



Designing for the Senses • Cookie Therapy • Finding Another Voice

# The Plain Dealer Sunday Magazine

May 30, 2004

PART I of II

## ROAD to RUIN

Bob Kreischer had it all: A happy family life, a job he loved and faith in his country. Then in a scuffle, he made a fist and let it fly.

That moment cost him everything.



MAY 30, 2004

# The Plain Dealer Sunday Magazine



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Bob Kreischer had it all: A happy family life, a job he loved and faith in his country. Then in a scuffle, he made a fist and let it fly.

That moment cost him everything.

Story by  
Andrea Simakis

Photographs  
by Thomas  
Ondrey



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**Bob Kreischer invested everything  
in his belief that the American criminal  
justice system would save him. (page 6)**

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## ON THE COVER

The access road leading to Bob  
Kreischer's cabin in Perry County.  
Photograph by Thomas Ondrey.

## MAILBOX

### Church vs. Community?

*A Supersized Debate* (May 9)  
speaks of communities' rights to  
shape themselves. What right  
does anyone have to shape a  
community? The issue extends  
beyond churches; it impacts  
everything from outdoor art to  
Costco warehouses.

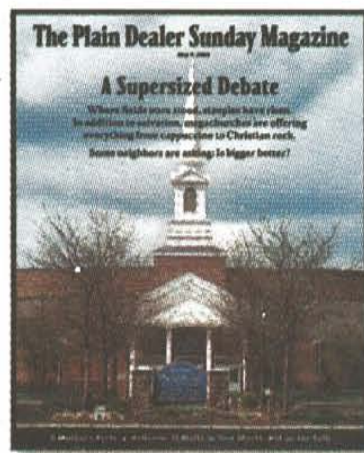
Housing discrimination, public  
placement of religious symbols  
and school prayer are all attempts  
by a community to shape itself.  
We don't hesitate to condemn  
them. Why should other govern-  
ment attempts to shape a com-  
munity be tolerated? Does the  
First Amendment protect us from  
the imposition of any belief sys-  
tem, or just selected ones?

Such shaping embodies the  
establishment of an official ortho-  
doxy. In Cleveland Heights, that  
orthodoxy is the virtue of density

and multiple-use commercial  
districts. In Lakewood, it is that  
posh retail is more worthy than  
modest homes. Opposition to  
these shaping efforts shows that  
their definitions of community  
benefit are debatable. Thus, they  
are questions of philosophy, world-  
view, belief structure, even faith.  
Why is one person's belief of what  
is the best use of his or her property  
any less protected than another's  
belief in God?

Citizens and their property are  
not a tax farm for local govern-  
ment to manage as a dairy does  
its cows, to maximize what can be  
extracted; we are not vassals of  
feudal lords. Why is it any less  
egregious for city government to  
shape a community as affluent or  
high revenue than it is to shape it  
as Christian or white? Excepting  
objective considerations of public

health and safety, determining  
the best use for a piece of land is



the right of the person who put up  
enough legally acquired money to  
buy it.

Brian Wagner  
Cleveland Heights

I am working to have Detroit  
Road from downtown Cleveland  
through Sheffield designated as  
an Ohio Scenic Byway.

I own a historic house on De-  
troit Road that I am restoring  
and am hoping to work with  
Avon and its new Landmarks  
Commission to help preserve  
properties along Detroit and else-  
where in Avon.

From the comments of [Avon  
planning coordinator] Jim Pia-  
za, we have a long way to go in  
educating people about the need  
to preserve the scenic semirural  
character of the area, and these  
churches, with their gargantuan  
parking lots, poor landscaping  
and striplike construction, do not  
help in this effort.

Steve McQuillin  
Westlake  
Continued on page 26

Enjoy Your Holiday Weekend ... But Take Time To Jot Us A Note! Our e-mail address is [magmail@plaind.com](mailto:magmail@plaind.com). (You also can write us  
at The Plain Dealer Sunday Magazine, Plain Dealer Plaza, 1801 Superior Ave., Cleveland, OH 44114.) Include your name, address and daytime telephone number.

To give all a chance to be heard, we reserve the right to edit for length and clarity. Letters may be published in any medium.

Read us online at [www.cleveland.com/sundaymag](http://www.cleveland.com/sundaymag).





**Bob Kreischer spent five years building his dream retreat in the Southern Ohio woods. It was the envy of all who saw it.**



PART I of TWO PARTS

# ROAD *to* RUIN

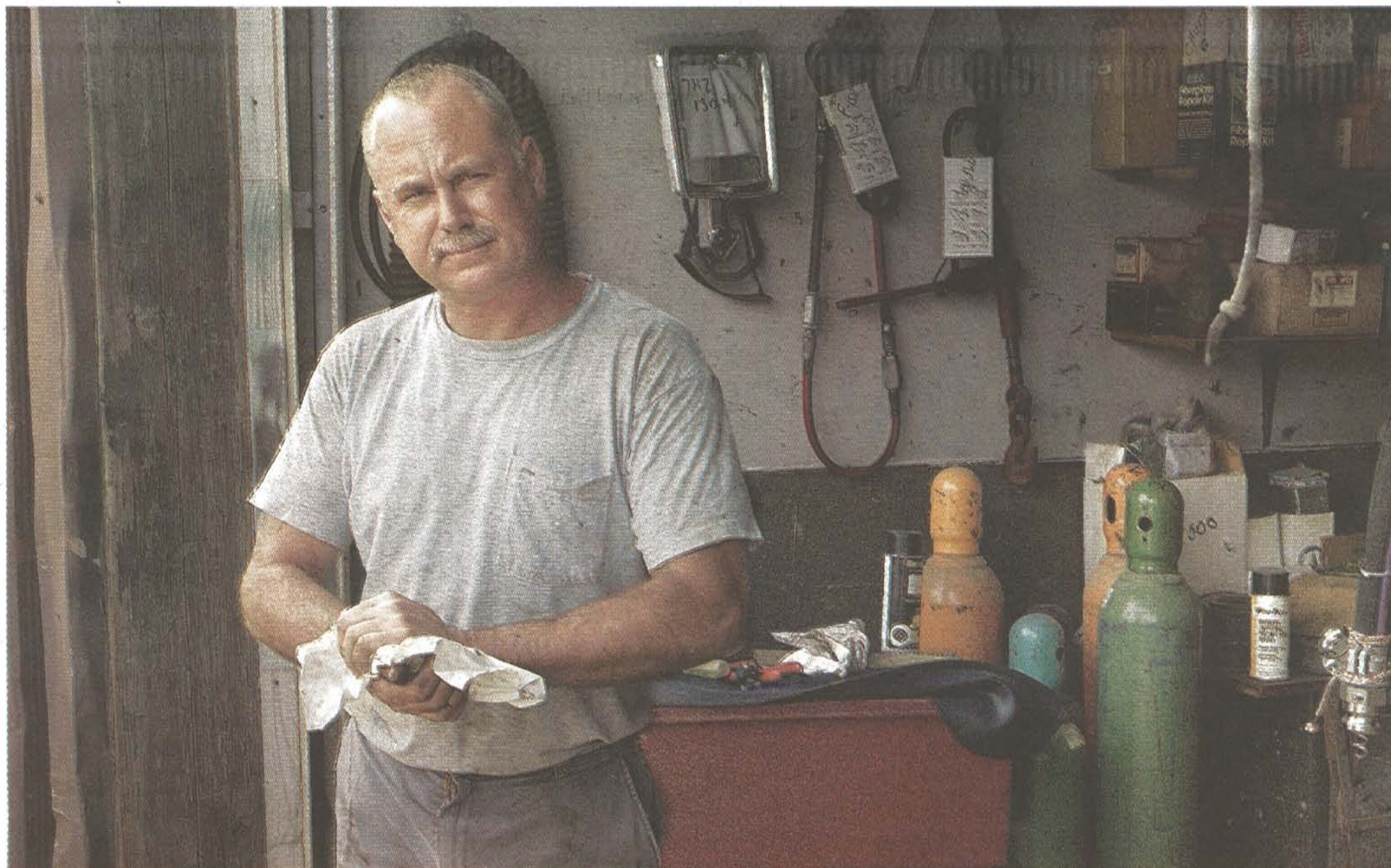


Robert Kreischer had it all: A happy  
family life, a job he loved and faith  
in his country. Then in a scuffle,  
he made a fist and let it fly.  
**That moment cost him everything.**



Story by ANDREA SIMAKIS  
Photographs by THOMAS ONDREY





Bob Kreischer spent 17 years working for the same company. It was a job he loved.

“ He invested everything in his belief that the American criminal justice system would save him. ”

## PROLOGUE

**B**OB KREISCHER GRIPPED the steering wheel with callused hands. His wife, Mary, sat stiffly in the passenger seat beside him, her purse, filled with tissues, balanced on her lap. There was no trace of his easy smile as he locked his eyes on the tar tongue of highway lolling in front of him. He said nothing.

What more was there to say?

Mary's friend Karen McCarthy chain-smoked Marlboro 100s in the back seat. Occasionally, she volunteered halfhearted chitchat, the self-conscious, empty chatter employed at wakes.

If the deputy shackled Bob's wrists and ankles and led him from the courtroom today, Mary wasn't sure she'd be able to drive herself home. McCarthy had come along to ferry her back. It was McCarthy's car; it was her CD playing on the stereo.



Tim McGraw's infectious anthem to narrow escapes drifted from the speakers like a taunt:

*And that's why God made Mexico  
A place where we can lay low  
Where the Cuervo goes down nice and slow  
And the warm winds blow  
That's why God made Mexico*

When Bob finally spoke, his voice was raw and hoarse, as if he'd been at sea, screaming into a high wind all night.

"You ever rotate the tires on this thing?" he asked McCarthy.

Bob was tired of talking about his case, the three-year ordeal that had begun in May 2000 and had consumed his savings, his kids' money for college, his sleep. It had even swallowed his land, a piece of wilderness he'd saved years for.

There would be no more appeals. He'd invested everything in his belief that the American criminal justice system would save him. Now he was delivering his body to the state; McCarthy's black Grand Am had turned hearse.

Bob looked in the rearview mirror to make sure everyone was keeping up. His was the lead car in a procession of friends and family wending its way from his Leroy Township home, just outside of Painesville, to the Perry County Courthouse in New Lexington, a tiny burg about three-and-a-half hours south, where Heavener's, the general store, sold die-cast models of farm equipment.

Behind was Jim Ponsart, Bob's friend for more than a dozen years, in his beat-up pickup, and Victor Weinmann, Bob's next-door neighbor, in a brand-new four-by-four.

The hearing was at 1 that afternoon. Bob had asked everyone to meet in his kitchen by 7:30 a.m., as if they were gathering for a weekend getaway at his cabin a few miles from the courthouse. But that was gone now, too.

He'd planned it so they'd be caffeinated and on the road by 8, giving them plenty of time, even if they got stuck behind a thresher traveling on a back country road.

Of course, Terry Wooten would be there, too. Bob squeezed the wheel. He wasn't sure what he'd do when he saw Wooten again.

The night before, Weinmann had bet him \$100 he'd be back home that evening, his feet propped on the couch in the living room, seven-year-old Alexandra standing behind him, styling his short-cropped hair with her plastic comb, giggling as she tried to attach butterfly clips to his thinning thatch.

Bob had laughed at the wager.

"Either way, I lose," he'd said.

*And that's why God made Mexico ...*

Suddenly, Mary twisted around in her seat so McCarthy could hear her above the song. She grinned like she was in seventh grade, ready to yank the fire alarm and run. It was the first time she'd smiled since they'd pulled out of the driveway.

"Call Jim and tell him we're headed south," Mary said. "Real south. Tell him to make sure to call us when the hearing's over and let us know what happened."

Bob and Mary had joked about hightailing it to

Mexico plenty of times before; they'd pictured their family on the lam in Mary's Blazer, their accomplices, Pongo the chocolate lab, Rosky the cat and Alex's dwarf hamsters, jammed into the back seat next to the cooler. The image was absurd enough to draw laughs during those awkward silences that darkened the few happy events of the summer — Alex's birthday party, the couple's 19th wedding anniversary.

It was at night when Bob was alone, wandering their old, renovated farmhouse like a departed spirit, that he would actually entertain the idea of running away. When Mary was balancing the books at Quail Hollow Resort and the three kids were in bed, he would think about heading for the border or the mountains of Pennsylvania. Anywhere but Perry County.

The only time he'd left his country was to serve it; he'd joined the Army at 17 and was stationed in Germany. He loved his stint in the military. It was there he'd learned to fix anything with a motor, a skill he parlayed into a civilian job as a diesel mechanic that was so lucrative, Mary had never had to work full time.

If he were a single man, he would have been long gone. But how could he ask his wife and children to leave behind everything they'd ever known in a cloud of exhaust?

Even now, rumbling down the road toward the courthouse for the last time, Mary believed the judge would show mercy on her husband. Bob wanted to believe it, too.

As he drove, the vast, fallow fields suddenly looked alien.

What was happening to him didn't make sense, but nightmares — the ones you are sure will kill you in your bed if they go on a moment longer — rarely follow any discernible logic. The laws you thought governed the world, the laws of physics, of nature, of man, don't apply.

He'd had bad dreams as a child but could remember only one. It was so terrifying, it haunted him into adulthood:

In the dream, he awakened in the middle of the night to the sounds of his mother, father, brothers and sisters talking in another part of their too-small house. He was almost the baby of the bunch, the 13th child of 14 born to a Pennsylvania coal miner and his wife. Bob slipped out of bed and followed the warm murmur into the living room. No one was there. He heard their voices, floating overhead. He spun around, looking in corners, but found only shadows.

It was the scariest night of his life, but it had ended with the dawn.

No such luck today. The sun was high in the September sky. He was incontrovertibly awake, Mary seated next to him, driving toward a courtroom where he could lose everything.

Over the last few years, it seemed as if all he'd talked about was the punch, his conviction and what it had cost him. He saw how some people looked at him, with their eyebrows raised. They thought he was exaggerating, or worse, lying.

It was hard for them to believe his story.

But maybe there was something more — something about his story that frightened them.

If one punch could turn him from a law-abiding man into a felon, maybe it could happen to them, too.

## Methodology: Part I

Andrea Simakis spent a year reporting and writing *Road to Ruin*.

She was in the car with Robert Kreischer as he drove to his final hearing and attended the court proceedings on September 3, 2003.

To gather details for Part I of this story, she visited the property owned by the Kreischers in Perry County, their home in Leroy Township, Terry Wooten's land in Perry County, the Perry County Courthouse and GQ Contracting Co. in Wickliffe.

She interviewed Bob and Mary Kreischer, and Terry and Joan Wooten. She also interviewed witnesses who testified at the trial, including Brian Batross, Jim Ponsart and Gary Wojcik; the prosecuting attorney and Kreischer's defense attorneys; Kreischer's employer, co-workers and extended family; Perry County sheriff's deputies; and the Kreischers' children, Robert, Nicole and Alexandra. Five jurors were interviewed on the condition that their names not be used.

Through a court administrator, Common Pleas Judge Linton Lewis declined to be interviewed for this story. Terry Wooten's attorney, Paul Panico, did not return repeated phone calls.

In addition, Simakis used the transcripts from the trial, sentencing hearing and jury selection; records from the Columbus police, the Perry County Sheriff's Office and the U.S. military; witness statements, trial exhibits and emergency room and medical records; voting, property, family court and driver's license records; records from the Perry County Court of Common Pleas, the Perry County Court of Appeals, the Perry County Chamber of Commerce, the Ohio Supreme Court and the Ohio Attorney General's office; the Ohio Revised Code; and public and private correspondence.

Reconstructed scenes and dialogue are the result of careful interviews and review of written documentation.

All conversations were heard by the reporter herself, confirmed by more than one party to the conversation when possible or taken from legal documents. The scenes depicting Bob Kreischer's call to the Perry County Prosecutor's Office and the serving of the indictment are from Kreischer's memory alone.

When accounts differed, we indicated whose version we were presenting at that time in the text.

The analysis of the emergency room report was provided by Dr. Don Spaner, EMS medical director for the Cleveland Clinic's Hillcrest Hospital.

Ophthalmologist Robert Wenz provided background on the treatment of torn retinas and cataracts.

Ohio Public Defender David Bodiker and Case Western Reserve University School of Law Professor Lewis Katz provided background information regarding grand jury hearings, discovery rules, issues of Ohio law and criminal court procedure.

Lawyers at the offices of the Cuyahoga County prosecuting attorney and the Ohio attorney general provided background on Ohio law governing assault charges and convictions.

For background regarding the plea offer, information was provided by court documents and Kathy Guinther of the SEPTA Correctional Facility.

— THE EDITORS





Bob relished time with his family (from left, Bob, Alex, Nicole and Little Bob at dinner). Bob's father died when he was young; nothing was more important to him than being with his children as they grew.

**F**OR SOME MEN, freedom is a high-performance sports car. For Bob, it meant roaming unspoiled woods and running into absolutely no one.

He took on Sunday tune-ups and brake jobs after work, saving the \$50 here, \$100 there, for nearly 10 years to buy a little plot of overgrown land in the middle of nowhere.

He cajoled his friend Jim Ponsart to come along. They stole away on weekends whenever they could, sometimes driving more than 400 miles in a day from Painesville to the apron of the Appalachians, combing dusty back roads looking for the right spot.

The farther south they traveled, the cheaper and more ruggedly beautiful the land became. In 1995, they stumbled onto a wild, tangled spread off Pole Cat Road just outside New Lexington in Perry County. Bob didn't hesitate. He called the number on the FOR SALE sign tacked to a tree.

Ponsart couldn't say no. When Bob's restless mind locked on a goal, you either set your sights on the same target or got out of range. Bob fronted Ponsart \$5,000 for his half, plopping down \$10,000 in cash for the deed.

Like the German pioneers who had settled the county in the early 1800s, Bob cleared the dense woods to make way for his cabin. He hauled the lumber for the foundation in the bed of his blue Chevy pickup and lugged flat stones as wide as truck-stop flapjacks from a Pennsylvania quarry to build a fireplace.

His father had taught him the value of doing for yourself. It was the pathway to independence, the only way to be truly free. He was 16 when his dad died of black lung disease and his siblings scattered like billiard balls across the vast green of the country, but he'd remembered the lesson well.

He had imagined his rough-hewn hideaway before buying the land. Once it became real, he chronicled its progress in endless snapshots like a proud parent — from its beginnings as planks of pine stacked in the grass to its final, sturdy two-bedroom maturity, an American flag hung by the front door.

It was hard, dirty work, but he loved taming his personal wilderness, sculpting home and hearth in a place so remote, he had to import a generator to use a power saw. An amateur naturalist, he didn't even mind the copperheads; besides, the snakes were more afraid of him than he was of them.

Terry Wooten bought the property across from Bob's, plus more land behind it, 80 acres to Bob's modest 20. They had to share an access road cut by the oil and gas company years before; it was the only way they could reach their spreads.

When Wooten and his wife, Joan, first saw the forest and the pond filled with bluegill, they thought they'd secured their own little paradise. Wooten wanted to retire to Perry County, but he'd have to spend another several years in Columbus at the post office before he could put down his mailbag.

