEN ZELLNER (LAWYER) I thought it would take a miracle for us to find DNA.

DAVID MUIR (ABC NEWS) (VO) And Zellner was right. The tests came back negative for blood and semen, there wasn't enough there, and inconclusive for saliva found on Riley's body.

KATHLEEN ZELLNER (LAWYER) Inconclusive.

DAVID MUIR (ABC NEWS) (OC) Meaning what?

DAVID MUIR (ABC NEWS) (VO) The entire case would soon hinge on that one word.

KATHLEEN ZELLNER (LAWYER) Well, I didn't know what it meant. But I had exactly that reaction. I'm not sure what this means. So I called my DNA scientist, Karl Reich.

DOCTOR KARL REICH (INDEPENDENT FORENSICS) And Miss Zellner asked me to interpret the language of the report.

DAVID MUIR (ABC NEWS) (VO) Doctor Karl Reich, who runs a private Chicago area lab, told Zellner the word inconclusive was actually cause for hope, because inconclusive doesn't mean there's no DNA, it simply means it hasn't been read. The equipment might not have been sophisticated enough to pick up on what little DNA there was.

DOCTOR KARL REICH (INDEPENDENT FORENSICS) Another kind of DNA testing called Y-STR testing could certainly be possible and might in fact be the right kind of testing for this case.

DAVID MUIR (ABC NEWS) (VO) Y-STR testing analyzes the Y chromosome, which is nearly identical in males of the same lineage.

KATHLEEN ZELLNER (LAWYER) The Y is the male, and you can test very small amounts.

DAVID MUIR (ABC NEWS) (VO) With just that partial profile, they can't fully identify the criminal, but there is enough to eliminate a suspect with 100% certainty, perhaps Kevin Fox or any male member of his family.

DOCTOR KARL REICH (INDEPENDENT FORENSICS) It's a well-established technique.

DAVID MUIR (ABC NEWS) (VO) That kind of test was valid in court, but neither the state nor the FBI was yet using it.

KATHLEEN ZELLNER (LAWYER) Now they can do it, but they couldn't do it then. He said, 'You've got to get this to a private lab.'

DAVID MUIR (ABC NEWS) (VO) Zellner gets the Will County prosecutor to agree to send the samples to this respected lab in Virginia. But she told her client it was still a long shot, that the sample from the river that day was so small, so negligible, the chances they would glean anything from it were slim. So your only fear at that point...

KATHLEEN ZELLNER (LAWYER) There won't be enough.

DAVID MUIR (ABC NEWS) (OC) ...is that there wouldn't be enough.

KATHLEEN ZELLNER (LAWYER) Yes, exactly. That's the only thing I'm concerned about. Will there be enough, because I know he's innocent.

DAVID MUIR (ABC NEWS) (VO) It would take months to get her answer. Bureaucracy holds up the DNA samples. And as the family waits, Melissa Fox struggles to care for her son and support the husband so many had turned against.

DAVID MUIR (ABC NEWS)(OC) What was it like for you on the outside?

MELISSA FOX (RILEY'S MOTHER) It was a nightmare. But I knew the only thing that I could do was like, support Kevin, stay strong for Tyler.

DAVID MUIR (ABC NEWS) (VO) Meanwhile, Kevin sits in his cell often threatened by others in jail.

KEVIN FOX (RILEY'S FATHER)I should not be here at all. I was the furthest person to do this to Riley, but yet here I am.

DAVID MUIR (ABC NEWS) (VO) He keeps this diary while behind bars.

KEVIN FOX (RILEY'S FATHER) Ever since I got to protective custody, I've been more depressed than ever. I don't exercise. All I do is cry and sleep.

DAVID MUIR (ABC NEWS) (VO) Finally, after eight months in jail, Kevin will learn the results of the DNA test.

KEVIN FOX (RILEY'S FATHER) And, and I, I just, I just collapsed.

DAVID MUIR (ABC NEWS) (VO) We'll be right back.

