

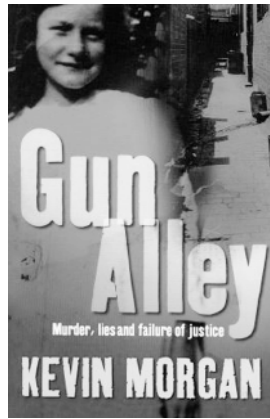
Kevin Morgan is committed to exposing the truth behind Australia's criminal justice system. Morgan's previous book, *The Particulars of Executions 1894-1967: The Hidden Truth about Capital Punishment*, successfully revealed the myth of a fast and humane execution. Morgan's recent book, *Gun Alley: Murder, Lies and Failure of Justice*, is a tale of one of the most horrific capital murder cases in Australian criminal history.

Gun Alley: Murder, Lies and Failure of Justice

By Kevin Morgan

Simon & Schuster (Australia)
2005, 326 pages, softcover

Review by Serena Nicholls



Gun Alley recounts the story of Colin Ross, who was sent to the gallows for the 'schoolgirl murder' of Alma Tirtschke. On New Years Eve 1921, 12-year-old Alma was found raped and strangled in Gun Alley, an area considered Melbourne's underworld of criminal activity. The police were baffled over who killed Alma, as they had very few tangible leads. This resulted in a sense of outrage and public frenzy throughout the state of Victoria. The press and the public began to criticise the investigation for its lack of momentum. Government officials mirrored these criticisms and placed immense pressure on the investigators to solve the crime.

Ross became an early suspect because he was a local saloonkeeper, with a criminal history. On the 12th of January, less than a fortnight after the murder of Alma Tirtschke, Ross was charged. The evidence against Ross was largely circumstantial and consisted of witnesses who were disreputable and opportunistic. Nevertheless, on February 25, 1922, Ross was found guilty after a five-day trial and a sentence of death was passed onto him. Ross fervently protested his innocence and appealed to the higher courts. Ross's cries of injustice were not heard and his appeals were dismissed. On the 24th of April 1922, Ross became the 17th person to be executed in Victoria. He had been investigated, charged, found guilty, his appeals rejected and he was executed, all within four months of Alma's murder.

Ross' trial marked many firsts in Australian criminal history. His case was the first case to use hair comparisons to secure a conviction, which was a move toward scientific evidence being accepted in Australian courts. Ross' case also marked the first time that a capital case appeal was heard in the High Court of Australia. Furthermore, his case was the first to be played out day by day in the media. Both Ross' photo and the names and addresses of the jury members were published, which exposed the case to contamination.

The media demanded a conviction at all costs and even decided to post their own reward of

£250, which accompanied the £1000 award posted by the government. This reward was to be divided among anyone who came forward with information on who killed Alma. £1250 was an enormous amount of money in that era, with a skilled tradesman only earning £6 for a 44 hour week.¹ When the media put up the reward their coverage on the story increased, after all they now had an investment in the case. Unfortunately, since the media's intense coverage was a first in Australian criminal history, its ability to prejudice a fair trial was not recognized by law.

However, what makes the Ross case most striking is that close examination of the evidence reveals that he was an innocent man. Up until his last breath Ross was steadfast in proclaiming his innocence. At the gallows Ross declared "I am now face to face with my Maker, and I swear by Almighty God that I am an innocent man."²

Ross' innocence has only recently come to light because of Morgan's persistence. Morgan spent twelve years of his life researching and writing *Gun Alley* because he was confident there were two principal victims of this crime, Alma Tirtschke and Colin Ross. Morgan's exhaustive research uncovered artefacts that have buried the truth behind the 'schoolgirl murder'. When reading the book it becomes evident that Morgan left no stone unturned: he scrutinized documents that had been sealed since the murder; he interviewed descendants of the Ross and Tirtschke families; he uncovered letters that had been sent to Ross on the day of his execution; and he even located the actual forensic evidence that was used to convict Ross.

After Morgan had examined the evidence used to secure a guilty verdict against Ross, he became convinced that the wrong man was sent to the gallows. Morgan then decided that the next step was to re-examine the hair samples that implicated Ross in the murder. Modern-day experts found that the hair samples did not match those of the victim. Therefore, the first case in Australian criminal history to use

scientific evidence to secure a conviction got it wrong. Thus, Morgan's views expressed in *Gun Alley* are not sentimental opinion, but are supported by a thorough re-examination of the original evidence.