Wooten couldn't help admiring Bob's deep-woods bungalow, a knotty pine lodge with sliding glass doors and a deck overlooking a gully crowded with pheasant and deer. The Wootens bunked in a trailer.

In the late 1990s, when the two men were still chatting and waving hello, Wooten would wander over and compliment Bob's handiwork. "This place is beautiful," Bob remembered him saying. "You don't wanna sell it, do you, Bob?"

"No," Bob told him. "It's for my family. It's not for sale."

They had been friendly acquaintances then. Wooten gave Bob permission to hunt on his real estate; Bob invited Wooten and his family to use the Kreischers' outhouse anytime. But their association soon curdled. No one can agree on why.

Their polite relations might have gone south when Wooten told Bob and his buddies they couldn't hunt on his property anymore; Wooten found candy wrappers and empty cigarette packs littering the ground and blamed his neighbors for the mess.

Wooten issued signed permission slips to a select few visitors. Everybody else was trespassing. He didn't want Bob or his kids — or anybody else's kids, for that matter — on his land. He said he didn't want to offend, but he was doing it for their own good. What if they got hurt playing on his side of the road? What if they got shot? Their dads would sue him in a heartbeat.

Or it's possible their enmity grew

when Bob discovered that someone had chopped down dozens of his trees, and pointed a finger at Wooten.

Whatever the case, their relationship became so bad that Wooten papered the massive tree trunks on his side of the road with bright yellow *No Trespassing* — *Keep Out!* signs. Bob volleyed back with his own set of signs, creating a Burma Shave corridor of bad vibes.

**B**OB WAS the only mechanic at GQ Contracting, a job he'd landed when Ronald Reagan was president and kept through Clinton and two Bushes. The Wickliffe construction and drywall company had helped raise some of the grandest buildings on the Cleveland landscape — The Ritz-Carlton, the Rock Hall, Cleveland Browns Stadium.

Bob reanimated dead engines and saved terminal jalopies from the junkyard. He put in five days a week and half a day on Saturday. People relied on him. He liked that. No one could remember the last time he'd called in sick. He'd been a kid when he was hired and he'd grown up in that shop. It was an extension of him, neat and Spartan. Even his red toolbox gleamed. It stood as high as Bob's shoulders. His pocket-sized copy of the Declaration of Independence and the U.S. Constitution was stowed inside. The booklet was a present from his mother-in-law.

He flipped through it from time to time; he especially liked to read the Bill of Rights.

The Constitution was his secular bible, the writings of the founding fathers his scripture. Those men had helped create the only place on earth where personal freedom was valued above all else. That's why Bob said America was the greatest country in the world.

Friends ribbed him about his no-apologies patriotism.

"When was the last time you voted?" he'd chide. "You sit there and you bitch about this government, but you don't do anything to change it."

The first time he'd voted, Bob was a slender recruit with a confident grin stationed in Frankfurt, Germany, dutifully filling out an absentee ballot. Later, not wanting party loyalties to bog him down, he switched from registered Democrat to Independent, and supported candidates on both sides of the ticket — although the avid hunter and member of the National Rifle Association was partial to politicians who promised to safeguard his firearms collection.

At the Kreischer house in Leroy Township, the Fourth of July wasn't just about sparklers and hot dogs. It was to honor the birth of the nation.



Bob spent \$1,000 each summer to feed and lubricate the 100 or so people who swarmed up his drive like advancing troops. Uncles and cousins traveled from Pennsylvania for his barbecue. Guests spiked volleyballs, tossed horseshoes, played croquet and visited kegs set up near the barn. Bob presided over a Viking-sized grill positioned over a fire pit and played chef to the twang of his beloved but much-joked-about Time-Life collection of bluegrass hits.

He'd swig Pepsi, as he only occasionally swallowed a toast at a wedding or sipped beer during a Browns game. His friends and family never saw him drink much more than that. He took a powerful medication to control the arthritis in his knees and fingers; alcohol lessened the effects of the drug and aggravated his condition. If his hands didn't work, he couldn't put in his eight- to 10-hour days at the shop repairing diesel engines, fix the furnace when it broke or build a porch swing for Mary.

Most partygoers stayed the whole weekend, camping out. There were so many tents pitched in the Kreischers' spacious back yard that it looked as if the Army had set up a post there.

Years ago, he'd rescued an American flag from a trash heap, tattered and torn on the ends, ready to be retired, big as the ones that undulate above used car lots. He'd draped it over his barn during an Independence Day party. It was so large, it shrouded the building. All weekend long, small planes from a nearby airport buzzed around the red, white and blue like hummingbirds visiting a bleeding heart. He'd learned the proper way to dispose of a flag when he was in the service and burned it out of respect a few days later.

You didn't just throw Old Glory in the garbage.

**I**F IT HADN'T RAINED the last weekend in May 2000, Bob Kreischer might never have punched Terry Wooten.

But fate, in the form of a well-placed thundercloud, doused the woods surrounding his cabin, turning the primitive dirt road to mud, and the ruts and potholes along it into tiny shimmering lakes.

He and Wooten told sharply different stories of what happened that Sunday.

The jury believed Wooten.

Bob and his witnesses described the fight this way:

The sound of somebody laying on a horn cut through the leafy expanse and assaulted Bob's ears. It was a little before 7 in the evening, and he'd just driven his family back to the cabin after

spending the afternoon exploring the huge prehistoric caves in the nearby Hocking Hills.

He stopped walking down the steep driveway and turned to his 14-year-old son.

"You leave that four-wheeler in the road?" he asked.

"Yeah," Little Bob answered.

"Go move it."

The boy obeyed, sprinting up the incline to retrieve the all-terrain vehicle blocking the path out of the cool, shady grove. Bob continued trudging toward his friend Jim Ponsart's cabin at the bottom of the hill. He could see his buddy Gary Wojcik, sinewy and compact, on a ladder, handing some shingles to Ponsart on the roof. You couldn't miss Jimbo; he was so tall that when he came over to watch the Browns, he'd have to duck or risk whacking his head on the ceiling tiles in the Kreischers' basement.

They'd finished Bob's cabin first, so Mary and the kids wouldn't have to stay in their tin can of a camper when they visited on holidays and throughout the summer. Now Bob was helping Ponsart raise his.

He heard the horn again, blaring as if it was stuck, and something else. Somebody yelling at his kid.

Bob trotted back up the drive and found Little Bob in the road, frantically trying to start the mud-splattered ATV.

Wooten leaned out the driver's side window of his shiny maroon pickup.

"Move those f----- trucks," Bob

heard Wooten shout.

"I can't even drive," the boy sputtered.

The late-spring downpour had transformed the dirt driveway leading to Ponsart's cabin into a mudslide, forcing Bob's friends who were visiting over the Memorial Day weekend to park alongside the road.

"You get somebody to move those trucks!"

Little Bob had reported similar scenes to his father before and Bob's oldest daughter, 10-year-old Nicole, also complained to her Dad that Wooten had demanded she get off the road as she buzzed around on her minibike, a homemade contraption Bob rigged up using an old lawn mower engine.

"Wooten, what's your problem?" Bob asked.

"What are you doing yellin' at my kid like that? I warned you before — if you got something to say, you say it to me."

"You get those trucks out of the road!" Bob heard Wooten shout again.

Bob told his son to scoot the ATV out of the way so Wooten could pass.

"You got plenty of room," Bob said. "Go around."

The passage was too narrow, Wooten insisted. He might clip his mirrors.

Bob remembered turning to walk away. "Come on, Little Bob," he said. A door slammed. He looked back and saw Wooten jump out of his truck, rip off his glasses, then tear off his baseball cap.

Little Bob didn't know what to do.

He just stood there and watched as Wooten shoved his father, pushing him down the driveway.

"You think you're tough?" Wooten said, and poked Bob in the chest. Once, twice, again.

"Come on," Bob heard him say. "Take a swing at me."

At 37, Bob was 10 years younger and a few inches taller than his neighbor, but Wooten outweighed him by some 10 pounds.

"I tell you what," Bob recalled saying. "You better get back in your truck and get the hell off my property."

Wooten didn't budge.

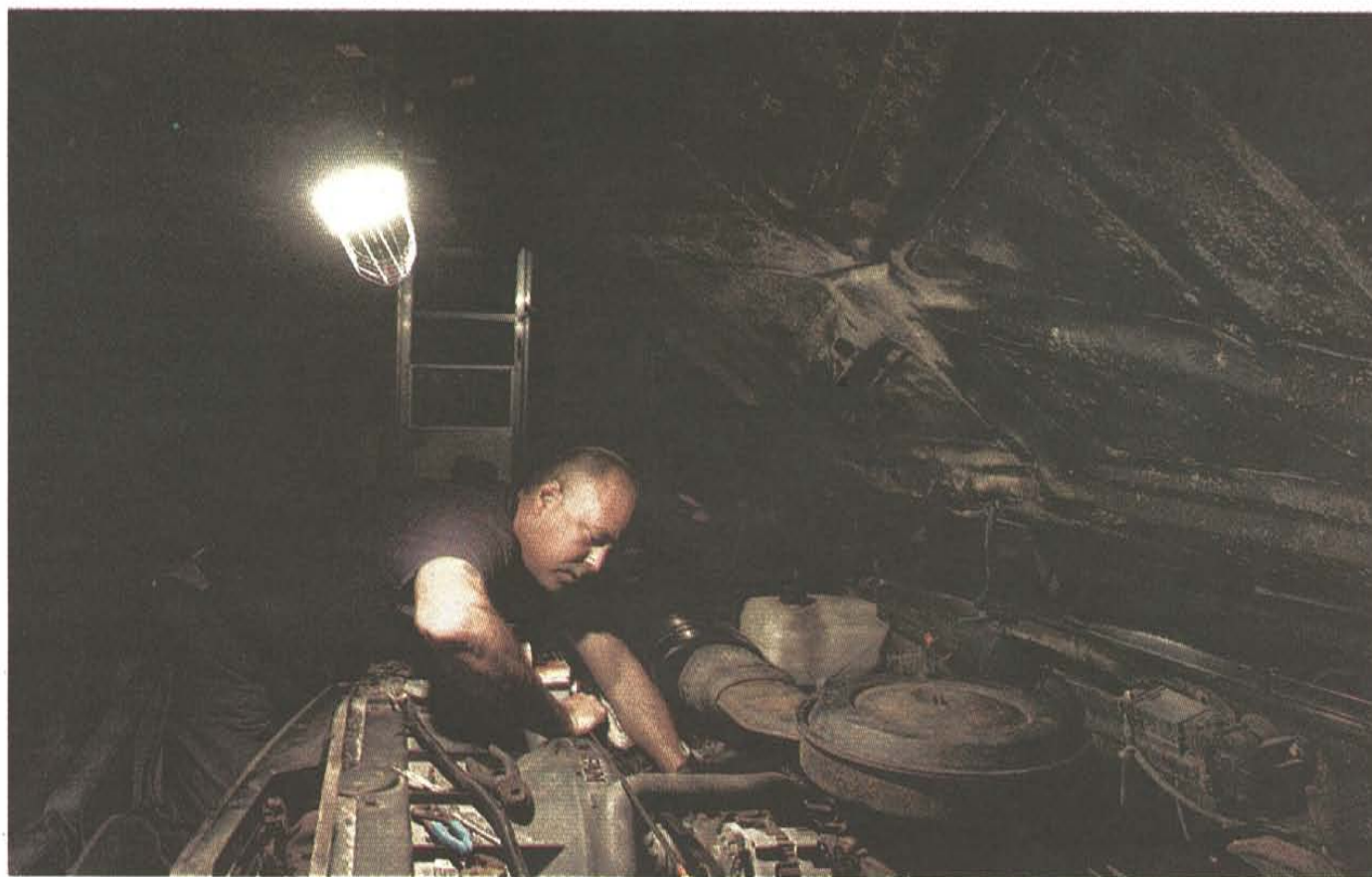
As much as he wanted to, Bob didn't take a swipe at the man right then, not with his son there next to him. Even though Wooten was taunting him, pushing him backward, Bob held himself back — he was afraid he couldn't protect the boy if he and Wooten tangled. Then came a scarier thought: Wooten was a hunter, too. What if he had a gun in the cab?

"You're not so big," Little Bob heard Wooten say. "Come on, hit me."

"Why, so your buddy can jump in and help you out?" Bob asked, pointing to Brian Batross, Wooten's passenger, who'd been watching everything from the pickup.

At an impasse, they reverted to cowboy arbitration. They agreed to take a walk.

"Get on outta here," Bob told his son. As if released from a spell, Little Bob hopped on the four-wheeler. This time,



In addition to keeping the family's autos running, Bob worked on his friends' and relatives' cars, never asking for anything in return.





“Wooten poked Bob in the chest. Once, twice, again.  
‘Take a swing at me,’ Wooten said.”

— Bob Kreischer

it came to life and he roared off down the road.

Ponsart watched the ruckus from the roof about 90 feet away. Wojcik loped up the rise to see what all the shouting was about and found Batross, still inside Wooten's pickup. “This is between them two,” Wojcik remembered saying to him. “You stay out of it.”

As Bob and Wooten stalked behind the knot of trucks, Bob planned his next move: If this guy pushes me one more time, I'm gonna slug him.

“Come on,” Wooten said.

Wojcik saw Wooten shove Bob in the chest.

“That's all you got?” Bob asked.

As Wooten moved to push him again, Bob drew back his right arm, balled his thick fingers into a fist and let it fly. He said he remembered aiming for his adversary's nose.

*CRACK!*

Later, Wojcik would say it sounded as though Bob had missed his mark and hit a tree. Wooten flew into the brambles bordering the road.

“Where's my glasses?” Wooten asked, searching through the underbrush on his hands and knees. “Help me find my glasses.”

Bob scanned the dirt for a moment — he felt a little bad for the guy, crawling around on all fours. Then he remembered. “You threw 'em in your truck,” Bob said.

Wooten rose from the prickly brush and headed for his truck. A blood blister crawled like a caterpillar across the bridge of his nose and an angry red mark ran under his left eye.

“Terry, are you gonna call the cops?” Wojcik asked.

“No,” Wojcik heard him answer. “I ... fought him like a man.”

NOT HALF AN HOUR later, Wooten sat in a chair in the Perry County Sheriff's Office, an old brick fortress squatting across the street from the Beauty Hut salon. His dark, sweaty bangs were matted to his forehead. It was a little after 7 p.m.

He'd driven the four miles into New Lexington to tell deputies his tale. Wooten scrawled out a short statement and signed it:

He'd asked Bob to move the trucks blocking the road and they'd exchanged words. Bob was mad because he'd told Bob and his friends to stay off his property.

“We walked around [the] back of my truck,” Wooten wrote, and Bob “jump[ed] me from behind” and “busted my left eye.”

“While I was on the ground, he kick[ed] my ribs a few times. He also

made the statement that he was going to do the same thing to my kids & wife.”

Later, jurors would hear much more.

Deputy Ed Miller had worn the star on his chest less than two months when he interviewed Wooten and Batross. Their stories were “basically the same,” the deputy wrote.

In his report, he noted that Wooten's eye was heavily swollen. So was his nose.

The rookie typed a shorthand description of Wooten's condition on the front page: “POSSIBLE INTERNAL INJURY, APPARENT MINOR INJURY.”

Wooten told the deputy he was having trouble seeing.

Did he need medical attention?

“No,” Wooten answered.

Did he want to press charges against Kreischer?

Wooten wasn't sure. “I'll decide,” he





“We walked around [the] back of my truck and [Bob] jump[ed] me from behind.”

— Terry Wooten

told the deputy, “after I’m checked out by a doctor.”

Wooten also offered some advice: He warned the young officer that if he was venturing onto Kreischer’s land, he “needed to use extreme caution” because Bob and his friends “have many guns” and “shoot in all directions.”

Bob said he would “shoot anyone coming on his property,” Wooten told the lawman.

**W**HEN DEPUTY Miller, broad-chested and baby-faced, plodded through the muck to Bob’s cabin that evening, Mary met him in the driveway. He asked to speak to her husband.

“He isn’t here,” Mary told him, “but he’s up the road working on his friend’s

cabin if you want to go talk to him.”

“Is it close by?” the deputy asked.

“He’s right over there,” she said, and pointed through the trees.

He followed her finger, but the passage was muddy. It had been hard enough navigating his cruiser to the Kreischers’ place.

“Have him give me a call,” the deputy said and handed her his card.

At 4 a.m., the phone rang at the Perry County Sheriff’s Office. It was Terry Wooten, calling Deputy Miller from Riverside Methodist Hospital in Columbus. A bone in his face was cracked, he reported.

Wooten hung up and later went home to West Worthington, a neighborhood with stone geese in sunbonnets on front porches, with instructions to see an ophthalmologist in the morning.

Bob had broken Wooten’s orbital rim, the paper-thin bone underneath his left

eye. It is one of the most fragile bones in the skull. In the summer, emergency rooms and urgent care centers everywhere treat kids with the same injury, delivered by high fly balls and line drives that skip off baseball gloves.

**T**HE FOLIAGE shrouding the Kreischers’ cabin ate cell phone signals as well as sunlight, so Bob didn’t call the deputy until he was back in his Leroy Township living room the next day. The conversation lasted less than a minute.

“My wife said you wanted to talk to me,” Bob said.

The deputy asked him if there had been a fight.

He and Wooten had argued, Bob told him. “He kept on pushing me and poking me, so I hauled off and cracked him.”

“Oh, so you *did* hit him?” the deputy asked.

“Yeah, I hit him.”

“OK, that’s all I need to know,” Bob was surprised to hear the deputy say.

“All right, you got any questions, give me a call,” Bob said. “You got my number?”