DAVID MUIR (ABC NEWS) (VO) Eight months after Kevin Fox's arrest, his attorney, Kathleen Zellner, finally gets that long-awaited phone call from the DNA testing lab. The analysis of the sample from Riley's body found in that river is now complete.

KATHLEEN ZELLNER (LAWYER) I pick up the phone, and she said, 'Kathleen, I've got, I've got the profile done. There was enough DNA. I've excluded your client.'

DAVID MUIR (ABC NEWS) (OC) And you're saying?

KATHLEEN ZELLNER (LAWYER) And I said, 'Well, you just saved somebody's life.'

DAVID MUIR (ABC NEWS) (VO) Kathleen then races to the Will County Jail to tell Kevin. The accused father is stunned.

KEVIN FOX (RILEY'S FATHER) It hit me that, that I was, I was going home and, and my name would finally be cleared.

KATHLEEN ZELLNER (LAWYER) I think it just hit him that it was really over. And his, his whole body was just sobbing.

DAVID MUIR (ABC NEWS) (VO) With the case against Kevin Fox now collapsing, the new head prosecutor, Jim Glasgow, who won that election, holds an immediate court hearing. Kevin Fox, who could have faced the death penalty, is released, all charges dropped.

KEVIN FOX (RILEY'S FATHER) It was a nightmare. And I don't wanna relive it right now.

KATHLEEN ZELLNER (LAWYER) Do the test before you make the arrest. He has been in prison eight months.

DAVID MUIR (ABC NEWS) (VO) For eight months, were you dreaming of that moment?

KEVIN FOX (RILEY'S FATHER) Oh, yeah. Yeah.

MELISSA FOX (RILEY'S MOTHER) It was definitely surreal. Riley loved Kevin more than I can, I, I can't even put it into words. And I feel like it was a miracle that there was - DNA. And it is a miracle that Kevin is sitting here right now.

DAVID MUIR (ABC NEWS) (OC) But the case that had shattered this community was far from over. Now come the time for Kathleen Zellner to switch from defense attorney to offense, pursuing a massive lawsuit brought on by Kevin and Melissa Fox against Will County. The Fox family claimed that the investigators who first came to this neighborhood didn't just make innocent mistakes. They believe those investigators were out to convict Kevin Fox from the beginning. So this entire tag team of detectives...

KATHLEEN ZELLNER (LAWYER) Mm-hmm. They knew he didn't do it.

DAVID MUIR (ABC NEWS) (VO) Zellner was convinced because she says she retraced the detectives' steps. That DNA had been sent on to the FBI, which is often the case when DNA samples need further testing and state crime labs aren't equipped to do it. But in this case, FBI records show that all additional DNA analyses were discontinued once Kevin offered that confession. The FBI stated that a Will County investigator told them to stop despite that inconclusive finding, that question still hanging over the case.

DAVID MUIR (ABC NEWS) (OC) Why would you discontinue the DNA?

DOCTOR KARL REICH (INDEPENDENT FORENSICS) It's the one piece of evidence that could disprove the confession.

DAVID MUIR (ABC NEWS) (OC) That could have set him free.

KATHLEEN ZELLNER (LAWYER) That could have set him free.

DAVID MUIR (ABC NEWS) (VO) The detectives denied that accusation. But Zellner said it went even further. The cops, she argued, deliberately ignored evidence, seen here on the crime scene video, evidence suggesting an intruder was in the house.

KATHLEEN ZELLNER (LAWYER) This is one of the most extraordinary things in the case. The back door is standing open. We know that's how the intruder came in because the lock was broken. This window, the reason we think the killer was in the house, one of the reasons is this window was open from the inside. They're looking for an exit route and they realize the outside window is screwed down.

DAVID MUIR (ABC NEWS) (VO) None of that was ever fingerprinted, nor was that blanket used to cover Riley that night.

KATHLEEN ZELLNER (LAWYER) The blanket that Riley had been asleep and rolled up in, and the killer had touched, they didn't even take it and test it.

