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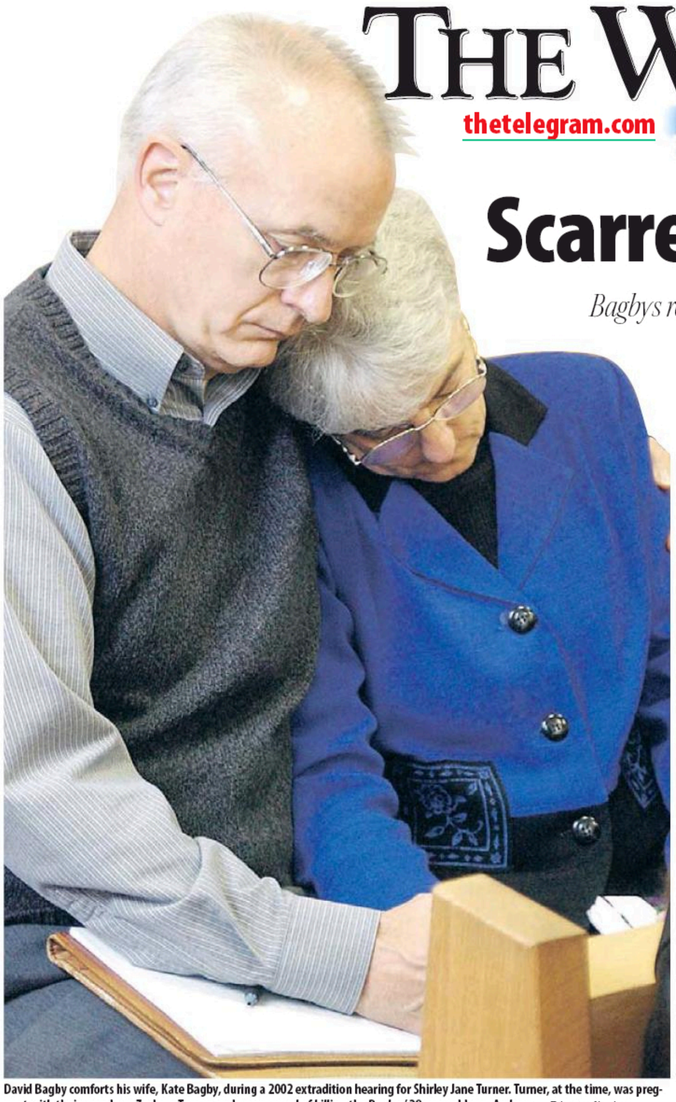

David Bagby comforts his wife, Kate Bagby, during a 2002 extradition hearing for Shirley Jane Turner. Turner, at the time, was pregnant with their grandson, Zachary Turner, and was accused of killing the Bagbys' 28-year-old son, Andrew. — Telegram file photo

Scarred by murder

Bagbys recount the deaths of their son and grandson as they mark a terrible milestone

By Tara Bradbury
THE TELEGRAM

Like an indelible stain, an etching on the heart, the memory of getting the news of their son's murder is something Kate and David Bagby will hold with them forever.

Kate was the first to learn in November 2001 that Dr. Andrew Bagby, age 28 and the couple's only child, was dead. He had been discovered in a Pennsylvania park by a homeless man looking for recyclables, shot multiple times.

"Kate called me at work and said, 'Andrew's dead! He's been murdered!'" David recalls.

David dropped the phone and began to hyperventilate; after being driven home by a coworker, he threw himself down on his living room floor and sobbed. The pain, he says, would not go away.

Just under two years later, the Bagbys' second worst nightmare came true: having been holed up in their apartment waiting for news of their 13-month-old grandson, Zachary, who had gone missing with his mother, Dr. Shirley Turner, they were told by their lawyer that two bodies had washed up on Manuels Beach.

"She said, 'The news is not good.' It was the same as before. I kicked a hole in a door and sat at the table and screamed until my head was mush," David told The Telegram this week.

Zachary Turner

Ten years ago this Sunday, Turner fed Zachary Ativan tablets, used her sweater to tie him to her, and jumped off the end of the wharf at the Foxtrap Marina, drowning them both.

Andrew had met Turner, who was 12 years his senior, while they were studying medicine at MUN. After a period of time together, Andrew had broken off the relationship. At the time of his murder, Turner was living in Iowa, but visiting Pennsylvania regularly, where Andrew was a resident at a local hospital.