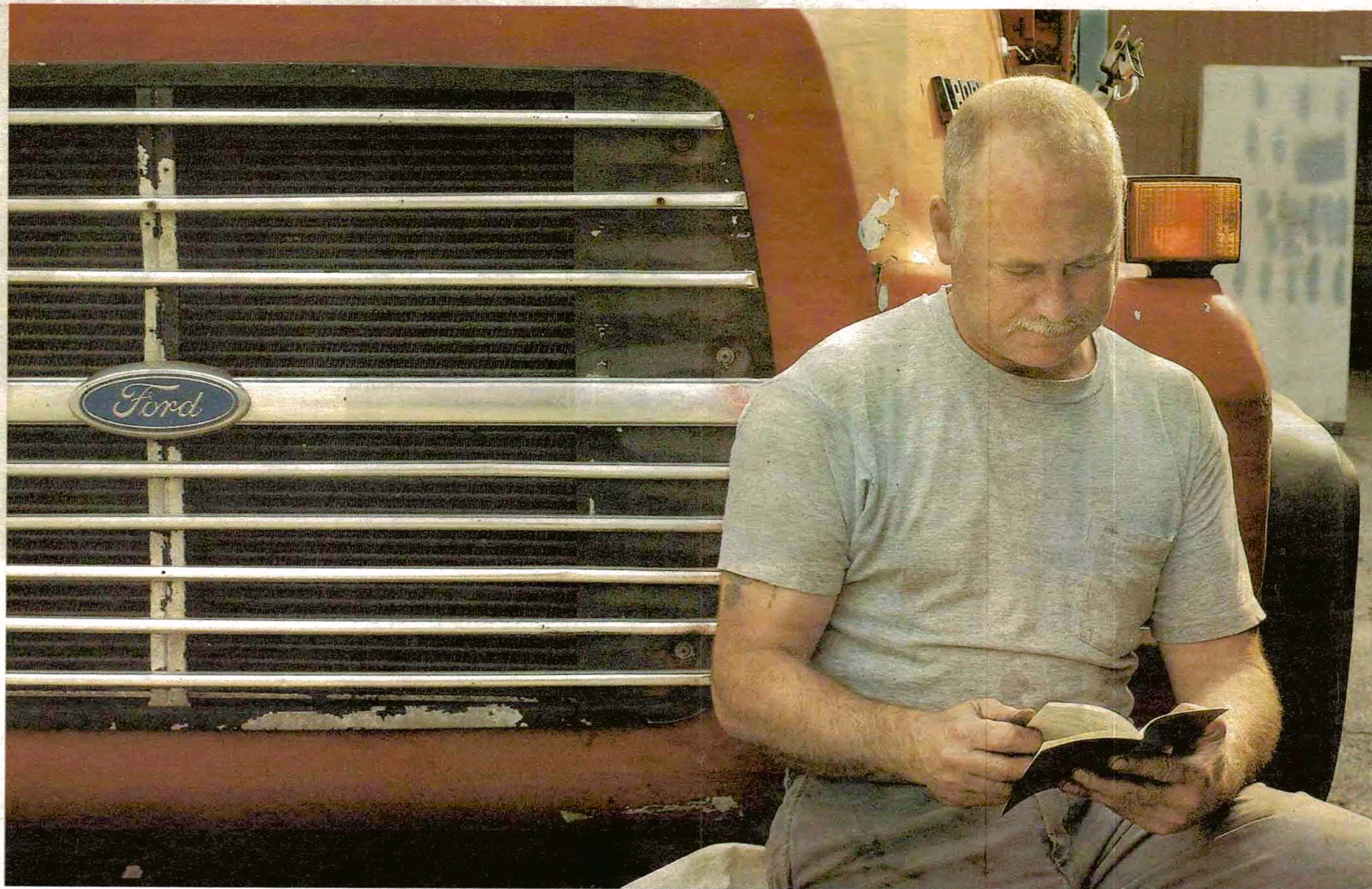
The deputy said he did.

**A** MONTH LATER, the deputy hadn’t followed up on Wooten’s complaint and Bob’s mind slipped into the old grooves: Family, home improvements, work.

It was only June, but Bob’s shop at GQ Contracting was already hot as a sauna. His wall phone let out a feeble bleat. It was Mary.

“You wouldn’t believe what we got in the mail,” she said. “They’re indicting





Bob read his pocket Constitution when he had a rare quiet moment at work. "I've always been interested in what our rights are as Americans," he says. "It's our Constitution — I figure we should know what it says."

you in a grand jury or something like that."

"You gotta be kidding me," Bob said.

Mary began to read him the letter: *Grand Jury Hearing. State of Ohio vs. [sic] Robert F. Kreischer. Violation: Felonious Assault.*

"Felonious assault?" Bob croaked.

Mary went on: *If you are unfamiliar with the duties of the Grand Jury their duty is to receive complaints and accusations in criminal cases, hear the prosecutor's evidence, and decide whether that evidence is sufficient to*

*issue an indictment. If you would like to give testimony to the Grand Jury to explain your side you are welcome to do so.*

The hearing was the next day at the Perry County Courthouse.

The next day? Hydraulic lifts, giant Ford trucks and smaller pickups were lined up outside the shop door. If the equipment didn't run, the company stalled. Jobs sat unfinished.

Bob called the number at the bottom of the letter and asked to speak to Joseph Flautt, the

longtime Perry County prosecutor.

"I need to explain my side of the story," Bob told the woman who answered the phone. "I need to clear this thing up."

"Hold on," he heard her say. A few beats later she returned to the line. "He says you can come down here and do your talking to the grand jury."

"I can't make it tomorrow," he said. Could the hearing be postponed?

She told him she'd check.

Bob replayed the fight in his head. Perspiration tickled the nape of his neck. How had it come to this? What had Wooten told those people down there?

The woman came back on the line. "Can't be postponed," she told Bob.

They hung up. Minutes later, Bob called back. He was worried the grand jury would think he was blowing them off. Could he write out his story and send it to the prosecutor?

"I'll give it to him," Bob heard her say, "but I

can't promise he'll read it."

Bob dug frantically through his desk drawer for something to write with. He found a blue pencil, the kind carpenters use to mark wood. Its tip was a dull nub.

He grabbed a drywall knife and whittled the lead into a point.

"Dear Mr. Prosecutor," he began. He wrote four pages in deliberate, spiky cursive, taking care to use formal language whenever possible ("Here is my statement regarding the alter-

cation") and using dashes to indicate swear words. In the hour it took him to draft his account, he stopped composing only to carve away more of the pencil when the letters began to fade.

He could feel the muscles in his back relax as he stood over the fax machine in the office, watching it eat each page. Once Flautt read his statement, this whole misunderstanding would be taken care of.

The next morning, Bob called the prosecutor's office. He heard the same woman's voice come over the line.

"Did he get the statement? Did he read it?" Bob asked.

"You'd better get yourself a lawyer," she replied.

"ROBERT KREISCHER?" The voice found him through his screen door.

Bob's stomach lurched. He stopped loading the freezer with brats, burgers, chicken and steak for his annual Fourth of July picnic.

He'd known the indictment was coming, but it had been like waiting for the results of a biopsy on a suspicious-looking mole: it wasn't cancer until the doctor said so.

Bob opened the door for the Lake County sheriff's deputy.

"So," he said, "you gotta arrest me now?"

"No," the lawman told him. "Just show up in court when it says to show up and you should be OK."

The deputy handed him the papers.

Before Bob punched Wooten, the worst thing he had ever done was persuade a buddy schooled in the art of commercial pyrotechnics to shoot off fireworks in a field behind the Kreischers' house on Independence Day. Cars lined the street, drivers leaning from windows to see the illicit display.

Bob called his nephew Ben, a detective with the Euclid Police Department.

"You sure you're reading that right?" Ben asked.

Bob looked at the documents again. "It says right here — felonious assault."

"And you didn't have a weapon, a gun or a knife, something like that?" Ben pressed. "A bat?"

"No," Bob insisted. "Unless my hands are registered as deadly weapons. I punched this guy in the face."

If convicted, he could be sentenced to as many as eight years in prison.

"A prosecutor can indict a ham sandwich," Ben told him. It was a lot tougher, he said, to win a conviction at trial.

Bob felt a little better. Maybe they were just bluffing, blowing up the charges to scare him, but how would he know? He didn't have a law degree — he'd dropped out of high school and later earned his GED while in the military. He made up for his lack of formal education by schooling himself.

Biographies of Franklin, Jefferson and

Adams were stacked in towers by his bed. He became a current-events junkie, reading the newspaper front to back every day at lunch. After work, he watched Greta Van Susteren on Fox. (If you didn't understand the issues on the ballot, how could you vote for them, he'd ask.) He was addicted to the Discovery and History channels.

Still, for all his self-study, he was lost when it came to deciphering the arcana of the legal system. There was no *Encyclopedia Britannica* to give him a crash course in American jurisprudence. But he understood one thing: The Constitution guaranteed him a fair trial before a jury of his peers.

As a soldier, he'd sworn to defend the rights it promised every citizen. Now he was sure the words of the founding fathers would protect him.

THE PROSECUTOR never considered charging Bob with anything less than felonious assault because he'd broken a bone in Terry Wooten's face. Worse yet, in August, three months after their row, Wooten had surgery to repair a torn retina, an injury his doctor said was most likely caused by a blow to the head.

Bob had thrown a mean hook that connected just right. If his fist had traveled a little slower, if the angle of the punch had been slightly different, Wooten might have walked away with a bloody nose.

The fracture changed everything.

It transformed a small-time scuffle into a high-stakes courtroom brawl.

In September 2000, four months before going to trial, the prosecutor offered Bob a plea bargain.

"Some bargain," Bob said when he heard the terms of the deal:

If he admitted he was guilty and paid Wooten's medical bills and lost wages, Bob wouldn't have to do any time in prison.

Instead, he would spend six months locked in a southern Ohio treatment facility designed to help criminals become productive citizens.

There he would receive drug and alcohol counseling, attend anger management classes, and learn how to prepare a resume and fill out an employment application. He would also study good grooming and interview techniques. Eventually, he would be allowed to leave the grounds for a few hours a day to work a minimum-wage job in a community 250 miles from home. The money he'd earn would go to his victim.

He couldn't say no to the offer fast enough: Why should he submit to drug and alcohol counseling? What did that have to do with anything? He didn't have a problem with anger, he had a problem with Wooten, he said. Why should he give up a \$60,000-a-year job with health insurance for one that wouldn't put food on his family's table?

Bob didn't realize it at the time, but the confinement and counseling were Wooten's idea.





Crosses sprout like trees along Perry County roads. Along Ohio 13, leading into New Lexington, a sign boasts that the county is home to the first Catholic parish in the state.

"I want him to go to alcohol treatment and anger management. That's what me and Joanie want," Wooten had told the prosecutor. Flautt had obliged.

Even if Bob had taken the deal and completed six months of lock-and-key sobriety, he'd still have to report to a probation officer for five years. But that wouldn't be the end of it. A felony conviction would stain his life forever, like the bad Army tattoo on his arm, a skull with a drooping black rose between its teeth.

He couldn't run for public office. He couldn't carry a rifle. He'd never again climb the hills around the cabin stalking bucks alongside his son. Little Bob wanted nothing to do with fixing cars and couldn't be dragged into his father's wood shop above the barn, but hunting season brought them together. They'd spend days camped out, just the two of them. Bob wasn't willing to give that up.

He'd take his chances at trial. The way Bob saw it, it was a clear-cut case of self-defense. He figured that anyone in his shoes would have done the same thing.

No jury in the world would convict him.

**A** LONG OHIO 13, the narrow stretch of road leading into the heart of New Lexington, religion is better advertised than gas or burgers.

"Thompson Insurance, Protecting America, One Nation Under God," proclaims a billboard on the side of a barn. A posting in the front yard of a white-steepled church asks, "Where will you spend eternity? In smoking or non-smoking?"

The clerk of Perry County courts likes to say, "You're in God's country now."

Bob's lawyer knew God's country well. He was a local, exactly what Bob wanted. You didn't show up in a place like New Lexington with a hired gun from the city in Kenneth Cole loafers.

The affable criminal defense attorney had an office on Main Street a few blocks from the Perry County Courthouse, a pink-and-tan sandstone giant

built in 1887 to resemble a European castle. The lawyer kept a plaque on his desk: *May your troubles be few and your blessings many*, read the Irish proverb.

When they first met, Bob handed Robert Aaron Miller a \$2,500 retainer. If he was spending that kind of money before the trial even started, he couldn't imagine what the cost would be in the end.

The *State v. Robert Kreischer* began on January 22, 2001, three days after Bob's 38th birthday. The trial lasted about as long as one of his shifts at the shop. Jurors were seated first thing in the morning and reached a verdict by 6:30 that evening.

Judge Linton Lewis' courtroom was decorated in the style of an ornate, aging funeral parlor — thick, dusty burgundy curtains, high-backed mahogany chairs, gilded lamps with arms twisted into curlicues. The paint on the back wall was peeling, erupting into white, weeping boils, exposing something green underneath. Yet even its imposing mustiness didn't shake Bob's resolve.

When he'd walked in that morning, his shoulders, his stride, his bearing, everything about him said *I don't have a worry in the world*.

In a strange way, he'd been looking forward to his day in court, the chance to finally tell his story. The deputy had barely questioned him.

He couldn't understand how Prosecutor Flautt could have charged him, let alone brought him to trial, without first hearing all the evidence. That would be like trying to rebuild an engine with only half the parts.

Bob's witnesses were more nervous than he was. He'd tried to calm them, fidgeting and uncomfortable in their button-up shirts and polished shoes.

Jim Ponsart was especially anxious. He didn't like to go out much, even for a haircut. People whispered and stared at all 6 foot 10 inches of him. But Bob was his best friend. He'd do anything for him; even put himself on display in a courtroom full of strangers.

"Just go in there and tell it like you seen it," Bob instructed them.

Wooten took the stand first.

He seemed at ease in the witness



chair, his delivery smooth and homey. At one point, he described himself to the jury with self-deprecating charm as "fat." No stranger to litigation, he'd endured two acrimonious divorces, each involving protracted child custody battles.

There was a pulpiness to Wooten, a vulnerability. More than once during his testimony he cupped his ear and leaned in like an old man with a faulty hearing aid. "Pardon," he'd say.

Injured and deferential, squinting at jurors, he was soft-serve ice cream to Bob's glacial resolve.

Flautt, a tall man, gray and serious as an undertaker, asked Wooten to describe what had happened eight months earlier.

Wooten began:

As he tried to leave the woods using the access road he and Bob grudgingly shared, he'd found it blocked.

"I honked the horn," Wooten said. "Bob came up with another gentleman."

"Do you know who the other gentle-

tering report. Another time, he called for a squad car and asked for a female officer because he was "having trouble with his 14-year-old daughter." He also phoned about one of his sons, saying the boy "thinks he is tooooo big for his britches."

Wooten continued:

"Bob said he wanted to talk to me."

So Wooten got out of his pickup. As a precaution, he removed his glasses, "just in case I got smacked," he explained.

Suddenly, Bob didn't want to talk anymore. He wanted to "kick my ass," Wooten said. I told him, "OK, I'm in front of you. Kick my ass."

"I walked behind my truck," Wooten went on. "Bob followed behind me ..."

When his back was turned, Wooten said, Bob grabbed his arm, swung him around, and *WHAM*, cold-cocked him in the eye. The blow cracked the bone in his face.

"I went down," Wooten told jurors, "and he started kicking me." He rolled away, but Bob followed. He tried to

and children, let alone hurting them.

He couldn't stand Wooten, and the feeling was mutual, but he'd always liked Joan and gotten along good with the kids, especially one of Wooten's young sons. In the early days, he'd offer the boy a pop from an ever-stocked cooler and take him target shooting or show him how to catch and kill bullfrogs, skin them and fry up the legs.

It seemed to Bob that Wooten sat in the high-backed leather chair forever, dissecting a series of color photographs labeled exhibits 1 through 5. One showed Wooten's soft flank marked by a faint yellow splotch. The rest were of his face.

No one could miss the oil slick of a bruise running under Wooten's left eye, exactly where Bob said he'd punched him. But other injuries weren't as clear.

Wooten pointed to barely visible nicks and cuts and a small scratch on the tip of his right ear: "You can just see a tiny bit of redness right there," he said. "Where I got kicked."

kicked?" Flautt asked.

"Well, I got a fracture," Wooten began.

Bob's attorney objected, saying Wooten couldn't render his own diagnosis. "He can explain how he felt," Miller said, "but he can't say, 'This is what is wrong with me.'"

The judge told Wooten to stick to his own observations and to steer clear of anything he'd learned by way of medical tests.

Wooten strayed. No one stopped him.

In addition to the broken bone under his left eye, which Wooten said had been cracked and pushed in, he had no feeling in his cheek because his "nerve endings" had been "severed."

"You can come up and pinch the daylights out of my face," he said.

He claimed his left ear was "dead," but he had ringing in his right ear and a "slight hearing impairment." His nose was bruised and very sore. A bone in his neck was "very soft and tender

“ In a strange way, Bob had been looking forward to his day in court, the chance to finally tell his story. The deputy had barely questioned Bob and hadn't spoken with all his witnesses. ”

man was?" the prosecutor asked.

"I don't know his name, no."

"They both had beers in their hands," Wooten continued.

"Did you yell anything or yell for anybody?" Flautt asked.

"No," Wooten said. And he'd never provoked Bob. Never shoved him or poked him.

Bob was "a little intoxicated," Wooten said, but that was nothing new.

They'd had run-ins before, but the most Bob had ever done was push him a little bit. Bob had been drunk then, too, so he never reported it.

"I kind of let it rub off," Wooten said.

"There's no way I ever touched the guy!" Bob whispered indignantly to Miller. "If I had, he would've had the sheriff on me in no time."

Although it never came up at trial, Wooten wasn't shy about calling 9-1-1. Columbus police logged more than 40 calls from the Wootens' address in suburban West Worthington over a period of 10 years.

Once, Wooten insisted that a cruiser come to his house so he could file a lit-

cover up but kept getting "nailed in the head."

Bob, he said, was wearing steel-toed boots when he did it. "I'm assuming that's what he had on," Wooten added at one point. "It sure felt like it."

Bob looked frantically at the jurors. He couldn't tell what they were thinking. *Was Wooten at the same fight I was at?* he wondered.

Finally, Wooten said, the kicking stopped.

He rummaged through the grass on his knees, then pulled himself up. He was woozy, he said; he'd even lost consciousness there for a minute.

He scolded Bob for jumping him from behind.

It was then, Wooten told the jurors, that Bob pointed to Wooten's passenger Brian Batross and delivered a chilling message: "Had he not been here as a witness, you would never have got back up in that truck again. And, if anyone comes down that access road, your wife or your kids, I'll do the same thing to them."

Bob wondered if the jurors believed he was capable of threatening women

Later the prosecutor acknowledged that the exhibits weren't "the best quality," and encouraged jurors to "look closely" to make out other marks on Wooten.

Bob's mind spilled over with questions: If Wooten had rolled along the rain-soaked road to escape his relentless kicks, why wasn't Wooten covered with mud in any of the pictures?

If he'd kicked Wooten even once, he would've split the man's head open like a Halloween pumpkin. Why would anyone have to squint to see the damage?

Why wasn't Wooten's hair caked with blood?

An audiologist took the stand briefly to say that Wooten had lost some hearing in both ears, but that it was impossible to say what had caused the loss or when it had happened.

Under Miller's cross-examination, she conceded a blow to the head or a cold could do it. Nobody could be sure.

Other than the hearing specialist, the only person to testify about the victim's condition was Wooten himself.

"What kind of injuries did you receive from being hit in the face and

from the kicking." His back was tender, too. His vision was fuzzy.

"All of you are blurry," he announced to the courtroom.

An operation, during which "a buckle" was placed inside his eye, had saved his vision, he reported, but in all this time, his pain hadn't lessened.

When it was cold out, his eye really hurt — like "a headache and toothache" combined.

"I mean, it's not so bad that I'm going to get up and cry about it," he said.

**W**OOTEN'S BODY told another story, one jurors never heard. It was buried in the pages of an emergency room report.

When he arrived at Riverside Methodist Hospital in Columbus, he was assessed and listed as "non-urgent," which put him at the bottom of the ER pecking order, where people complaining of sprains, minor sore throats and colds are usually relegated.

The nurse who first spoke to Wooten



at 10:30 p.m. made no notation on her chart that he had been kicked in the head. That detail didn't show up in ER records until midnight, an hour and a half after Wooten had checked in.

While he waited to see the doctor, he was given ice to apply to his bruised eye and a light narcotic with an anti-inflammatory to reduce pain and swelling.