DAVID MUIR (ABC NEWS) (VO) But was that intruder theory the family kept pushing too far-fetched? Professor Ann Burgess, who testified on behalf of the Foxes at the civil trial, says cases involving intruders are not as rare as many think.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) There are many cases where an intruder comes in and, and takes a child. Elizabeth Smart, absolutely, perfect case.

INVESTIGATOR (MALE) Elizabeth Smart was taken from her bedroom at knifepoint by Brian David Mitchell, aka Emanuel.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) It can happen.

DAVID MUIR (ABC NEWS) (VO) In fact, just this summer, DNA analysis from the same lab which cleared Kevin Fox definitively cleared Patsy and John Ramsey in the notorious murder of their daughter, JonBenet.

CLIP FROM "WORLD NEWS WITH CHARLES GIBSON"

CHARLES GIBSON (ABC NEWS)(OC) New DNA testing had cleared the entire Ramsey family.

DAVID MUIR (ABC NEWS) (VO) In the JonBenet Ramsey case, the detectives once discounted the intruder theory as well. A lead investigator even wrote a book arguing that JonBenet's death was an accident quickly staged to look like a murder. In fact, Zellner thinks that that's what inspired investigators in this case to adopt their own accident theory.

KATHLEEN ZELLNER (LAWYER) Patsy Ramsey supposedly tries to make it look like a kidnapping murder, and then that's what Kevin did. What are the odds of that?

DAVID MUIR (ABC NEWS) (OC) So you believe that entire scenario was made up by the detectives.

KATHLEEN ZELLNER (LAWYER) Absolutely. Without question.

DAVID MUIR (ABC NEWS) (VO) A bold claim for sure. And to convince the jury of it, Zellner would turn back to this videotape, the interrogation of 6-year-old Tyler.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) So dad doesn't like it when you cry? What else would make dad so mad?

DAVID MUIR (ABC NEWS) (VO) You'll remember it was just weeks after Riley's murder that police questioned her brother, Tyler. But Kevin and Melissa say it wasn't until long after that they saw what happened during that interrogation.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) When you woke up, what did you see? What was the very first thing you saw when you woke up?

TYLER (RILEY'S BROTHER) Dad.

DAVID MUIR (ABC NEWS) (VO) Zellner says the tape reveals just how badly the police wanted Tyler to point the finger at his own father.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) When daddy put Riley's jams on her, was he angry?

TYLER (RILEY'S BROTHER) No.

PROFESSOR ANN BURGESS (BOSTON COLLEGE)
They were really going down the avenue of, 'Didn't you see your father take Riley and go out of the house?'

DAVID MUIR (ABC NEWS) (VO) And how many times did they try to get him to talk about his dad?

KATHLEEN ZELLNER (LAWYER) We, we counted 168 times that he's asked and then he shakes his head no, like he's doing now.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) You said he went outside. Was he with somebody?

TYLER (RILEY'S BROTHER) No.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Did Riley go with him for a little bit?

TYLER (RILEY'S BROTHER) No.

KATHLEEN ZELLNER (LAWYER) He's trying to tell her he doesn't know anything, and she just won't stop.

PROFESSOR ANN BURGESS (BOSTON COLLEGE)
And if you watch his interview, the poor child, the brother, is just getting more and more upset.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Okay. Is there something you know about Riley?

TYLER (RILEY'S BROTHER) No.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Is there something you know about how she left the house?

TYLER (RILEY'S BROTHER) No.

MARY JANE PLUTH (WILL COUNTY CHILDREN'S ADVOCACY CENTER) Because if there is, then you can say it, Tyler. You know, you're real upset. What's upsetting you right now?

DAVID MUIR (ABC NEWS) (VO) When you look at that video, that interrogation of that little boy...

TYLER (RILEY'S BROTHER) I want mom and dad.

KATHLEEN ZELLNER (LAWYER) I think what you see in that is just purely evil. They take this child who's in this horrible situation and they are trying to manipulate him to help them frame his father. It is despicable.

HAL DARDICK ('CHICAGO TRIBUNE") But the police will say this was just their genuine attempt to see if Tyler knew anything.