The social, political and media pressure that secured Ross' conviction for Alma's murder are revealed in *Gun Alley*. Investigators needed to produce results in order to save face. Morgan argues that this resulted in a miscarriage of justice because Ross was tried in an atmosphere of public frenzy.³ This was recognized by Ross' defense counsel who submitted to

the jury that "before he was put on trial...his case had been judged by the community. Sentence had been pronounced before a single word of evidence in this trial had been given...It is not the evidence in the case that I am afraid of, it is the perceived opinion and judgement."⁴ After the trial a jurymen anonymously acknowledged this public frenzy and admitted, "...it seemed to me as if some of the jurymen were afraid to say openly what they thought of Ross' evidence in case the jury should eventually fail to agree, and the hand of public scorn might point them out forever."⁵

Gun Alley thus explains how the Ross case was the first in Australian criminal history where trial by media occurred. Ross recognised that he was a scapegoat and told the court that "I was the only one they could lag."⁶ This came to light in 1961 when one of the detectives admitted, "...the public were clamouring for police actions and the politicians, of course, were harassing us. They were nervous, thankless days. But we survived the uproar long enough to plump for the theory that Ross ravished and strangled Alma in the saloon...But we were all aware that our evidence ... was only circumstantial."⁷ The detective also admitted that when evidence did not fit this theory it was simply discarded. That accounts for why the evidence relied on by the prosecution merely consisted of inconsistent and absurd witness testimonies. Ross had evidence suggesting his innocence, such as a watertight alibi, but this evidence was ignored. In an interview Morgan stated "By the standards of their day, they technically broke no laws. They pushed themselves and the legal system to the wire to get someone."⁸

Gun Alley not only exposes the flaws in the arrest and trial of Ross, but it also reveals the vital clues that were missed in the original investigation, and which would have led the police to the real 'schoolgirl murderer' if they hadn't fixated on Ross. Morgan outlines a scenario with supporting evidence of the person he believes raped and murdered Alma.

Gun Alley cont. on p. 24

Gun Alley cont. from p. 23

Throughout *Gun Alley* Morgan confronts Australia with an innocent man who was executed. Ross believed that one day his name would be cleared. He wrote, "...dear ones do not fret too much for me. The day's coming when my innocence will be proved."⁹

Morgan has taken up Ross' fight to declare for the public record that an innocent man was sent to the gallows. Morgan is organizing a Petition of Mercy to get Ross' guilty verdict quashed.¹⁰ Victoria's Attorney-General Rob Hulls has acknowledged the value of Morgan's exhaustive research in the Ross case. Hulls has stated that he is willing to consider any new evidence in order to have Ross' name legally cleared.

Gun Alley is a critical step in opening the eyes of Australian's to a forgotten miscarriage of justice. In the words of Ross's mother, Ross was the "...victim of a foul conspiracy, prompted by motives of revenge, jealousy and cupidity."¹¹ Although it has taken eight decades, Ross' belief that his name would be cleared has a chance to come true thanks to Morgan's unrelenting search for the truth of Alma Tirtschke's murder.

Morgan wrote the book from the eyes of the victim, Ross, the families and the detectives involved. The book is written as a recreation of the murder and the investigation leading to the arrest and execution of Colin Ross. At times there is a lot of information in the book but it becomes interwoven in the story. It will appeal to those who just want a good read, as well as those who are interested in a compelling miscarriages of justice.

Gun Alley can be purchased for \$13 plus \$5 service charge from *Justice:Denied's* Bookshop at, <http://justicedenied.org/books.html>. *Gun Alley* is not available on Amazon.com or Barnesandnoble.com, and only a limited number of copies are available to *Justice:Denied*.

Serena Nicholls was admitted as a Legal Practitioner in the Supreme Court of Queensland, Australia in September 2006. She is currently completing her Master of Laws and lives in Rowdy Creek, Queensland, Australia.

Endnotes:

1 Morgan, Kevin (2005) *Gun Alley: Murder, Lies and Failure of Justice*, Simon & Schuster, Australia, p23.

2 *Id.* at 259.

3 *Id.* at 37.

4 *Id.* at 173-175.

5 *Id.* at 205.

6 *Id.* at 158.

7 *Id.* at 227-228.

8 The Hanged Man's Shadow, Australian Story, *Australian Broadcasting Corporation*, 13/04/00.

9 Morgan, *supra* at 256.

10 The Hanged Man's Shadow, *supra*.

11 Morgan, *supra* at 314.



George Kelly Exonerated 53 Years After Being Hung By The Neck Until Dead

By Hans Sherrer

The manager of Liverpool's Cameo Cinema and another theater worker were shot to death during an attempted robbery on March 19, 1949. The robbery was botched so badly that in spite of the two murders, no money was stolen.