Wooten told jurors he'd been kicked in the neck, but X-rays taken of his cervical spine showed no evidence of a fracture or dislocation — the muscles and tissues around it weren't swollen.

He'd testified that he'd been kicked in the throat, but Wooten's doctor made no mention of injuries to his larynx, trachea or esophagus. The doctor also noted his mouth and tongue were fine and his jaw opened and closed normally.

Jurors heard he'd been kicked in the back; film of his spine revealed some arthritis but nothing broken, nothing out of place. He'd said he'd "covered up" to protect his head from the blows, but the doctor noted no bruising, tenderness or pain in his arms.

Wooten said he'd been kicked in the ribs, but when probed by the emergency room physician, the doctor noted they weren't tender to the touch and didn't appear to be broken. Fractured ribs often make it difficult for patients to breathe, but Wooten's breathing was normal.

He told jurors he'd been kicked in the ear, but the doctor found no blood, no swelling.

Wooten testified he'd briefly blacked out, yet the ER doctor recorded "no obvious loss of consciousness." Wooten said he was "dazed" and "feeling light-headed."

He wasn't vomiting or complaining of memory loss, all telltale signs of a concussion. A CT scan of his head was normal. The doctor noted a black mark on the scan — a place where a tiny section of gray matter had been liquefied — and identified it as scarring from an old stroke. He also wrote that Wooten had high blood pressure and heart disease.

The patient was awake and alert, the doctor added — just complaining that he couldn't see very well out of his swollen left eye.

Wooten had a mild scrape on his back on the right side — when the doctor touched it, Wooten told him it didn't hurt — and some bruising on the right side of his head, behind the ear.

A CT scan of Wooten's face showed a fracture in the bone surrounding the left eye. The thinnest part of his orbital rim had also been pushed down slightly. Luckily, there was no "entrapment," a condition that requires surgery because the depression of the bone is so severe, it squeezes the muscles that

move the eye.

Most orbital rim fractures heal with antibiotics and time.

The doctor put a little drop of a stain into Wooten's eye and searched for scratches on his cornea and other damage but found none.

Bob's attorney had a copy of the emergency room report, as did the prosecutor. Neither called an M.D. to the stand.

Had a doctor been asked to testify, he might have come to the conclusion reached by longtime emergency room physician Don Spaner, EMS medical director for the Cleveland Clinic's Hillcrest Hospital, after he'd reviewed the ER records.

"The only thing we're seeing here is



Five photographs, including these three, were the only exhibits presented to the jury. "... Look at these injuries," the prosecutor told jurors. "Reason and common sense dictates there's been more than one blow struck on Terry Wooten."

“ Bob’s attorney had a copy of the emergency room report, as did the prosecutor. Neither called an M.D. to the stand. ”

one isolated blow to the face," he said, "and what sounds like a fall."

**T**HE SMALL cheeseburger sat in Bob's gut, a doughy dam holding back a river of bile. He hadn't been the least bit hungry, but he was afraid if he didn't eat something during the lunch break, he'd be sick. He was in trouble. He knew it.

He tried to explain it to Mary as he sat hunched in a plastic booth at McDonald's. She wasn't allowed in the courtroom because she was to testify later that day. She hadn't heard Wooten

on the stand.

It was the way jurors looked at him afterward, as though he was something gooey on the bottom of their shoes, that had made his stomach sour.

He'd wanted Miller out of his chair, battering Flautt with objections. Instead, his lawyer had barely stirred.

When the trial resumed that afternoon, he still felt queasy.

Flautt called his next witness. Jurors liked 25-year-old Brian Batross. He was a nice-looking kid. Clean-cut. Polite. One woman would later comment that she was impressed because he was a "military boy."

(They never learned that Bob had spent six of the proudest years of his life

ten, curled into a fetal position. There was Bob, kicking his friend "like six or seven times" in the head, ribs and shoulder.

Before he left the stand, Batross said Wooten's swollen eye was caused by a well-placed kick to the face. A kick he'd witnessed.

**I**T WAS AT TRIAL that Bob finally saw the sheriff's deputy who'd come looking for him the night he and Wooten scuffled.

While being questioned by defense attorney Miller, the deputy said that he'd spoken with Wooten for at least 20 minutes — and taken notes on that conversation. He'd talked with Batross, too, and jotted down portions of that interview. He'd also had a brief phone conversation with Bob the next day.

"Did you ask him whether there was hitting or kicking that took place in this altercation?" Miller asked.

"No sir, I did not," the deputy answered.

Had the deputy collected any evidence from his client? A pair of boots?

"No sir," he answered.

Had the deputy asked Bob if anyone witnessed the fight? Had he collected any names for his investigation?

"That I do not recall," he said.

"Would you have written that down?" the lawyer pressed.

"Yes sir. I would have."

"Where would that be recorded?" Miller asked.

"That would have been recorded in the report," the deputy answered.

It was four pages long "plus statements," he said.

Bob scribbled on his legal pad: "4 pages? Statements?"

He'd asked for a copy of the police report before trial. So had his lawyer. They received a few pages that offered little more than Wooten's name and address and a description of his job — oddly, the full-time postal worker wrote "dive trainer" under "Occupation." A sergeant at the sheriff's office had explained the rest of the report was off-limits.

Later, when Miller asked the prosecutor to turn over all evidence that would help him defend his client, Flautt said he had provided everything he was supposed to.

Now, Bob's lawyer asked to approach the bench.

"Your Honor ... I've never been given the police report in this case," he said. "I need to look at it and see what ... further investigation was done in order to continue with this officer."

The prosecutor said that he'd already given Miller everything. "That's all

in the Army. It just never came up.)

Batross' testimony mirrored Wooten's, with a few significant exceptions:

He told jurors he remembered seeing Bob's son on the road soon after Wooten beeped his horn, not "another gentleman."

And he swore that he'd seen Bob sock Wooten twice, although he was the only person to remember it that way.

Batross admitted he was too far away to see exactly where the blows landed — he'd watched most of the fight through the tinted windows of Wooten's pickup.

Once Wooten was on the ground, however, Batross said he was able to see everything clearly: There was Woo-



there is," Flautt told the judge.

Miller reminded Judge Lewis that the lawman had said his report was *four* pages.

"He's got the whole report that you have?" Lewis asked the prosecutor.

"Yeah," Flautt said.

"He's got the same report?" the judge pressed, still not satisfied.

The prosecutor shifted ground.

"I don't [have to] give him the police report," Flautt said. "They aren't entitled to it in discovery."

That answer would later become the focus of Bob's appeals.

In many states with "open discovery," prosecutors are required to share all their evidence with defense attorneys. In Ohio they're not, unless the evidence would tend to help the defendant's case. The catch: Prosecutors decide what qualifies.

After more prodding from the judge, the prosecutor relinquished several sheets to Bob's attorney.

Miller examined them.

"It's my understanding, Mr. Miller, that you have reviewed the reports from the ... sheriff's department at this point, and you are in agreement that you have everything that should be available to you, is that right?" the judge asked.

"After reviewing it, yeah," the lawyer replied, and handed the hard-won documents to his eager client at the defense table.

They were written in pencil in Bob's own self-conscious hand. It was a copy of the fax he'd sent to the prosecutor so many months before.

"That's *my* statement," Bob whispered, incredulous. "Where's the rest of the police report?" Bob hissed. "No statement from Wooten? No notes from the police investigation?"

"That's all he gave me," Bob remembered Miller saying.

"You've gotta be kidding me," Bob said, clutching the pages. "This is all he has?"

Miller soldiered on, without the knowledge that the story in Wooten's statement — the one he'd written the night of the fight — didn't match the one he'd just told on the stand.

He'd never told deputies he'd been kicked in the head. Neither had his witness.

Jurors never had the chance to wonder why.

**B**OB'S KNEES bounced in anticipation, but he had to wait. He was slated to testify last. The trial had started only hours before, but it felt as though days had passed.

"Defense may call their first witness,"



**If Bob could win some celestial do-over and relive that day, he would not hesitate. He'd still send Terry Wooten sprawling into the prickly woods bordering the road that separated their two hostile camps.**

the judge said.

Gary Wojcik, who'd been helping shingle Ponsart's cabin roof, said he was at Bob's side by the time Wooten landed in the dirt. "Bob hit him one time," Wojcik said.

"Did you see Bob Kreischer kick Mr. Wooten?" Miller asked.

"No, not at all," he replied.

Little Bob stepped up next. He displayed an unnerving coolness on the stand. Like his sisters, he'd inherited his father's direct, unwavering gaze.

Little Bob would never forget meeting Wooten on the road.

"Mr. Wooten kept yelling: Move the F-ing trucks," he said, careful not to use the swear word.

His father arrived. Wooten shoved and Wooten poked. That scared him.

"Mr. Wooten kept saying, 'You're not so big. Come on, hit me. You're not so big,'" Little Bob said.

"And what did your dad say?" asked Flautt.

"He said, 'Just get out of here,'" Little Bob recalled.

Ponsart didn't share the boy's laconic disposition. The air was charged with the ions of the tall man's discomfort.

When Wooten came barreling down the road, "honking, honking, honking," Ponsart was on the roof of his cabin.

"Were ... there any trees or brush, or anything that would impair your view?" Miller asked his witness.

"Yeah," Ponsart admitted. The men kept popping in and out of sight.

"Did you see Bob throw the punch?" Miller asked.

"Yeah," he answered.

"Could you see him clearly?"

"Yeah, pretty clear," Ponsart said.

He testified that he'd seen no kicks.

Ponsart's uneasiness only grew under Flautt's pointed questioning.

When Bob and Wooten walked behind the pickups, the prosecutor asked, which side of the road did they walk on?

"I can't tell," Ponsart said miserably, "because there was a big brush pile there. ..."

Later, a few of the jurors would say they took Ponsart's stage jitters as a sign he was lying. And how could they trust Wojcik? He and Bob had been tight for years. Others dismissed Little Bob's testimony as the words of a child willing to say anything to save his father. And Mary? She hadn't seen anything except the face of her frightened son.

"Your Honor, I'll call Robert Kreischer," said Miller at last.

**B**OB SPRANG from his seat and took center stage with the energy of an understudy finally called to assume his rightful, starring role.

He wasn't especially imposing, but jurors saw a man who walked with his shoulders thrown back, giving him a few phantom extra inches, as though he was still standing at attention in front of his drill sergeant. Although his arms were rounded and hardened by years of torquing wrenches under the hoods of a thousand grimy diesels, Mary teased him about his skinny legs.

He watched their faces as he told his story and saw them lean in attentively, as though they, too, had been anxious for his debut. The confidence he'd felt that morning returned.

Sure, he'd gone behind the trucks with Wooten, he said.

"He walks around like he's Wyatt Earp. He's never without his gun. I just wanted to get him away from the truck,

from my son, and try to defuse the situation."

But Bob said Wooten kept pushing.

"I smacked him right in the eye," Bob said without a dollop of regret.

"Did you kick him?" his lawyer asked.

"Absolutely not," Bob answered.

"Did you think he was going to try and hurt you?" his attorney asked.

"Oh yeah," said Bob.

It was the way Wooten was shoving him, high on the chest. "I thought maybe he was going to hit me in the throat," Bob told jurors.

"Had you been drinking that day?"

"No," Bob said emphatically. He'd spent the afternoon with his family hiking through Old Man's Cave. The Blazer's engine was still warm from the trip when Wooten started honking. Mary and the kids would never have gotten in the car with him if he'd even been tipsy.

"Did you have a beer can with you when you walked up?"

"No, absolutely not," he said.

He felt restored, impenetrable. He couldn't wait to face off with the prosecutor.

"Cross-examination, Mr. Flautt?" the judge said.

Flautt asked Bob to clarify a few points about the statement he'd faxed, then focused on Wooten.

"Isn't it true that ... Terry Wooten never doubled up his fist and swung at you?" the prosecutor asked.

"He never swung at me, no," Bob said.

"Isn't it true that the most he did was place his hands on your chest and shove you?"

"Right," Bob answered. "That and poking me."

"I have no further questions, your Honor."

Bob sat there, stunned. He'd answered six questions. Little Bob had testified longer than he had. Why did the prosecutor want him off the stand so quickly? Was Flautt worried he was making points with the jury?

He didn't step down — he had so much more to say. Didn't they understand that his freedom was at stake? He'd waited so long to defend himself, he would have welcomed a grilling.

"Try and shake my story!" he wanted to shout.

He still hadn't moved. Jurors began coughing and clearing their throats.

Reluctantly, Bob abandoned the witness chair.

**T**HERE WAS no trace evidence to sample, no DNA. There were no bullets to run through ballistics.



The case, when distilled to its essence, both lawyers argued, was about character. Who was more credible — the victim or the defendant? Who was lying and who was telling the truth?

In his closing, Flautt said the stories Bob's witnesses told had been a little too consistent. Their motives couldn't be trusted. They were out to help a father and a friend.

The prosecutor pointed to the shots of Wooten's face and told jurors exhibits 1, 2, 3, 4 and 5 were all the evidence they needed to convict Robert Kreischer.

"Maybe Terry Wooten asked for the first punch," Flautt said. "But he certainly didn't ask to be kicked in the head as he was laying on the ground."

Flautt told jurors 11 times that Bob had "brutally" and "repeatedly" kicked Wooten in the face and head. It was the crux of the state's case.

Bob's lawyer argued those same photographs would exonerate his client.

"He has gone to great lengths to attack ... our local sheriff's office saying they didn't do their job; they didn't go out and talk to these witnesses," Flautt fumed. "No, they didn't talk to them, but so what?"

"You're to decide this case on what the witnesses told you," Flautt told jurors. "You're to review their credibility and believability and decide it on that and that alone, not on whether or not you feel the sheriff's office did or did not do a good job investigating this."

One of the last images the jurors took with them as they filed out to make their decision was the prosecutor re-enacting an assault.

"When you're thinking about this, lay yourself out on the floor," he said. He bent deeply in front of the jury box and spread his long arms the length of a body.

"Think about somebody repeatedly kicking at you," said Flautt.

"We the jury find the defendant, Robert Kreischer, guilty ..."

Bob didn't believe it.

There were 12 people sitting there — they didn't *all* think he was guilty, did they? He searched their faces for a sign. No one would look him in the eye; they stared straight ahead, expressionless, or examined their feet.

Bob's lawyer asked the judge to poll the jury.

"All right," he said. "I will ask Juror Number One, is this your verdict?"

"Yes," said a woman.

As each answered, Bob felt the impossible sensation of his heart taking a swan dive into his stomach.

The four women and eight men had to pass Bob on their way out. He glared, willing them to meet his cobalt gaze. He could hear Mary sobbing behind him.

"I cannot believe this," he said, out loud. A few hunched over as they passed him, as if to avoid the rain.

The consensus was clear: Bob had every opportunity in the world to walk away — and he didn't.

"Some people's got such a temper on 'em — don't know when to quit," the minister's daughter said. "That sounds like the way he was — and he was *drunk*," she added with distaste.

That didn't bother one of the men. "Now, I don't have anything against drinkin'," he said, chuckling. "But if he hadn't been drinkin', he wouldn't have gotten so mad."

The retiree who was hard of hearing thought Bob had kicked Wooten, too, but that was no crime. Didn't these people know all was fair in a round-house brawl?

"When you pop someone, you don't just hit him once — you keep hittin' him. Otherwise, they could jump back up and hit *you*," he said.

None of the jurors had been swayed by that argument during their deliber-

“One of the last images the jurors took with them as they filed out to make their decision was the prosecutor re-enacting an assault ... delivering a hail of blows to an imaginary victim on the ground.”

"Look at the pictures," Miller urged.

If Wooten had curled up or thrown his arms over his head to ward off Bob's kicks, why were none of his extremities cut and bruised?

The minor scratches in the photographs happened when Wooten fell into a pile of brush, he said.

Miller pointed out that Wooten's witness was hardly impartial. Batross had dated Wooten's stepdaughter for a while. He still worked with Wooten's wife at a jewelry store in Columbus.

"The police investigation, what was done?" the attorney asked. "In all these months that have gone by" nobody from the sheriff's office or the prosecutor's office talked to all the eyewitnesses to the crime.

"Why? Apparently they didn't care enough. They have someone who's hurt. They have pictures of an injury. ... They can argue that Bob Kreischer's guilty whether he is or not."

It was the government's responsibility to build a solid case against Bob and it hadn't, the attorney said.

"This whole case develops because everyone involved in it says, 'Terry Wooten said it, it has to be true.'"

Flautt's rebuttal began as an angry defense of the county's police work.

Bob watched as the prosecutor delivered a hail of blows to an imaginary victim on the ground.

AT 5:13 p.m. Judge Lewis sent jurors into deliberations without a dinner break. That worried Bob. What if they didn't take their time because their stomachs were rumbling? he asked Mary.

Bob and his wife sat outside in the hall, jammed hip to hip on a narrow wooden pew.

Little Bob slipped downstairs to find the pop machines. He told his mother he didn't want to be in the courtroom when the decision came down. Mary didn't argue.

Ponsart and Wojcik were so convinced Bob would be acquitted, they'd gone back to the cabin to throw some steaks on the grill.

Then the jury was back. Had they even been out an hour? As Bob took his place next to his lawyer, he tried to decide if the quick deliberations were a good sign — or a bad one.

The foreman handed the clerk of courts the verdict.

Bob stood.

Bob turned to his lawyer. "You're through," he said in a hoarse whisper.

Mary came to the wooden bar separating the defendant's table from the spectators' gallery. He leaned over the railing and gave her a quick, awkward hug.

"Bye," he said as the deputies cuffed his wrists.

The jurors clattered down the marble stairs, their voices filling the ground floor hallway. They didn't notice the slight 15-year-old.

"My husband would've done the same thing," Little Bob heard one of the women say. "He would've punched the guy, too."

"Yeah," said another, "if only he wouldn't have kicked him so many times ..."

THE JURORS later would say it came down to the pictures, the only evidence they could hold in their hands, worth a thousand of Bob's words.

"It had to be one hell of a punch to do that much damage," said one, a former prison guard. They all agreed: Wooten looked really messed up.

ations. Some of the women didn't think a man should hit anybody for any reason. So the old man had dropped it. He went along with everybody else.

One juror had a son who was a police officer. He'd worked as a deputy for the Perry County Sheriff's Office until about a year before the trial. The defense attorney spent an awful lot of time blaming the sheriff's men, saying they hadn't done their job, she said.

She was more inclined to believe Joe Flautt. The prosecutor was a good man, her son had said so. That's why she trusted him. She'd known Joe's daddy, too; she'd been a juror on a case the senior Flautt had tried years earlier.

Some of them thought the penalty was pretty steep — two to eight years in prison. Seems like they read in the newspaper every day about people who did worse and got less time. They couldn't worry about that — it wasn't their job to sentence Bob. That was up to the judge.

"We're all accountable for our actions," the banker said. "We all make mistakes. We regret them, but we can't take them back."

A few felt sorry for Bob, especially the man who'd worked in prisons all his life. Kreischer had made a mistake, that



was for sure — he had seriously hurt somebody. But Bob had a wife and little kids. The guard had children and dozens of grandchildren himself and knew only too well that when Bob went away, it would be the people he loved who suffered the most. It was true what they said — when a man did time, his family did time right along with him.