David said while he had no idea who might have killed Andrew during his and Kate's first meeting with police, Kate already had a feeling Turner was a suspect. By the time she was charged with first-degree murder, Turner had returned to St. John's, and later informed the Bagbys she was pregnant with Andrew's child. She gave birth to Zachary in July 2002.

David and Kate moved to St. John's in an effort to get custody of Zachary and were forced to be friendly with Turner in the process. Turner was returned to jail late that year awaiting a decision on extradition to the States, but was released on bail a couple of months later by an Appeal Court judge who decided Turner wasn't a risk to the general population.

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Turner was out on bail fighting extradition when she drowned Zachary and herself.

"I believe in evil," Kate says. "I believe she knew what she was doing."

··· Looking back, Kate says she's not sure what the couple could have done differently to protect their grandson.

"We never could kidnap Zachary," she says. "It's all right in the books and in Hollywood, but if we had taken him away, we would have had to involve other people. We would have had to find someone with a boat to hire to take us (across the border). We had to think of what kind of life he would have had in hiding."

··· In the years that followed, the Bagbys fought to reform Canada's bail system, lobbying for changes to the Criminal Code of Canada to make it more difficult for people accused of murder to get bail. In a 2006 report by Winnipeg medical examiner Peter Markesteyn after an inquiry into Zachary's death, Child, Youth and Family Services and the Office of the Child and Youth Advocate were harshly criticized. Zachary should never have been in the care of his mother, Markesteyn concluded, and he made numerous recommendations; some of those were directed at the delivery of justice service, and included improving the knowledge of people posting security for those on bail.

While David blames the legal system for Zachary's death, Kate also blames social workers, who she says should have realized the danger of leaving him in Turner's custody.

In late 2010, Bill C-464 — adding a clause to the Criminal Code of Canada allowing bail to be denied if deemed necessary to protect a child — became law, spurred by the Bagbys.

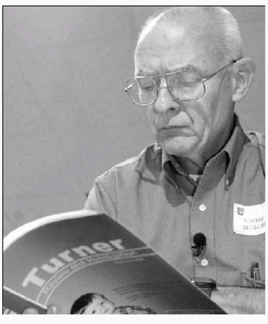
Last year, an act to amend the Fatalities Investigation Act in this province, for the formation of a Child Death Review Committee to examine unexpected deaths of youth under 19, was passed in the House of Assembly. Creating such a committee was one of Markesteyn's recommendations, although the Department of Justice said in February it would take more time for the committee to be struck.

Nothing has been heard of the committee since.

"I think we have done every practical thing we could have done to push for change," David told The Telegram, adding he's not sure the new bail law will make a difference in all cases, due to the presumption of innocence. Perhaps it will take a challenge to the Charter, he muses, or at least in the way it's interpreted.

"What we want next is for the judges to take it to heart and for the entire legal culture to take it more seriously," he says.

David wrote a book, "Dance With the Devil: A Memoir of Murder and Loss," in 2007; a documentary film, "Dear Zachary: A Letter to a Son About his Father" was made by Andrew's longtime friend Kurt Kuenne in 2008, with the Bagbys' participation.



David Bagby, grandfather of Zachary Turner, reads the Turner Report prior to it being released by the office of the Child and Youth Advocate at the Confederation Building in St. John's in 2006.

··· These days, the Bagbys are back home in California, and say they've relaxed more since the bail law was changed. They travel a bit, spend time with friends and take part in church activities ("Kate does; I just go along and set up tables," David says.) They often speak at events for various groups and district attorney associations, telling their story, both out of a sense of obligation to Andrew's and Zachary's memories, and to spread a message.

"To my mind, the more people (who) know this side of the legal stories, the better. There should never be a second killing," David says.

Is there a day that goes by when they don't think of their son and grandson?

"Not a chance," David says. "An hour would be nice. Not nice, you know, but something."

Zachary would have just turned 11 years old, and his grandparents say they find comfort in close friends and relatives who are around his age. This week, they visited Disneyland with their godson, who is the age Andrew would be if he were alive, and his children. Sunday's anniversary won't go unnoticed, Kate says.

The couple can't help but wonder what Zachary would be like and what he'd be doing.

"I'm up and down," adds Kate. "I'm angry at times, and so deeply hurt. We go to dinner parties and I realize Zachary's not in the backyard enjoying himself like the others are."

The Bagbys say although they have some wonderful friends in Newfoundland and they have been back twice for necessary reasons, it's not likely they'll ever return.

"There's just too much there," David says.

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