DAVID MUIR (ABC NEWS) (VO) Today, Tyler doesn't talk much about his time spent in that room.

TYLER (RILEY'S BROTHER) She made me cry.

MELISSA FOX (RILEY'S MOTHER) I had just lost a child. And then to see the way that they decided to treat the one that I still had, it was, it was really terrible. It shouldn't have happened.

DAVID MUIR (ABC NEWS) (VO) The interviewer on that tape settled with the Foxes out of court and denied any wrongdoing. But the Will County detectives went to trial. After five weeks of testimony, a jury would decide whether Kevin's arrest was just a blunder or a full-blown frame job. In the meantime, the Foxes were pursuing their own search for Riley's killer.

MELISSA FOX (RILEY'S MOTHER) We will do whatever it takes to make it happen. We've got the DNA. It, it can happen.

DAVID MUIR (ABC NEWS) (VO) We'll be right back.

COMMERCIAL BREAK

KEVIN FOX (RILEY'S FATHER) It's over now, and it feels great.

DAVID MUIR (ABC NEWS) (VO) Three and a half years after Riley Fox was murdered, the scales of justice swing her family's way.

KEVIN FOX (RILEY'S FATHER) It was 10 people on the jury, and they found that I wasn't in the wrong, that, that I did everything right.

DAVID MUIR (ABC NEWS) (VO) Jurors award Kevin Fox and his wife Melissa \$15.5 million in their civil rights case against Will County.

MELISSA FOX (RILEY'S MOTHER) We want people to know the truth. We're not bad people. We never were.

KEVIN FOX (RILEY'S FATHER) That was the main reason why we went to the civil trial is to, to finally clear my name 100%.

DAVID MUIR (ABC NEWS)(VO) Though the jury rejected the most serious charge of conspiracy, for Attorney Kathleen Zellner, the record judgment is an extraordinary victory for the wrongfully accused.

KATHLEEN ZELLNER (LAWYER) I've not done a trial where I have felt that I so exposed people as lying. And I hope Will County is listening.

DAVID MUIR (ABC NEWS) (VO) We wanted to talk about the case with that first prosecutor who originally charged Kevin Fox, former state's attorney Jeff Tomczak.

DAVID MUIR (ABC NEWS) (OC) Mr. Tomczak, David Muir with ABC News.

JEFF TOMCZAK (LAWYER) Hi.

DAVID MUIR (ABC NEWS) (OC) We'd like to talk to you about the Riley Fox case.

JEFF TOMCZAK (LAWYER) Actually, I wouldn't, I have court this morning. So I'm gonna run over there and do my court.

DAVID MUIR (ABC NEWS) (OC) Can we do it after court? Because we've called you several times on the case, and we'd like to talk to you about it.

JEFF TOMCZAK (LAWYER) Actually, no thanks.

DAVID MUIR (ABC NEWS) (VO) Tomczak negotiated a resolution with the Foxes before the case went to trial. He denied any wrongdoing.

DAVID MUIR (ABC NEWS) (OC) Do you think that Kevin Fox was treated fairly?

JEFF TOMCZAK (LAWYER) I stand by the decisions I made on that case.

DAVID MUIR (ABC NEWS) (VO) Will County authorities are appealing the massive verdict. The detectives declined comment. But in a written statement, the current state's attorney, Jim Glasgow, says he continues to stand behind the detectives. 'The facts and circumstances of the case,' he writes, 'would have led any prudent investigator to determine they had probable cause to arrest Kevin Fox.' Glasgow believes the outcome of the civil trial would have been different if the jury had been allowed to view the videotape of Kevin's confession. But that video was suppressed and has never been made public. The Will County Sheriff's Department says a new team of detectives is now investigating Riley Fox's murder, but Kevin and Melissa aren't simply relying on them.

MELISSA FOX (RILEY'S MOTHER) Our next step is just to fund, fund the investigation to find our daughter's killer.

DAVID MUIR (ABC NEWS) (VO) That next step was taken this summer.