**I**N THE BELLY of the Perry County Jail, Bob Kreischer paced like a lover betrayed.

One hour. Two. Three. Four. He never sat down, asked for a drink of water or used the toilet. He was buried down here and Wooten was up there, breathing in the crisp January air, probably celebrating.

On the floor above him, Mary tried to focus her red, bleary eyes on the numbers in the phone book as she shopped The Yellow Pages for a bondsman. Ponsart drove his pickup around town in search of an ATM. They weren't prepared for this and needed to scrounge up \$2,500 in cash — no check, credit cards or partial payments — to pay for Bob's release.

It was after midnight when Mary finally bailed her husband out of jail. It was so late, they drove back to the cabin. They'd head home to Leroy Township in the morning. But the events of the day kept them awake, restless and talking. Around 3 a.m., they gave up. They roused their son, his body heavy with sleep, and walked him outside. He stretched out in the back seat of the Blazer. Mary rode shotgun.

Bob started the engine and got the hell out of God's country.

**B**OB SPENT the two months before his sentencing gathering ammo.

He had a new lawyer, Barry Wilford, from Columbus. Wilford, a trial attorney with 22 years of experience, was supposed to work miracles. His firm specialized in appeals.

Bob's boss had generously taken over the legal bills. Don't worry, he'd told Bob. Pay me back whenever you can.

And Bob had the police report — with the deputy's notes and the statement Wooten wrote the night of the fight. It had taken one phone call to the sheriff's office the week after his conviction to unearth it.

Now that he'd been found guilty, the prosecutor had approved the release of the records. The sergeant had been happy to fax them to Bob.

They confirmed what he'd always suspected: Wooten never told deputies



**Bob's case was hardly the most sensational tried before Perry County Common Pleas Judge Linton Lewis. Years ago, Lewis presided over Ohio's controversial school funding case, and drew raves and recriminations when he ruled that the way the state paid for the education of its children was unconstitutional.**

he'd been kicked in the head, the throat, the face.

Wooten had been able to recall a number of specific details about the incident — he'd jotted down the date and noted that their argument had started precisely at 6:45 p.m. — but not that he'd been walloped in the skull with a boot?

Bob was seized with the sudden desire to mail copies of the statement to all the jurors. But what if he got in trouble for contacting them? He didn't want to anger the judge. Instead, he gave everything to his new attorney, who was guarded about how useful the new evidence would be at sentencing. Taking on the case after his client had been found guilty put him at a disadvantage; he likened it to a firefighter walking into a burning house to rescue the occupants after the roof had caved in.

At the sentencing hearing in early March 2001, in that funeral parlor gone to seed, Bob watched Judge Lewis. What was the man thinking? Was he impassive or just bored? Bob couldn't tell.

He wondered if Lewis had read any of the 80 letters of support sent to the Perry County Courthouse on his behalf. Most of them sounded like the one written by Karen McCarthy, one of Mary's best friends since high school.

*I believe that there are two kinds of people in the world, "givers" and "takers." Bob is a giver.*

Terry Wooten slid into the seat near the judge's bench. He looked small against its high back. He was there to describe how much his injuries had cost him.

"Your Honor ... I've gone through a lot of surgery with my eyes on this problem that occurred in this attack, and a loss of the left eyesight. It's been corrected to a certain degree.

"I go in tomorrow morning at 6:30 a.m. for another eye surgery to correct it a little bit better. If I can't get it corrected, I will lose my job at the United States Postal Service. They're going to give me six or eight weeks to have this taken care of where I can read the mail ... If not ... I'll be without a job."

It was true: Wooten was to have eye surgery the next day. But according to records Wooten later provided the court, the procedure was for his right eye, not his left. It was the left eye that Bob had punched. The left eye the ER report confirmed had been injured.

The scheduled operation was to remove a cataract, a malady most often caused by aging. Eye surgeons tell patients to expect a short recovery time — two to three days on average, a week at most. If Wooten had any other surgeries that day, they were not listed on the documents he submitted to the court.

If anyone else in the courtroom knew this at the time, they didn't speak up.

Wooten also told the judge he'd had bad headaches since the attack and that he'd incurred more than \$20,000 in medical bills.

His wife no longer felt safe visiting their trailer in the New Lexington woods, he said, knowing Bob's "out running around."

"Every time we hear a gunshot go off, she looks over her shoulder and so do I."

Bob, he told the judge, belonged in prison.

"I strongly want to see some time served on this," he said. "I — I think it's that serious. ..."

"Anything further?" the judge asked. "That's it, sir."

Bob's lawyer started earning his money immediately. He asked that Wooten's statement to the Perry County deputy be entered into evidence. Now it was on the record. If Judge Lewis didn't think it was significant, maybe an appeals court would see it differently.

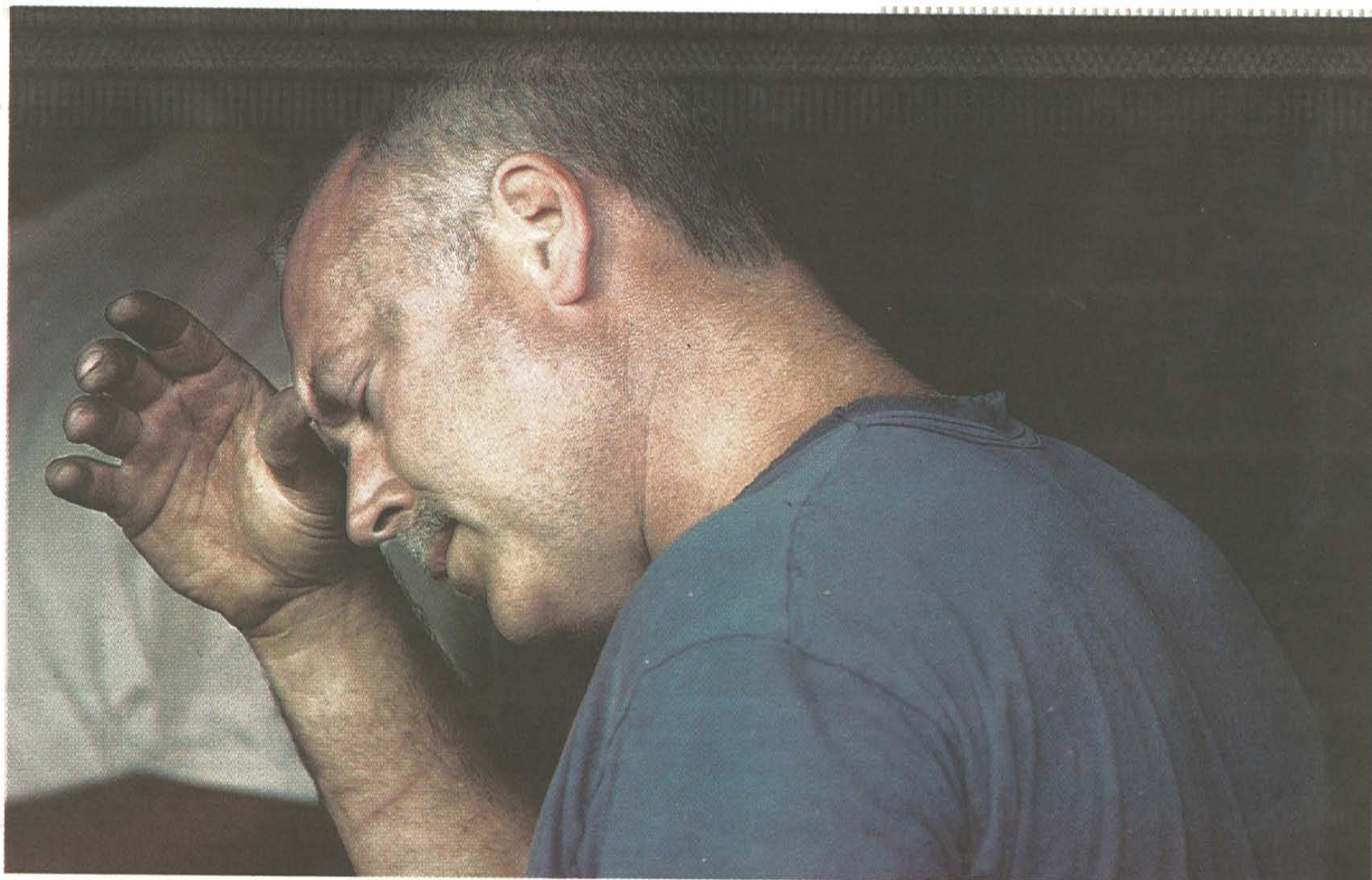
Wilford also ripped into the pre-sentence report — a court-ordered investigation into Bob's background.

The report warned that Bob had "demonstrated a pattern of drug or alcohol abuse," making him more likely to commit similar crimes in the future.

Where was the evidence that supported that clinical diagnosis? Bob's lawyer asked.

It had been Wooten's word alone at trial, said Wilford, that painted Bob as a





Trains shrieked by Bob's job site with dogged regularity, competing for sonic dominance with a squawking walkie-talkie hitched to his hip. It was background music scored to his sweat. He'd miss those sounds.

quarrelsome drunk prone to taking swipes at neighbors.

None of Bob's friends, family or co-workers, after knowing him for decades, could remember seeing him drunk. He'd never been arrested for drunken driving, fighting in a bar or starting a whiskey-fueled screaming match with his wife.

Then there was the matter of his arthritis medication, Wilford told the judge. If Bob drank heavily, his joints would swell, making his job as a mechanic impossibly painful.

Still, there it was, in black and white — according to the pre-sentence report, Robert Kreischer had a drinking problem.

Bob couldn't see a copy of the report himself — or learn who'd been interviewed and what they'd said about him — because the judge had sealed it, a common practice to protect those providing information to the court.

The report also noted Bob's lack of remorse. That part was true. He wasn't sorry for what he'd done.

Bob had prepared a statement to

read to the judge: *Today is a very sad day for the American justice system, it began.*

*... I now know that the truth no longer matters in this justice system. ... This Trial and persecution not only robbed me and my family of our life savings, taken food off our table and clothes off our backs, but has broken my will and my spirit ...*

"You can't read that," his lawyer had told him.

Bob composed another and brought it with him to court: *... Your Honor, I stand here before you because an out of control neighbor decided that it was all right to come on to my property and harass my son and me. ... He gave me no other choice but to defend myself and hit him. ... [P]lease consider that you are sentencing an innocent man.*

No, his lawyer said, his patience wearing like a worry bead. It's still too strong.

When Bob finally addressed the court, the indignation and political speechifying was gone: *Your Honor, I think every day how I could have hand-*

*led the situation differently. ... A prison sentence will ruin my family as well as me. I plead with you for mercy.*

Bob had no criminal record, his lawyer explained. He'd held the same job and the same woman for nearly two decades. Place him on probation, the lawyer argued, not in a cell.

"I know the court has some discretion in this matter," Wilford said. He was right.

When Ohio legislators rewrote the state sentencing law in the late 1990s, they made it clear they wanted judges to send people who'd been convicted of high-level felonies to prison — unless there was some compelling reason not to.

Bob's law-abiding past, his stable employment history and loving family were pretty good reasons to give him a break, Wilford said. Plus, if the judge decided that Bob owed Wooten money, wouldn't the victim be paid off faster if Bob remained free and continued working?

"All right. All right," Judge Lewis said, moving the proceedings along.

Bob rose.

"The Court orders restitution in the amount of \$16,163.16," the judge said.

Bob felt as if he'd been hit in the gut. He had no idea how the judge had arrived at the number.

Wilford objected, saying Wooten's insurance company had already picked up \$7,000 of his medical bills.

The judge said he'd take it under consideration.

Bob exhaled. Maybe that was the worst of it. What really mattered was his family's welfare and his freedom.

Lewis went on to spell out his punishment:

Two years in prison.

**Next Week:** Bob Kreischer deals with the realities of conviction: Prison, appeals and life going on — without him.

Andrea Simakis is a staff writer for the Sunday Magazine. She may be reached at 216-999-5483 or through [magmail@plains.com](mailto:magmail@plains.com).



Discomfort Food • A Not So Beachy-Keen Picnic • Babies in Bulk

# The Plain Dealer Sunday Magazine

June 6, 2004



PART II

## ROAD to RUIN

Bob Kreischer faced  
the court believing the  
Constitution would protect him.

American justice didn't break his will.  
But it broke his heart.



JUNE 6, 2004

# The Plain Dealer Sunday Magazine

## Cover Story

### 6 Second of Two Parts: Road to Ruin

Bob Kreischer faced the court believing the Constitution would protect him. American justice couldn't break his will. But it broke his heart.

Story by Andrea Simakis  
Photographs by Thomas Ondrey



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(page 25)

The night before Bob Kreischer's last hearing, his wife, Mary, and daughters Nicole (left) and Alex watched him repair the family truck. (page 6)

Road to Ruin (Parts I and II) appears online at [www.cleveland.com/sundaymag](http://www.cleveland.com/sundaymag).

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## ON THE COVER

Last June, while out on bond, Bob Kreischer stood on the deck of the cabin he built near New Lexington in Perry County. Photograph by Thomas Ondrey.

## MAILBOX

### A Tip Of The Hat

My hat is off to the lovely, stalwart "church hat" ladies of *Crowning Glory* (May 16). Being a hat lover myself, I, too, believe that outfits are not complete without these "crowning glories."

The story stated that "a church hat is more than a fashion statement. It's a treasured tradition." True! Alice Owens stated "... I won't change. I wouldn't feel right without a hat." She made me chuckle when she was asked if there was a time when she did not wear hats. She paused to think, then replied, "I don't wear a hat to bed."

Thank you for this delightful story with the stunning photographs. Pure enjoyment!

Virginia Jaracz  
Cleveland Heights

I enjoyed the article. I have to

add that some of the younger black women do wear hats to church on occasion. I started wearing hats when my son was a baby. I had often missed church due to "bad hair days," but then a friend told me to wear a hat and I've been doing it ever since.

In the winter, I stick to an all-purpose tam, but in the summer, my hats really bloom. I think of a hat as the flower and my dress as the stem of my outfit. And a great hat never goes out of style.

Barbara Parnell  
Euclid

In the article, my mother, Edrice Clark, was pictured wearing one of her hats at church.

I'm one of the few younger women who still wear a hat to church, and one of my favorite things to hear is, "Girl, you are



Edrice Clark in her silver straw hat at Antioch Baptist Church.

wearing that hat!"

Mommy and I enjoy wearing them together when we visit each other.

Debra Clark Handy  
Spring, Texas

### A Hero Amid The Haze

*The Fatal Fog* (May 9), recounting events of the 1929 Cleveland Clinic fire, was truly fascinating.

I would like to add to its brief mention of Fire Battalion Chief Michael Graham, my great-uncle.

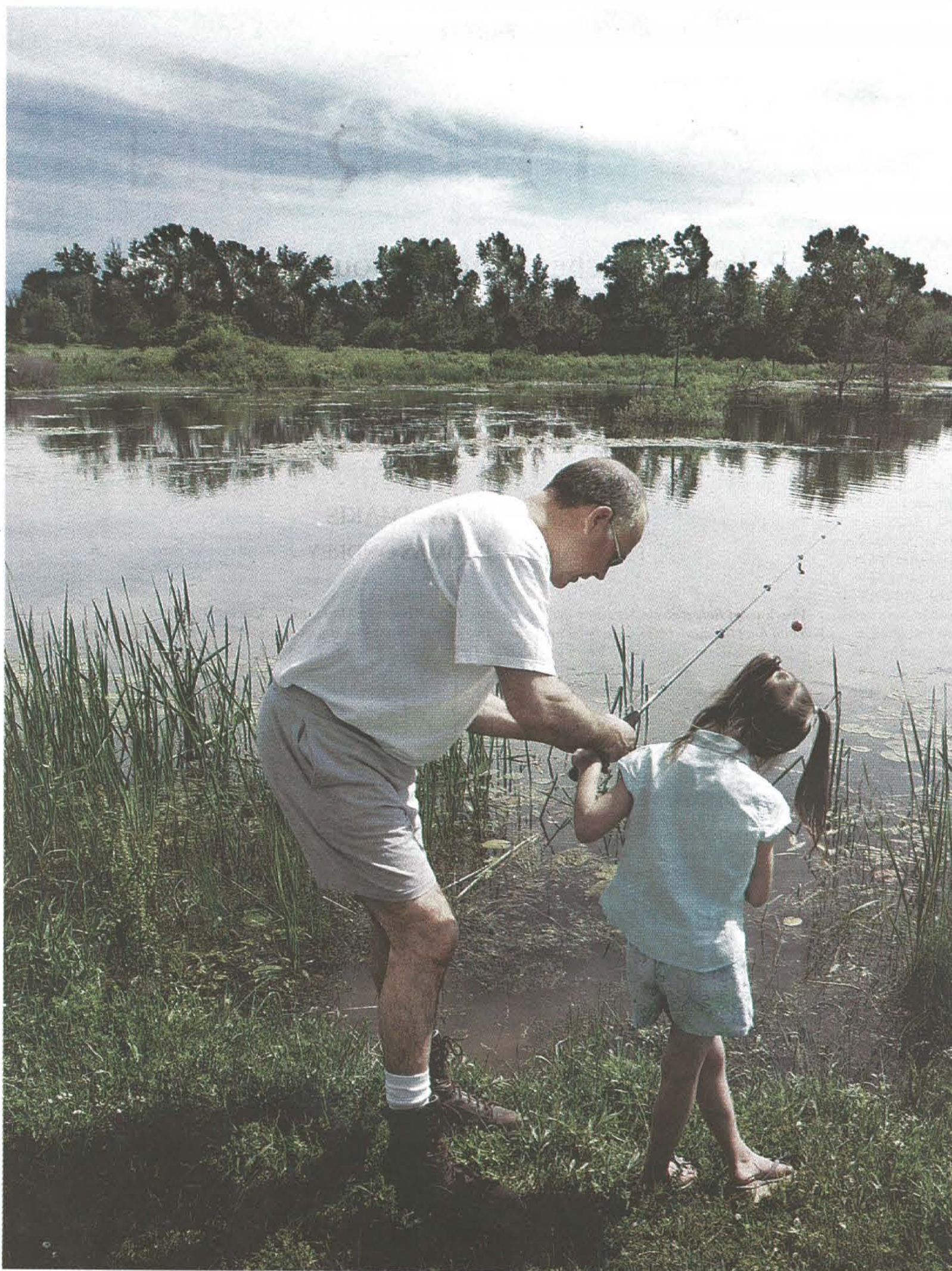
Chief Graham and his battalion, stationed at East 105th Street and Euclid, were the first to reach the scene; and *The Cleveland News* called him a "hero" for carrying at least a dozen people to safety from the fume-laden building.

Always modest about his accomplishments, Mike Graham was a very kind man with a big heart, and his heroics are remembered with great pride.

Mary Jatlow  
Beachwood

Who Deserves A Tip Of The Hat? We'd Like To Know. Our e-mail address is [magmail@plaind.com](mailto:magmail@plaind.com). (You also can write us at The Plain Dealer Sunday Magazine, Plain Dealer Plaza, 1801 Superior Ave., Cleveland, OH 44114.) Include your name, address and daytime telephone number. To give all a chance to be heard, we reserve the right to edit for length and clarity. Letters may be published in any medium.