The crime became the focus of one of the most intense police investigations in English history: over 65,000 people were questioned and the police pursued many leads. There were no serious suspects, however, until the police received a letter by an anonymous writer who offered to name the people involved in exchange for immunity. To prove the authenticity of his information, the letter writer identified the pond where the murder weapon had been thrown. The pond was subsequently dragged without recovery of the gun. In spite of the bogus lead about the murder weapon, the police accepted the immunity deal by placing an ad in a local paper, the *Liverpool Echo*.

The informant was James Northam, a known criminal, who claimed to have planned the robbery. He fingered 27-year-old laborer George Kelly as the robber, and Charles Connolly, 26, as the lookout. They were arrested on September 30, 1949, more than six months after the murders,

Prosecution of Kelly and Connolly

Although two murders were committed, under English law each murder had to be charged and tried separately, so the two men were charged with the manager's murder. No physical evidence tied the men to the crime and the defense argued the testimony of the prosecution's star witness, Northam, was unreliable.

Connolly had a solid alibi defense, corroborated by his wife and numerous witnesses, of being at a dance on the Saturday night the crime occurred.

Kelly's also had an alibi defense. The manager of Liverpool's Spofforth Hotel testified he was there at 9.25 p.m. and the bartender at the Leigh Arms (bar/hotel) — eight blocks away — testified she saw him there at 9.35 p.m. (the bar's clock showed 9:45 p.m., but it was set ten minutes fast.). After arriving at the Leigh Arms, Kelly called two of his brothers. They testified the call was at or shortly after



9:30 p.m. So there was a window of between five and ten minutes when Kelly could have committed the crime, except that the shooting occurred at about 9.35 p.m., when Kelly was already at the Leigh Arms. The Leigh Arms was eight blocks east from the Spofforth Hotel, while the Cameo Cinema was twelve blocks south from the hotel. Kelly's alibi was strengthened by the fact that within a ten-minute period of time he could not have traveled the more than two dozen blocks between the three locations, and also done the things the murderer was known to have done at the crime scene on the second floor of the cinema.

The case against Kelly and Connolly was so insubstantial that their 13-day trial ended in a hung jury.

The men were then retried separately: Connolly first. With the eyes of the nation focused on him, and facing a death sentence if convicted by a jury, he caved under the pressure and minimized his possible sentence by admitting at his trial to participating in the robbery as the lookout. Convicted of robbery and conspiracy to rob the cinema — but not murder — Connolly was sentenced to 10 years in prison.

Although Kelly knew the prosecution's case was bolstered by Connolly's admission, he steadfastly proclaimed his innocence. After what was then the longest criminal trial in English history Kelly was convicted of murder on February 8, 1950. He was sentenced to death.

Kelly's appeal was denied on March 10, and his petition for commutation of his sentence to life in prison was rejected. Seven weeks after his conviction, Kelly was hanged on March 28, 1950.

Rose Heilbron's Defense of Kelly

After his indictment, Rose Heilbron was appointed as Kelly's lead lawyer. Although Heilbron was an experienced criminal lawyer who had acted as co-counsel in several dozen murder trials, Kelly's case was the first time in English history that a woman had represented an accused murderer as lead defense counsel.

At the beginning of the case Kelly was unhappy with Heilbron's appointment, saying, "I want no Judy defending me."¹ However, after his two trials and numerous court appearances, during which it is estimated Heil-

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The Gun Alley Murder. Classification: Murderer ? Characteristics: Miscarriage of justice - Rape. Number of victims: 1 ? Date of murder: December 30, 1921.Â Kevin Morgan researched the case for 15 years and wrote the book Gun Alley: Murder, Lies and the Failure of Justice. "The prosecution held Alma Tirtschke went into the wine saloon of Colin Ross and as the saloon continued its normal trading, remained there consensually from 3:00pm until 6:00pm drinking wine, at which time Ross had sexual intercourse with her and murdered her, and to us it just didn't make sense," Mr Morgan said. The pardon petition built on research by Kevin Morgan, who wrote a book about the case called "Gun Alley (Murder, Lies and the Failure of Justice)." Morgan arranged for forensic tests on the original hair samples and showed that the ones on Ross' blanket did not match Tirtschke's. He also gave new character evidence about the prosecution's main witness. Victoria Attorney-General Rob Hulls said in a statement Tuesday that he referred the petition to the Supreme Court of Victoria and received an opinion "that there had been a miscarriage of justice in Mr. Ross'