RICH GROVE (PRIVATE INVESTIGATOR) Good. Good.

DAVID MUIR (ABC NEWS) (VO) The Foxes hired private investigators Rich Grove and Carlos Rodriguez to chase down any leads and loose ends.

RICH GROVE (PRIVATE INVESTIGATOR) There were interviews that were left undone. There was DNA that was not gathered.

DAVID MUIR (ABC NEWS) (VO) The Foxes believe they can advance the case themselves because they now have that partial DNA profile. That same DNA that set Kevin free might help them now find someone else.

DOCTOR KARL REICH (INDEPENDENT FORENSICS) Y-STR profiling can't identify someone uniquely, like nuclear DNA, but it could certainly start a conversation with an investigator.

DAVID MUIR (ABC NEWS) (VO) The private eyes have returned to that neighborhood, convinced that the intruder theory still holds, and suspecting the killer might not be a stranger.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) In my opinion, the killer is someone who knows of the child, somebody that knew the area.

DAVID MUIR (ABC NEWS) (VO) Burgess believes it's possible the killer came in through the back door into the laundry room while no one was home and found a place to hide.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) Somebody comes in, they've had a plan, they've had it thought out, they know what they're going to do.

DAVID MUIR (ABC NEWS) (VO) In Burgess's theory, hours after the abduction, Riley is dropped not at the water's edge but over the side of the bridge into the middle of the creek where the current is strong enough to carry her downstream.

PROFESSOR ANN BURGESS (BOSTON COLLEGE) It is very creepy and very, very frightening to think that somebody could actually do that.

DAVID MUIR (ABC NEWS) (VO) The private investigators begin following their own leads, in some cases asking people they consider potential suspects for DNA samples. When they get the results, they find themselves back at square one.

DOCTOR KARL REICH (INDEPENDENT FORENSICS) The sample we received from you did not match the DNA profile from the evidence sample.

RICH GROVE (PRIVATE INVESTIGATOR) I don't think the picture is complete yet. I don't think it's gonna be completed 'til we find the killer.

DAVID MUIR (ABC NEWS) (VO) Though the Foxes won't see any money until the appeals process is finished, Zellner believes her client has won back something even more valuable, his reputation.

KATHLEEN ZELLNER (LAWYER) Winning that for him transformed him from somebody that people just identified as, 'Oh, that's that guy that said he killed his daughter" when everyone understood what had led to that, what they had done to him.

DAVID MUIR (ABC NEWS) (VO) But even after the DNA and the civil jury's verdict, there remain some people in Wilmington who still believe Kevin Fox killed his daughter.

HAL DARDICK ("CHICAGO TRIBUNE") There are people out there that still have made up their minds against Kevin.

DAVID MUIR (ABC NEWS) (VO) That's one reason why the Foxes have moved to another Chicago suburb and why it is still hard for Kevin to go home.

KEVIN FOX (RILEY'S FATHER) It hurts that, that some people around here don't understand.

DAVID MUIR (ABC NEWS) (VO) But for all they've lost and all they've endured, Kevin and Melissa turn to their newest gift.

TEAGAN (RILEY'S SISTER) I'm dizzy.

KEVIN FOX (RILEY'S FATHER) I'm dizzy too.

DAVID MUIR (ABC NEWS) (VO) In March of 2006, their third child was born, a daughter they named Teagan.

MELISSA FOX (RILEY'S MOTHER) Teagan does remind me a lot of Riley, her personality. They're kind of the same. But we miss her. Every day is a struggle, to know that you had something so wonderful in your life and that someone took it.

DAVID MUIR (ABC NEWS) (OC) How do you move forward as a dad?

KEVIN FOX (RILEY'S FATHER) Just be thankful for what I have right now. I have a beautiful daughter at home, a son and a beautiful wife. You never know what's gonna happen. So have no regrets and, and just enjoy what you have.

JOHN STOSSEL (ABC NEWS OC) You can watch more of the taped interrogation of Kevin Fox's 6-year-old son and read documents from the case on our webpage at ABCNEWS.com.