On Father's Day, Bob Kreischer (here, with Alex) took his daughters to the cemetery to clean around his dad's grave. Later, they went fishing.



## PART II

# ROAD *to* RUIN

Robert Kreischer faced the court believing  
the Constitution would protect him.

American justice didn't break his will.

But it broke his heart.

Story by ANDREA SIMAKIS

Photographs by THOMAS ONDREY

**Previously:** Robert Kreischer never denied slugging Terry Wooten in May 2000. There was no question Bob had hurt the man, breaking a bone in his face. Bob's explanation was simple: He'd thrown one punch in self-defense. Perry County Prosecutor Joseph Flautt said Bob went further, kicking Wooten in the head with steel-toed boots.

The trial was long on colorful commentary and short on evidence. Jurors never heard expert testimony about an emergency room report detailing Wooten's injuries that bolstered Bob's story: He'd hit Wooten only once. The jury also didn't learn about the contents of police records that might have cast doubt on Wooten's claims that he'd been violently kicked in the skull and body — because the prosecutor didn't share them with the defense.

On January 22, 2001, Robert Kreischer, a hard-working family man who had never run afoul of the law, was found guilty of felonious assault.

On March 8, 2001, with his wife, Mary, at his side, Bob appeared before Judge Linton Lewis and asked for mercy. If he lost his freedom, he told the judge, his three children — 15-year-old Rob (Little Bob), Nicole, 10, and Alex, 4 — would lose their provider and protector.

Lewis sentenced Bob to two years in prison.

**B**OB LOOKED DOWN past his manacled ankles. Rust had eaten holes through the floorboards of the sheriff's white Chevy Blazer. It was a cloudy March day and wind whistled through the cab. A loose fender flapped against the chassis.

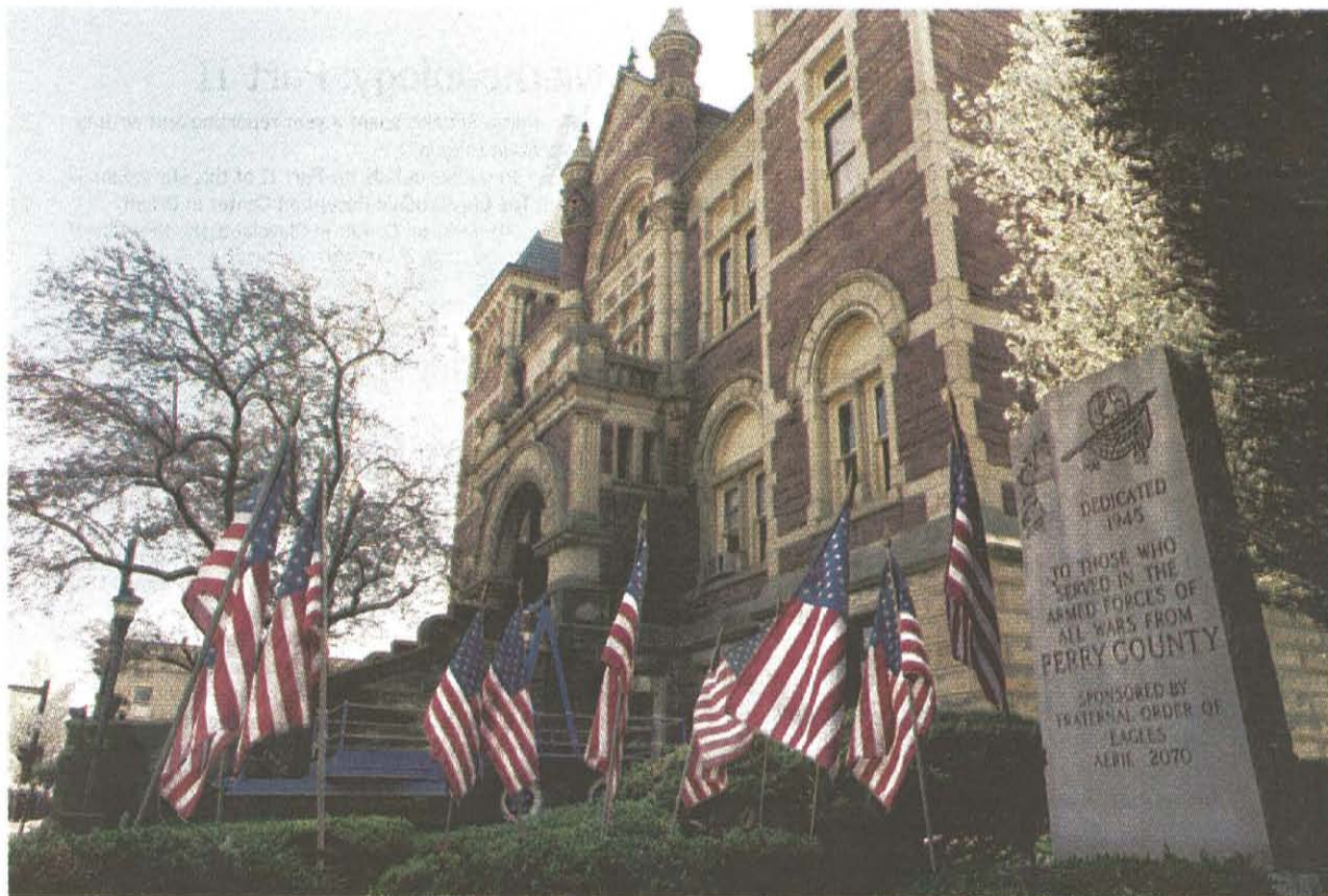
Had this rickety heap wheezed into the shop where he worked as a diesel mechanic, he would have scrapped the thing.

A chain coiled around Bob's waist. He was attached to a metal bar welded to the floor. His wrists were handcuffed, too. If the deputy at the wheel wrecked and flipped over, Bob wouldn't have to worry about his mounting legal bills anymore.



Road to Ruin,  
Part I (text and  
photographs)  
appears online at  
[www.cleveland.com/sundaymag](http://www.cleveland.com/sundaymag).





The stately Perry County Courthouse is a point of pride for residents living in one of the poorest counties in the state. After the courthouse received a face-lift years ago, a woman wrote county commissioners saying it reminded her of Cinderella Castle at Disney World.

## “He’d received two years. His 38 years of clean living hadn’t counted for anything.”

His back throbbed. He’d spent the last week sleeping on a slab of a mattress in a Nelsonville jail. Now he was on his way to Orient, Ohio, to prison, packed alongside three other convicts, including a guy named Frank who’d fallen asleep at the wheel, drifted left of center and killed a man, and a former Perry County lawman who’d tried to murder his wife. Joseph Flautt, they told him, had prosecuted them, too.

“Frank, you got a family?” Bob asked over the clanging fender.

“Yeah, two daughters,” Frank croaked. His larynx had been crushed in the accident. He sounded mechanical. Robotic.

“What’s your wife gonna do while you’re gone?” Bob asked. “How’s she gonna make a living?”

His wife and kids would haunt garage sales and flea markets buying up junk, polishing it and selling it on eBay, he said.

Bob couldn’t bear to imagine Mary dragging their children through other people’s trash. But what would she do?

Her bookkeeping job at Quail Hollow Resort was for lunch money and pocket change for their kids. It wouldn’t support the family, even if she worked full time.

He shook away the thought. He couldn’t sit in prison while his family lost the house, a 1930s gem he’d restored in Leroy Township, just outside of Painesville.

Frank had pleaded guilty. His *mea culpa* sliced his sentence to three years, he told Bob.

“Why didn’t you fight, Frank?” Bob asked. “It was an accident.”

“I look at it this way,” Frank told him. “At least I’m alive — the other guy’s dead.”

Bob couldn’t argue with that. But Frank’s sentence only made Bob’s more surreal.

“I only smacked someone in the eye,” Bob told Frank.

Yet he’d been given nearly as much time. His 38 years of clean living hadn’t counted for anything.

Money was tight; he’d already spent

almost \$10,000 on his legal fees and bail. Bob had sold his cabin and vacation property in Perry County to his good friend Jim Ponsart to help pay for his defense.

The truck struggled over waves of asphalt. The hilly terrain reminded Bob of weekend trips to his rustic hideaway. He’d spent five years building the place, and now everything he’d worked for was gone, as if swept away by a spring flood.

“HOW MANY TIMES have you been arrested?” asked the woman behind the desk.

She looked up from her paperwork at Bob, standing before her in white socks and the dark-blue shirt and pants given to all new arrivals at the Correctional Reception Center.

He was a half-hour from downtown Columbus, moored in a way station for inmates. Convicts stayed at Orient an

average of six to eight weeks until a spot opened up at their “parent institution,” one of 30 Ohio prisons where they would serve out their sentences.

“I’ve never been arrested,” Bob answered.

“You’re *here*, so obviously you’ve been arrested,” she said.

“They sent me a summons in the mail and I went to court and now I’m here,” he insisted.

“Hold on a second.” She waved her arm and another corrections officer wandered over.

“This guy’s saying he’s never been arrested.”

“He’s here,” the man said. “Obviously he’s been arrested.”

“Well, he claims he wasn’t arrested for the crime,” she pressed.

“Just put down one,” he said. “He’s been arrested once.”

They packed away Bob’s rumpled black pants and blazer, his shoes, shirt and tie in a cardboard box and addressed the package to Mary. Men with nowhere to send their belongings watched as their baseball caps and jeans, cigars and cell phones flew into a large trash can in the center of the room. Inmates are allowed to keep only a few necessities: Glasses, dentures, hearing aids.

Bob craned his neck, trying to read upside down. He saw his name at the top of the sheet the woman was filling out.

A few words stood out like bas-relief on the page.

VIOLENT CRIME.

MAXIMUM SECURITY.

“Jeez, oh man, you gotta be kidding me,” he said, laughing nervously. “You’re not gonna put me in there with murderers and stuff, are you?”

Her pen kept moving.

He was hustled off to the barber. He looked into a stainless-steel mirror as another inmate clicked a razor to its second lowest setting. The last time Bob’s head had been shaved, he was a teenage Army recruit.

As his hair fell away, he aged years, like the flowers in those nature shows he always watched that sprouted, blossomed and withered in seconds.

Nearly bald and still in his stocking feet, he shuffled into a closet of a room and looked into a boxy camera. A printer spit out his mug shot.

Afterward, he met with a public defender working at the prison. All inmates talked with a lawyer when they arrived, to make sure their paperwork was in order.

Did Bob have any questions? the attorney asked.

“I’m supposed to get out on bond so I can appeal my conviction — it’s going to get overturned,” Bob said.



"I don't plan on staying here long."

The lawyer gave him a heard-it-all-before smile.

"Buddy, you're in prison. You'd better get used to it," Bob heard him say.

The lawyer was right. Most men convicted of violent felonies sat in their cells during their appeals and learned of the progress of their cases through hurried phone calls or notices in the mail.

"The only way you're getting out of here is if the governor pardons you," the attorney said.

"So, get comfortable."

**T**HE CELL WAS CRAMPED. It was like being held hostage in someone's bathroom. Bob counted the cinder blocks in walls the color of jaundiced skin — 12 blocks long, eight blocks high. In the movies, cells were wallpapered with pinups and outfitted with writing desks and lamps. His was empty and sterile, lighted from above by an ever-humming fluorescent light. The window had bars as big around as the logs he'd fed into his wood-burning stove in winter.

When he and his cellmate sat on their beds and played chess on a makeshift board, their knees almost touched.

*Chunk, CLUNK.* The guard pulled on the steel door, as he did every two hours, to make sure it was still locked, his face filling the tiny mesh-covered window as he peered inside.

"What the hell you got there?" he asked.

"Chess set," Bob answered back, his eyes trained on the game. Bob had made it himself, fashioning the black pieces from tinfoil. He'd busted open a Bic disposable razor and used the blade to carve the white pieces from hunks of soap that stank like bleach. It felt good to use his hands again.

Before being locked up, he'd roared with energy, putting in 60 hours a week at work. Now he sputtered, a choked engine.

Forward motion stopped in prison, a ware-

house that manufactured inertia. He didn't understand how forcing men to do nothing taught them to be productive members of society.

Idleness killed Bob's appetite. So did the prison rations. Just smelling the food, prepared in simmering vats, turned his stomach. He couldn't eat anything but fruit; in the 10 minutes he had to scarf everything down, he'd swap a full meal for an apple or an orange.

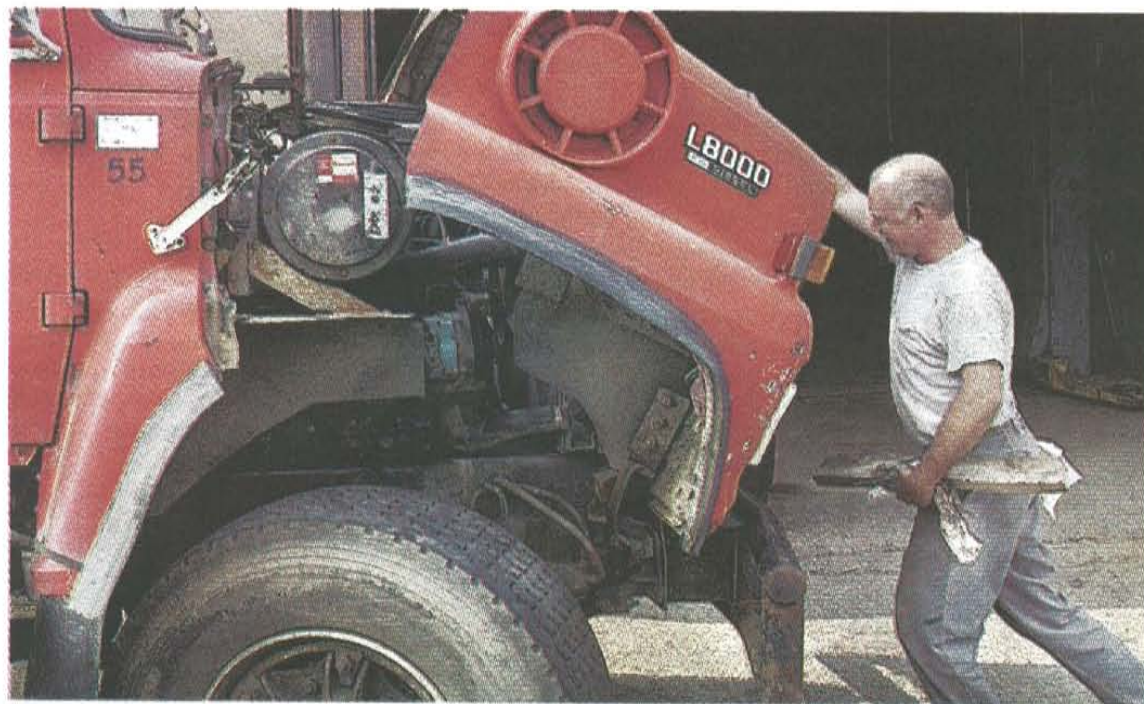
Still, he counted the hours between meals. It meant more time outside his cell: He would emerge each morning, afternoon and evening to march across the wide lawn to chow, one in a line of identical blue men, hairless as baby birds.

As a "high-security" inmate, Bob was locked up almost 22 hours a day. His cellmate, a kid not much older than his son, was considered a violent offender, too. He told Bob he'd slashed a policeman with a knife. He swore he didn't hurt the cop, just ripped the front of his uniform, but the act earned him three years for attempted felonious assault.

Of all the men he could have been trapped with, Bob was glad he'd drawn The Kid for a cellie. Bob taught him chess, tutored him in reading and helped him study for his GED, a piece of paper 70 percent of the 2,000 inmates cycling through the reception center each month didn't have. "What's this word, Bob?" The Kid would ask, pointing to the latest letter from his lawyer. "What's these words here?"

Schooling The Kid beat back the numbing boredom. Even mice scurrying through the hot-water pipes at night were a welcome diversion. Bob tried to snare one using a string from one of the thin blankets and an empty snack box. When his prey eluded him, he slathered peanut butter from the commissary on the end of a small plastic stick he'd picked up somewhere and balanced it on the edge of the trash can.

One evening, the rodent walked the tiny plank to reach the treat and tumbled into the garbage pail; Bob scooped up it up, its pea of a heart thudding against his palm. He kept the mouse as a pet



At GQ Contracting, Bob was responsible for maintaining 15 company cars, hydraulic lifts, forklifts, flatbed trucks, cranes and six pumps that spray plaster.

## Methodology: Part II

**A**ndrea Simakis spent a year reporting and writing *Road to Ruin*.

To gather details for Part II of this story, Simakis visited: The Correctional Reception Center in Orient, MetroHealth Medical Center in Cleveland, the Kreischers' home in Leroy Township and cabin in Perry County, Terry Wooten's land in Perry County, the Perry County Courthouse and Sheriff's Office in New Lexington and GQ Contracting Co. in Wickliffe.

Reconstructed scenes and dialogue are the result of careful interviews and review of written documentation. Conversations were heard by the reporter or confirmed by more than one party to the conversation when possible.

Simakis interviewed Bob and Mary Kreischer; Bob Kreischer's employer, co-workers, friends and extended family; the Kreischers' children, Rob, Nicole and Alexandra; Terry and Joan Wooten and some of Wooten's neighbors in Perry County; Bob's attorney, Barry Wilford; Richard Lewis, the lawyer representing Bob and Jim Ponsart in the current civil action against them; and Perry County Prosecutor Joseph Flautt and Perry County sheriff's deputies. Through a court administrator, Perry County Common Pleas Judge Linton Lewis declined to be interviewed for this story. Terry Wooten's attorney, Paul Panico, did not return repeated phone calls.

The jury foreman agreed to an interview on the condition that his name not be used. Simakis gave this juror a copy of the statement Wooten wrote in the Perry County Sheriff's Office on May 28, 2000, describing his fight with Kreischer.

Documents from the Perry County Court of Common Pleas, the 5th Ohio District Court of Appeals and the Ohio Supreme Court provided information about Kreischer's appeals.

Additional records came from: The Perry County Sheriff's Office; the Perry County Court of Common Pleas Civil Division; the Ohio Victims of Crime Compensation Program; property records; Wooten's medical bills; and public and private correspondence, including letters from U.S. Senators Mike DeWine and George Voinovich, U.S. Representative Steven LaTourette, Ohio Senator Robert Gardner and the ACLU of Ohio.

Simakis witnessed the following scenes: The Wootens visiting their land in Perry County; Alex's seventh birthday party and Little Bob's high school graduation party; the cutting of firewood; Mary in the kitchen watching Bob bring home his tools; Bob's last day at work and night at home; Bob driving to his final hearing on September 3, 2003; the Kreischers' meeting with Wilford in the Perry County Law Library, and the court proceedings that followed; Mary speaking with Wilford before leaving the sheriff's office; Nicole and Alex greeting their mother upon her return home.

The scenes depicting Bob talking to his daughters over Labor Day weekend, Bob and Mary with their son at MetroHealth Medical Center and the couple saying goodbye in the Perry County Sheriff's Office were recreations based on interviews with participants.

The drive to Orient was re-created based on Bob Kreischer's memory, interviews with Perry County deputies and supporting documents. Life in prison was re-created using information from the Correctional Reception Center's *Inmate Handbook* and material from interviews with Bob, Warden Mark Saunders and public information officer Angela Hill.

Details of Bob's experience at Noble Correctional Facility came from Bob and Mary. Prisoners' personal files are not public record. Background regarding prison operations and procedures was provided by Andrea Dean, spokeswoman for the Ohio Department of Rehabilitation and Corrections.

— THE EDITORS





**"I'm running out of time," Bob said in the days before his final hearing. Although the list of unfinished projects in his house was long, he kept his promise to help his next-door neighbor finish his deck.**

for a while, stroking its head, feeding it crackers, watching it tear around the cell. Then one day, Bob placed it on the windowsill, slid his forearm through the thick bars and opened the screen. The mouse scurried down the wall and disappeared into the yard.

At least one of them was free.

Word spread of his ability to create ingenious contraptions using box tops and Bics. Guys called out to him on the way to the mess hall — "Hey, Mac-Gyver!" Bob knew who they meant, that TV character who could make weapons out of chewing gum. He'd smile, but he rarely socialized. It was safer that way. Once, while waiting to use the phone, he'd almost been pummeled.

"Hey, no cutting," Bob had yelled, as a convict who towered over the other prisoners shoved to the front of the queue. Bob had only so many minutes before he had to be back in his cell and he wasn't going to miss talking to Mary. He needed to hear her voice.

The colossus turned and lumbered over to Bob. A guard showed up as they glowered at each other, Bob's nose to the

giant's chest. Everyone lost phone privileges that day and blamed Bob. Since then, he'd kept his eyes on the ground, his opinions to himself.

Mary visited once; the kids didn't come with her. It was bad enough that his wife had to see him locked up.

She kept him up to date in daily letters: Eleven-year-old Nicole got her braces. Alex was months away from starting kindergarten. He was so afraid he wouldn't be there her first day. She didn't even know he was in prison. Mary told her Bob was on a long trip but would be home soon.

The explanation didn't soothe Alex. She cried for him every night before bed.

The separation from his family was made worse by the confinement. He longed to be tramping through the woods, tracking deer with his son.

In prison, other than walks to meals, he was allowed outside only for two hours once a week. He never skipped outdoor recreation, no matter the weather. It was his only chance to burn off the furious untapped energy building up

inside him like a geyser.

While other inmates snoozed shirtless on old weight-lifting benches, exposing their white bellies to the rare spring sun, Bob ran the track circling an empty football field. He tried to imagine he was home, rounding the pond where he took the girls fishing, but that was much too hard. Here, tall fences glistened with razor wire, rows and rows of it, a glittering, pernicious crop, the only thing thriving in the prison soil.

When he wasn't running, or tutoring The Kid, Bob was on his bunk with a book he'd scrounged from the library, a drab room with two listing shelves filled with tattered paperbacks.

It wasn't easy to find something decent. He scoured the place for Westerns by Louis L'Amour, but they were wildly popular and always in the worst shape. Halfway through a novel, he'd find a chunk missing, the tribulations of cattle ranchers and barmaids scattered long ago. Bob started making sure that the last chapter was intact before he borrowed a book — he had to know how the stories ended.

He read so much his eyes ached. He read and dozed through the long, dull days, catnapping his life away.

He understood the cowboys L'Amour wrote about. If he could have chosen the time and place of his birth, it would have been the American West after the Civil War. He would have lived like a tumbleweed, blowing over the plains, staking out pristine ground no one had ever seen.

Sometimes, he felt out of place in the world, baffled by its unnecessary complications, nostalgic for a past he'd only read about. Life might have been harder then — he held no illusions about that — but it was simpler, too. If you had a grudge against somebody, you fought it out. One man won, the other lost, and that was that. You didn't get hanged for it.

At the end of each interminable day, he put another hash mark on the wall; there were 30 now.

In the month he'd been at Orient, he'd lost 15 pounds and almost all hope. After lights out, his cellblock alive with the endless creaking of springs as nearly



200 bodies shifted on their cots, he'd lie awake thinking about what the prison lawyer had told him:

He'd never get out.

**L**ATE IN APRIL, more than a month after Bob had been sentenced, Mary arrived at Orient clutching the court order that authorized his release.

Bob's new lawyer, Barry Wilford, who was known for mounting successful appeals, had made good on his promise — he'd persuaded the judge to let Bob out of prison on a \$25,000 bond while the appeals court heard the case. Mary had cobbled together \$2,500 — 10 percent — to pay the bondsman. She wanted her husband home. Today.

"I know somethin's gonna go wrong," Bob's friend Ponsart said, tugging on the bill of his ever-present baseball cap as he and Mary made their way toward the visitors entrance.

"Jim, I'm gonna kill 'em with kindness," Mary said. "And we have the court order — they gotta let him go."

At 5 feet 2, Mary looked just old enough to buy cigarettes, possibly beer. Little about her had changed since the day she met Bob at an all-night skate-athon in Wickliffe. He was 15, with feathered bangs like Shaun Cassidy; she was 13, her hair in a ponytail. She thought he was cute. Beneath the fuchsia and lemon lights of the laser show, she asked him if he wanted to take a turn around the rink. She wanted to hear Led Zeppelin. He couldn't glide over to the DJ fast enough to request a song. They closed the place, rolling and talking till dawn.

Mary, her ponytail still as honey brown as it was 23 years ago, walked up to the front desk of the reception center. "I'm here to get my husband," she said, smiling sweetly.

"It's a quarter to four," said the woman at the front desk. "We quit at four."

Panic fluttered in Mary's throat like a bird trapped in a house. "Well," she said, with more confidence than she felt, "that gives you 15 minutes to go get my husband."

The woman folded her arms across her chest. She wouldn't budge. Neither would Mary.

"We just drove four hours," Mary said, her voice growing louder. "We're not leaving without my husband."

"Calm down," begged a mortified Ponsart.

People were starting to stare.

An administrator appeared. "Let's see what we can do," the official said gently.

Sitting in his cell, Bob heard the guard come to the door, "Get yer s—

together, Kreischer. You're gettin' out today."

Bob didn't ask any questions. The Kid watched sadly as Bob scrambled to put on his boots.

"Aw, you ain't gonna cry, are you?" Bob asked, laughing.

He gathered up the neatly folded letters from Mary and Nicole. Before he left, Bob promised The Kid he'd write.

"When you get outside the fence, you swing by here and wave to me, OK?" The Kid asked.

"All right," Bob promised.



**"I wasn't intending to hide anything from 'em or not give Mr. Kreischer a fair trial," said Prosecutor Joseph Flautt, when asked about Bob's appeals.**

Bob and Mary squeezed into the cab of the truck. It felt strange to be outside the razor wire. Ponsart peeled out of the parking lot toward the highway. Bob insisted on a detour.

"Jim, you gotta pull up to the fence. I gotta wave to my cellie."

"Wave to *who*?" Ponsart asked.

He and Mary played along, as if humoring a man with a high fever. Bob flapped his arm wildly. He couldn't see if The Kid was there or not. Still, he kept waving, saying goodbye to all of it — the terrible food, the deteriorating books, the acrid soap. The endless, meaningless days.

As Ponsart pressed the pedal, Bob felt the wind on his cheeks.

"Never in a million years will I go back to that place," he said.

**W**HO IS this criminal?

The words were written above Bob's mug shot hanging in the front office of GQ Contracting in Wick-

liffe. A few of the women he worked with had retrieved it from the Ohio Department of Rehabilitation and Corrections Web site — it was their way of telling him how ridiculous they thought the whole situation was. Pointed but good-natured ribbing was *de rigueur* at the company. Some of his co-workers were like family; he'd known them for almost two decades. His boss so believed in him, he lent Bob money to launch his appeal. They clapped him on the back and told him not to worry.

You've got the best lawyers now, they

**“One punch and we might have been looking at disorderly conduct.”**

**— Prosecutor Joseph Flautt**

said. You're not going back to prison. Get that out of your mind.

And Bob believed it, too.

In August 2001, four months after Bob went home, Wilford argued to the 5th Ohio District Court of Appeals that Perry County Prosecutor Joe Flautt had withheld evidence that could have helped acquit his client.

Jurors didn't know about Wooten's statement to deputies the night of the fight, Wilford said. In it, Wooten had never mentioned being kicked in the head. Such a significant omission could have created doubt in the minds of the jurors. Reasonable doubt, Wilford argued to the appellate judges.

In addition, he said, Bob's trial attorney, Robert Aaron Miller, should have worked harder to obtain that statement. Because of these errors, the state had violated Bob's constitutional right to a fair trial and a good defense.

The case wasn't about a battered skull, he said, but a bruised ego.

"Terry Wooten picked a fight that he lost, and then ran to the sheriff's office to file a complaint against the man

who had stood his ground and beaten him," Wilford wrote.

Not so, said Flautt in his brief to the court in October 2001. Wooten's written statement wasn't that different from what he'd said in court; it just lacked some detail. Maybe Wooten didn't recount being kicked in the skull because he was addled and in need of medical attention, Flautt suggested.

Wooten's injuries, wrote Flautt — the broken eye bone, hearing loss and impaired vision — proved that Bob had struck his victim more than once. The jury, he said, had received a fair picture of what had happened.

Meanwhile, Wilford opened a second front. On November 14, 2001, while waiting to hear from the appeals court, he asked Perry County Common Pleas Judge Linton Lewis to throw out the guilty verdict or at least hold a hearing to determine the value of the evidence the jurors never heard.

Less than two weeks later, Lewis denied Wilford's request without saying why. The appeals court stepped in and ordered Lewis to explain his decision.

But while Lewis worked on his explanation, the appeals court judges dealt Bob and his defense team a devastating blow: Because Wooten's statement never came out at trial, the judges declined to rule on whether it was "material" — that is, whether it would have made a difference in the jury's deliberations.

That also meant they wouldn't answer the key question of the appeal — whether Bob's constitutional rights had been violated. They could consider only the evidence in the trial record.

Three months later, Lewis finally put his decision into words: The prosecutor's failure to give Wooten's statement and the deputy's report to the defense was a "harmless error." The jury most likely would have found Bob guilty anyway, he wrote.

"Harmless?" Bob asked when he heard. "I was convicted."

Wilford returned to the appeals court, asking the judges to reverse Lewis' decision.

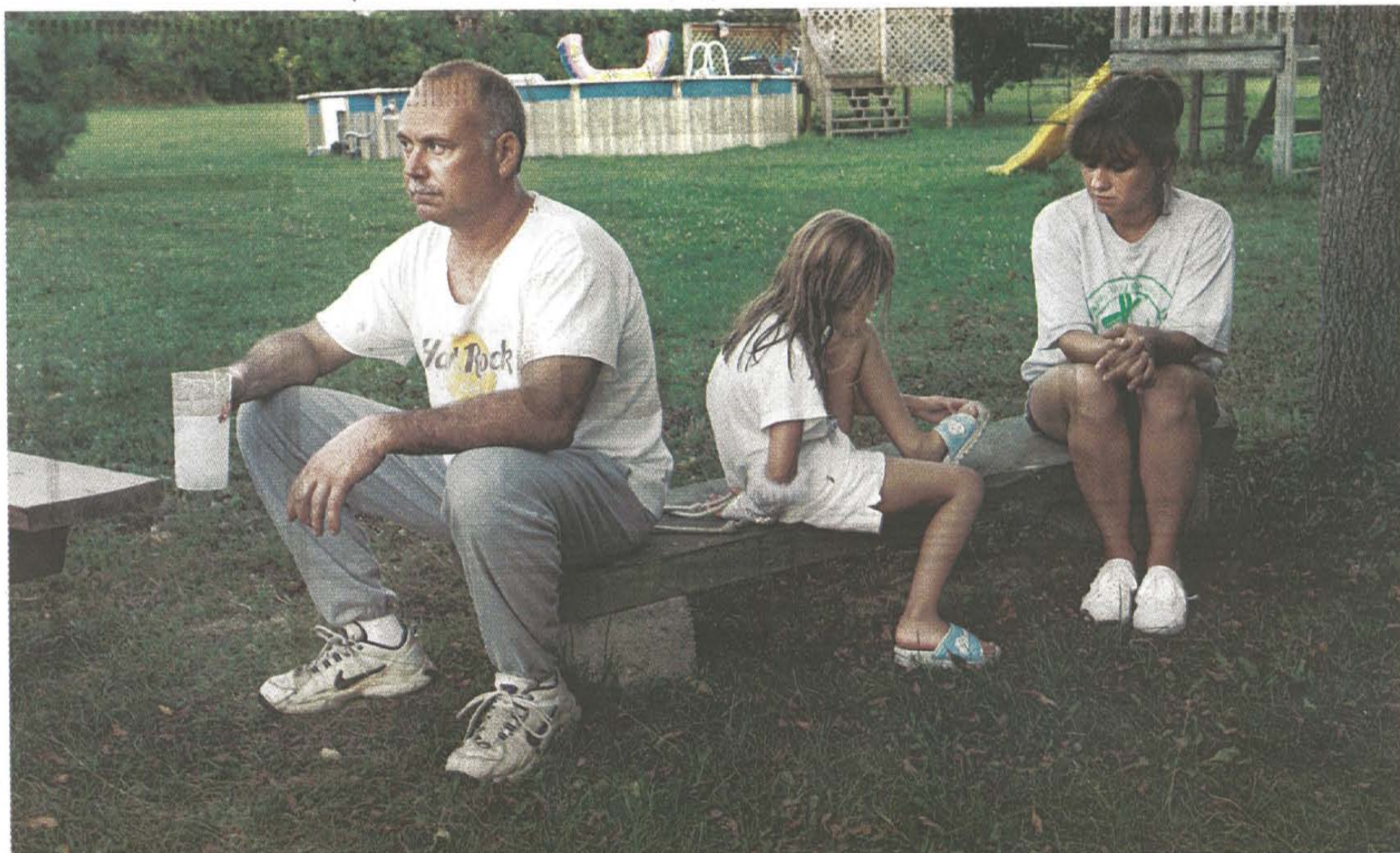
The appellate judges agreed with Lewis: The conviction and sentence would stand.

The only mistake Lewis had made, they said, was in the amount he awarded Wooten for his injuries. It was "not supported by competent, credible evidence," the judges wrote. Another hearing would be required; Wooten would have to produce bills and receipts to prove how much he was owed. After that, Bob would have to go back to prison.

Bob was inconsolable.

"Let me get this straight," he said to Wilford. "The judges know the prosecutor didn't turn over evidence like he





"The last three years have brought to my attention how much government is bringing this country down," Bob said (here with Alex and Mary).  
"I just woke up to the fact and it kinda hit me like a ton of bricks."

was supposed to in my case, but they're saying that's OK?"

"Basically," Wilford said.

"How do the judges know what the jurors would have thought?" Bob asked bitterly. "They aren't mind readers."

"Why bother having a jury at all?"

**A** SINGLE DISSENTING vote would have been enough to force a mistrial. The jury foreman in Bob's trial might have been that vote.

Long after he'd voted to convict Bob, the juror held Wooten's statement in his hands and read it. An old tattoo of a baby devil in diapers decorated his arm. The family man in wire-rimmed glasses wished he'd gotten rid of it long ago.

He couldn't imagine himself in Bob Kreischer's shoes, spending years away from his wife and two young boys.

"If somebody kicked me in the head and I was filling out a report, I'd sure mention it," he said.

The prosecutor had stressed that Bob kicked Wooten in the head with

steel-toed boots, he remembered. The juror read the statement again. It didn't say that anywhere.

It was the one detail that had stayed with him ever since he'd sat in that mahogany courtroom two-and-a-half years ago.

He wished he'd known about Wooten's statement during the trial, wished he could have taken the knowledge with him into deliberations.

It would have made a difference, he said.

It would have changed his mind.

**A** SADNESS HAD crept into Bob's once curious eyes.

He couldn't take any more money from his boss, who was paying for the appeals. The bills had climbed so high, Bob had abandoned his meticulous ways and stopped asking the office accountant about his mushrooming tally.

He was ready to give up when he learned that retired Ohio Supreme Court Justice Craig J. Wright, known as a champion of open-records laws, had

agreed to ask his former colleagues to hear Bob's appeal.

Bob figured he couldn't lose this time. Wright had spent 11 years on the bench of the state's highest court. He was one of their own. They'd listen to him.

In his motion, Wright argued that the prosecutor's suppression of evidence favorable to Bob's defense was far from harmless. Not only was it a violation of Bob's constitutional rights, it was one of the major reasons that hundreds of innocent people wound up behind bars.

The Ohio Supreme Court accepts only a handful of cases every year, and few involve criminal prosecutions.

Still, Bob checked the mail every day for months when he arrived home from work.

Then, in April 2003, there it was, buried beneath credit card offers and coupons.

He hurried to the kitchen, looking for his family. He wanted them with him when he opened it — he was certain that finally they'd have something to celebrate.

Mary was out running errands. The kids were gone, too.

Bob took a breath. Everything was riding on what was inside the envelope. Had the high court agreed to hear his case?

It was time for some good news.

He tore the letter open.

The statement was only 18 words long, signed by Chief Justice Thomas Moyer. The court had refused to hear the case.

He was still going to prison for two years. The only thing that had changed was his tab.

His appeals had cost \$40,000. At a hearing before Judge Lewis five months from now, he would learn how much he owed Wooten. After that, Bob would have to serve the rest of his time.

He whistled for Pongo and went outside. As the dog snuffled through the grass, Bob dropped onto a seat at the picnic table in the back yard.

It took the wind out of him, how wrong he'd been.

He'd first walked into the courtroom more than two years ago armed with his belief that the Constitution was a flak jacket. Yet the laws of his country hadn't protected him.

He'd taken a hit to the heart.





**Terry Wooten sued Bob in civil court for \$75,000 plus punitive damages claiming, among other things, that because of his injuries, he could no longer "engage in numerous activities, including ... parenting and being a husband." He later withdrew the suit.**

**I**T WAS LATE JUNE when a police officer, hat in hand, stood in the Kreischers' kitchen at sunrise. All Bob and Mary heard were fragments, as broken as Morse code: "Your son ... accident ... Life Flight ... Metro."

Little Bob had been at a sleepover at a friend's house, but, of course, nobody actually slept. They'd played Nintendo all night. At 5 a.m., Little Bob had slid into his Grand Prix and started the 10-minute drive home. He wanted to nap a few hours in his own bed before Mary roused him and put him to work helping set up for his graduation party, dusting off card tables and blowing up balloons.

A sheet cake decorated with yellow smiley faces wearing black mortarboards sat waiting in its box. "Congratulations Bob Class of 2003" was written in icing across the top. Mary's mom, Rose, and her aunts, Jo and Patty, had cooked all week. Platters of stuffed cabbage and breaded chicken sat cooling in the fridge.

It would be the only party that summer. Bob hadn't held a Fourth of July picnic since his conviction in 2001.

When friends asked why, he mumbled he wasn't feeling patriotic. Bob had stayed out of prison long enough to see his son graduate from Riverside High School; that was worth celebrating, a bright smudge of sunshine on an otherwise gray horizon.

Little Bob must have fallen asleep, because he missed the sharp left at the end of a serpentine stretch of road and slammed into the guardrail. The car sailed into the air, hit the ground and rolled. It came to rest on its side, balanced against a tree, crushed like a recycled pop can.

After he'd delivered the news, the officer left. Mary slipped on her backless tennis shoes and told a groggy Nicole, who'd sacked out with Alex in an impromptu slumber party in the living room, to stay with her sister.

The hospital wouldn't tell them anything over the phone, not Little Bob's condition or even if he'd survived.

Bob tried to keep himself from thinking the worst, but the worst was what he'd come to expect.

Soon, he'd most likely be driving back to Orient, chained to the back seat of that dilapidated truck. And now his

son was hurt. What if Little Bob had to spend the rest of his life in a wheelchair? What would Mary do without Bob's health insurance? Then came the inevitable thought; Bob tried to make it disappear, pop it like a balloon, but it was no use. What if all Little Bob needed was a priest?

An hour after they'd left the house, Bob and Mary stood outside the trauma room at MetroHealth Medical Center in Cleveland.

"You go in first," Mary said.

Bob opened the door and saw the blood; it painted the boy from his matted hair to his splattered shoes. His eyes were closed. He wasn't moving.

Mary padded inside behind Bob, took one look at her son and grabbed for a garbage can near the door. She flipped it upside down and sat heavily on it as her knees gave way. She felt guilty leaving Bob standing there, the family's pillar, while she was reduced to rubble, but she couldn't help it.

Bob was at her side. Sweat poured down her face. "You're white as a ghost," he said.

A nurse offered her water and a gurney.

"No," Mary said, her head drooping weakly, waving the nurse away. "I'm not leavin'. Just let me sit here."

Little Bob opened his eyes.

"I'm sorry, I'm so sorry," he said and started to cry. "I'm so stupid. I'm sorry I wrecked the car, I'm sorry I wrecked the party."

"You're alive," Mary said. "I don't care what you did."

He wouldn't be consoled. "I messed everything up," he said. "You got enough problems."

Bob felt a stab of guilt. The first thing on the kid's mind when he came to were his father's troubles, not his own. Although the case had consumed Bob's thoughts in the last two years — he'd read the 230-page transcript of the trial at least 60 times — he believed he'd spared his children the same obsession.

He and Mary had tried to keep things as normal as possible for the children. It wasn't easy. He was a felon out on bond, so he couldn't leave the state, which meant no more trips to Disney World, or anywhere else outside of Ohio for that matter. That was hard to explain, especially to the girls, whose



friends jetted around with their families during Christmas and spring break. But other than that, hadn't their lives been OK? He hadn't sunk into a paralyzing depression, he hadn't started drinking, and his marriage was strong enough to take the strain.

Still, he hadn't realized how much the case weighed on his son. "Don't worry about nothing," Bob said quietly.

They watched as a team of doctors and nurses swarmed over Little Bob: "Can you move your feet?" the boy was asked.

"Pick up your arm. Good. Now move your fingers."

"Thank God," Bob muttered. When people at work offered to pray for him — first for his acquittal, then for his appeals to succeed — he thanked them, but wanted to add, "Don't bother." Bob believed in the natural world, the world you could see and hear and touch. He spent his Sundays helping friends with various projects, lubing a neighbor's tractor or building a friend's deck. Still, as he watched his son's fingers slowly wiggle, it felt like divine intervention.

Little Bob had survived an accident doctors said should have killed him, crippled him or turned his brain to mush. He had walked away with a jaw broken in three places and a row of teeth knocked flat in his mouth like a fence run down by a John Deere. He'd need to eat through a straw for a while. At first, it looked as though he had lost an ear, but after they'd cleaned the blood off, doctors saw the lobe was only badly torn.

Bob had put a sunroof into the Grand Prix a year earlier, then when the latch wouldn't catch, put off fixing it. Mary always joked that they were like the shoemaker's family who walked around with holes in their soles: Only the family of a mechanic drove around in cars that needed tuneups and latches replaced.

Little Bob had failed to buckle up, and when his head rammed into the sunroof, instead of shattering, the roof had popped open. He was spit out before the car began its bone-crushing roll.

If everyone has a reservoir of luck, a finite amount of good fortune, Bob believed he'd just used his up. He was suddenly glad he hadn't squandered it all in that Perry County courtroom or frittered it away on his appeals.

**T**HE LAST WEEKEND in June 2003, Terry Wooten walked along the uneven path past the cabin Bob Kreischer had built. Mildew had taken over half the roof and was advancing on the remaining side. Bob, Mary and the kids hadn't been there together in nearly a year.

Wooten and Bob used to be uneasy neighbors — Wooten owned the spread on one side of the road, Bob the other. A disagreement that began over trucks blocking their shared roadway ended with Wooten on the ground.

The forest was steamy, the air heavy with humidity, but Wooten wore baggy denim overalls. The thick brambles crisscrossing the



Little Bob's surgery after his car accident lasted more than three hours. Bob and Mary waited while doctors put a titanium plate in their son's chin, rebuilt his jaw and wired it shut. "You're not prepared to see your kids hurt," Bob said.

property in Perry County could really take a bite out of a naked calf.

He'd come down from Columbus to meet with the prosecutor to go over what Bob owed him. He'd had to take off work to do it — a vacation day wasted, he griped.

His wife, Joan, was with him on this visit, and that's why, he explained, he didn't strap on his pistol or don his bulletproof vest. He took those precautions only when he traveled his 80 acres alone, because what if Bob and

his buddies from Cleveland were around? Once, he heard shouting and climbed a tree to scope things out with binoculars. He caught sight of Bob, he said, quickly abandoned his perch and retreated farther into the woods. It looked as if he'd lucked out today — only the deer had left their prints in the sticky mud.

Three years ago, on a day like this one, right here on this rutted stretch, he said, he could have been killed. "If he would've got the nose and shoved it up into the brain, I'd been

dead," he said.

Wooten thought Bob was getting off pretty easy with a two-year sentence. "He should've got four to six," he said.

Why hadn't Kreischer taken the plea bargain the prosecutor offered him? Wooten still couldn't believe it. If Bob had only agreed to spend time in a treatment facility and pay Wooten's bills, he could've stayed out of prison.

As far as he was concerned, Bob had hanged himself by putting his fate in the hands of 12

people he didn't know. And even after the jury had convicted him, Bob refused to admit what he'd done and do his time.

Wooten didn't know why he hadn't said anything about being kicked in the head when he first reported the assault. "Maybe I was dazed," he said.

He didn't even remember writing that statement. He also didn't recall telling the deputy that Bob had threatened his family. He didn't remember telling the jurors either.

shadow of the trailer. A bottle-green dragonfly zoomed by. He leaned his head back and admired the cotton-candy blue of the afternoon sky. It was even more beautiful at night, he said. No city lights to dull the brightness of the constellations.

"Listen to how quiet it is," he said, especially with nobody else around.

Bob and his cronies used to like to shoot at a metal target they'd set up in a gully at the base of the road. Wooten complained to sheriff's deputies more than once that one of those slugs could ricochet off the target and kill somebody — sail across the road and hit him, Joan or one of their kids, and then where would they be? "Lying on the ground," he said.

Last year, Wooten had called deputies on behalf of his elderly neighbor, Leonard Black, who lived on a secluded knoll behind his property.

"Robert Kreischer ... has guns and has shot at Mr. Black several times," Wooten reported. When Black was questioned later, however, he told the deputy that someone had roared across his property on an ATV, but he couldn't identify the driver. He just wanted something done about people trespassing on his land.

Wooten had grown close to the Blacks over the years and Wooten wished people like that owned the property across the road from him instead of Kreischer. Of course, Bob's friend Jim Ponsart, "the real tall boy," supposedly owned the land now.

He didn't believe it.

Wooten figured Bob had transferred the property into Jim's name to hide it so Wooten and the insurance company couldn't come after it.

Now Ponsart was trying to sell a part of it. Who knew who'd move in there next? Wooten believed that land — not a portion of it, but all of it — should be used to settle the debt Bob owed him.

He cautioned prospective buyers whenever he ran into them. Bob owed a lot of money, he'd explain. The land wasn't really Jimmy Ponsart's to sell. The 20 or so acres would most likely go to the highest bidder at sheriff's auction, he'd tell them. Wooten's warning scared off at least one couple who were about to make an offer.

Wooten's lawyer had checked out Bob's house and property in Leroy Township, he said, and found that it was mortgaged to the hilt, so he couldn't go after that.

No, Wooten said, the only thing Bob had that was worth anything were those cabins and the land they sat on.

**M**ARY STOOD at the window and watched her husband empty his pickup truck. His face was pink and the veins in his arms bulged as he carried load after load to the barn.

Her tears were a surprise.

Mary retreated to her purse on the counter and found her cigarettes. She'd never been a heavy smoker; she'd even quit for a while.





Once the family had depleted its supply of firewood, it would be up to Little Bob to replenish it. Bob hated to put one more burden on the boy's bony shoulders; he was still so skinny after having his jaw wired shut for nearly two months following his car accident.

Now she always seemed to need the steadying power of nicotine. She drew a long white Marlboro from the pack, clicked her lighter, inhaled and closed her eyes.

Seeing Bob bring his tools home from the shop had been harder than she'd expected.

This was really happening.

It was the last week of August 2003. Unless the judge could be persuaded to put Bob on probation instead of making him serve the rest of his sentence, in five days he would be gone.

She wiped her cheeks and let out a dry little laugh. She'd let her emotions slip through her fortress of denial. She'd never seen it coming.

Just then, 13-year-old Nicole and a friend came chattering and dripping into the kitchen, their wet hair slicked back after a dip in the next-door neighbor's pool.

Mary rubbed at her eyes, trying to erase the salty evidence.

Nicole didn't notice. She stuck her head into the freezer, rummaged around, pulled out a pizza and stuck it in the oven.

"Mom, why is Dad unpacking his tools?" she asked.

Mary paused, debating. "He doesn't have enough room at the shop," she said finally, punctuating the line with an extended drag on the cigarette.

Outside, Alex raced around the backyard, wearing a single sparkly "Diamonds Are A Girl's Best Friend" glove trimmed with fur on her arm. She'd turned seven that month. On her birthday a few weeks ago, Bob had chased her, squealing, through the grass with a snapping pair of barbecue tongs.

Bob, Ponsart and next-door neighbor Victor Weinmann were in the side yard splitting pieces of ash, their faces twisted into homicidal grimaces like lumberjacks on a killing spree. Bob grunted with exertion as he hoisted a sledgehammer over his shoulder and brought it down on the head of an ax wedged into a log. Pine and sassafras were much easier to cut, but ash burned better and longer. Bob's family had to get the most out of each log.

Gathering the wood had been murder — mosquitoes had pricked their backs, sweat had stung their eyes.

They'd had to go into the forest in the stultifying heat of late summer instead of the deep cool of fall because by the time the leaves turned the color of pomegranates, Bob might be gone.

He'd been moving since 6:30 a.m. and hadn't gotten any sleep the night before, not that that was anything new. When he closed his eyes, he saw catastrophes — Mary and the kids packing everything into a U-Haul because they couldn't afford the house payments. Mary giving Pongo away because the new place wouldn't allow dogs. Alex crying, throwing her arms around the Labrador retriever's neck. Mary standing in line at the county office, applying for food stamps.

All he wanted to do right now was watch the Cleveland Browns' preseason game on the basement TV with his friends. Bob couldn't remember the last time he'd missed seeing the team play, but he couldn't quit, not until every last log was chopped and stacked. He was preparing for a two-year winter and his own special kind of cabin fever.

Mary slipped quietly outside to watch her husband work.

Alex tethered Pongo to a clothesline, then whirled around her mother, who was sitting glumly on a concrete bench near the growing pile of wood.

The dog tried to follow, but he jerked to a stop when he reached the end of his lead and began barking in frustration.

"PONGO-PONGO-PONGO-PONGO!" Alex sang.

"Calm down, Al," Mary said tiredly. "You're gonna be so wound up, you won't be able to sleep and you have to get ready for bed soon."

But Alex was on the swing, clamoring for a playmate.

"Swingmeswingmeswingme!" she called, hanging upside down.

Mary lifted herself heavily off the bench.

Alex was just being Alex, slurping the last drops out of an August night — if she was too excited to go to bed later on, Mary knew what to do.

Whenever any of the kids wouldn't listen, Mary said one word — "Bob" — and they'd stop whatever they were doing and behave. It made absolutely no sense because Bob didn't yell at the



kids. She was the daily disciplinarian, the one who raised her voice. Still, the simple threat of his displeasure won her results every time.

"Wait till your father gets home," she'd say, and bodies would fly under covers, homework would be started, chores finished.

She pushed Alex, giggling maniacally, into the air.

What would she say to the kids if Bob didn't come home after the hearing? In less than a week, she would be responsible for everything — the discipline, the groceries, the house payments — as though she'd lost her husband to a massive heart attack.

**T**HE SKY was a dull pewter and the rain wouldn't stop.

Mary was cleaning up after breakfast. Alex and Nicole were watching TV, dressed for a Labor Day outing to the Cleveland National Air Show, just in case the weather broke. Bob leaned against the kitchen counter, sipping coffee and reading the newspaper. Suddenly he was thinking about his case again, his mind like a record needle skipping back to the same deep scratch.

How hypocritical the government was. On one hand, it cherished hard-working Americans enough to set aside a day to honor them, yet that same government wanted to strip him of his job so he couldn't make a living to support his family. He squeezed his coffee cup and his insides started to burn.

He heard his daughters giggling in the living room and chased his anger back into its cave. He had two days to spend with his family before he stood in front of Judge Lewis again. He wasn't going to ruin it obsessing over things he couldn't change. He put down the paper. It was time to talk to the girls.

Alex lolled on the powder-blue love seat, Nicole on the couch. Bob sank into his easy chair.

He stayed there with them for a half-hour, silently rehearsing what he'd say, oblivious to what was on the screen.

How do you deliver such news to your children?

Nicole's priorities were her hair, what she'd wear the next day and making the cheerleading squad. That was exactly how Bob and Mary wanted it. Why burden her with details of appeals and legal fees? She had just started junior high and they worried if news got out that her old man was in prison, her blossoming social life would die a swift and embarrassing death.

"What will parents think of it?"

Mary had said. "You know how families talk at dinner. Will her friends be allowed to come sleep over anymore?"

And how to explain it to Alex, who followed her father around the house playing waitress, recording his orders on a little notepad? She hardly let him out of her sight when he was home.

For a while, Bob had convinced himself he'd never have to tell them at all. After the Ohio Supreme Court rejected his last appeal, he'd mounted a vigorous letter-writing campaign, contacting

decided to wait until the last possible moment to tell his daughters. Why make them suffer an hour longer than they had to?

He shifted in his chair. Swallowed. Cleared his throat. He knew he had to keep his speech as short as possible, otherwise, he'd choke up, and he didn't want the girls to see him cry. He wrestled their attention away from the show and began:

"I'll probably be going back to prison this Wednesday," he announced. "Your

can't tell the good guys from the bad, so the best thing is, don't *ever* trust any of them. Avoid them at all costs. They are not our friends."

He couldn't believe those words were coming out of his mouth. But how could he tell his daughters to put their faith in a government that treated the Bill of Rights like a moldy piece of parchment?

Alex didn't move. She sat there and stared at him, her face blank and pale.

"How long will you be gone?" Nicole pressed.

"I don't know yet," Bob said. "But there's a chance I'll be back next spring."

Nicole reloaded and fired. "Why does it keep coming back?" she asked, an uncharacteristic sharpness in her voice. "When will it be all over?"

"I may be out in the spring," Bob repeated. "And when I get out, it should all be about over."

He couldn't tell her that no matter when he was released, between the restitution he would have to pay Wooten and the money he owed his company, he'd be serving a financial life sentence, with no possibility of parole.

Nicole would be thinking about college in a few years, but the money he'd been able to save — the little that didn't go to the lawyers who were still racking up billable hours — had to pay the mortgage. He'd put away about \$6,000, just enough to cover the house payments for six months. That's why he had to win an early release.

Little Bob had already decided to delay college so he could help Mary with the household expenses. The kid was making \$8 an hour as a bellman at Quail Hollow, and Mary wasn't making much more. With winter coming, they would cut way back on his hours.

"Where will they send you?" Nicole asked.

Her third degree actually made delivering the news easier — he could concentrate on her questions and keep his emotions on mute.

Bob had no idea where he'd wind up. When he'd first been imprisoned, Mary lost track of him. He'd been calling her from the Perry County lockup and she thought he was still there until she received a plain brown box in the mail from Orient, Ohio. She'd opened it, pulled out his wrinkled sports coat, slacks, shirt and tie, and burst into tears. She said she felt like a war widow, receiving her husband's effects.

He'd be lucky if he landed in a prison in Northeast Ohio so he could be near Mary and the kids. Despite assurances that one of the goals of the Ohio Department of Rehabilitation and Corrections was to place inmates as close to their loved ones as possible, it really came down to bed space, economics,



Bob stored his work tools in the barn. Convicts could apply for shock probation after they'd served six months, but Judge Lewis wasn't known for handing out early releases to violent felons.

**“You can't tell the good guys from the bad. Don't ever trust any of them.”**

— Bob Kreischer

everyone he could think of, including U.S. Senators Mike DeWine and George Voinovich (*We are of the opinion that this is a private legal matter*); U.S. Representative Steven LaTourette (*I am unable to assist you in this matter*); Ohio Senator Robert Gardner (*I receive a large volume of electronic mail, which makes it difficult for me to reply*); and the American Civil Liberties Union of Ohio (*If you believe your rights have been violated, we encourage you to contact a private attorney at once*).

When it became clear that there would be no legislative reprieve, he'd

mom will drive me down, but she'll be back that night."

"What's prison?" Alex asked. When he'd been locked up two years ago, Alex had been told her father was traveling.

"It's jail, Al," Nicole said quickly, then turned to her father. "Why do you have to go back?" she asked.

He paused, unsure how to answer.

"I really don't know," he said gravely. "There's a bunch of people that made up some lies about me and the court believed their lies and not me."

"That's why you can't trust our government or our law enforcement. You



and geography. Convicts were kept in or near the county where they'd committed the crime, making it easier and cheaper to transfer them to and from court. He'd most likely be pulled back to Southern Ohio, somewhere near Perry County, his own Bermuda Triangle.

"They'll be keeping me down around where the cabin is," Bob told the girls. "I'll write and call often — I'll still be talking to you all of the time.

"Be good for your mom," he instructed. "Make sure you take care of your pets so that your mom won't have to.

"I love you," he finished. "Don't be forgetting about me."

He'd done it. And he hadn't broken down. He'd cried only twice in his life: Once when his father had died and again in 1995 when they'd buried Mary's Uncle Jack. Those deaths, as hard as they were, weren't as difficult as telling Alex and Nicole that he was going to leave them, abdicating his role as protector and provider.

After their talk, Nicole lay on the couch and silently watched TV. Alex ran upstairs. Bob waited a few minutes, then followed her. He found her alone in her room, playing with her dolls on the floor.

She looked up at him.

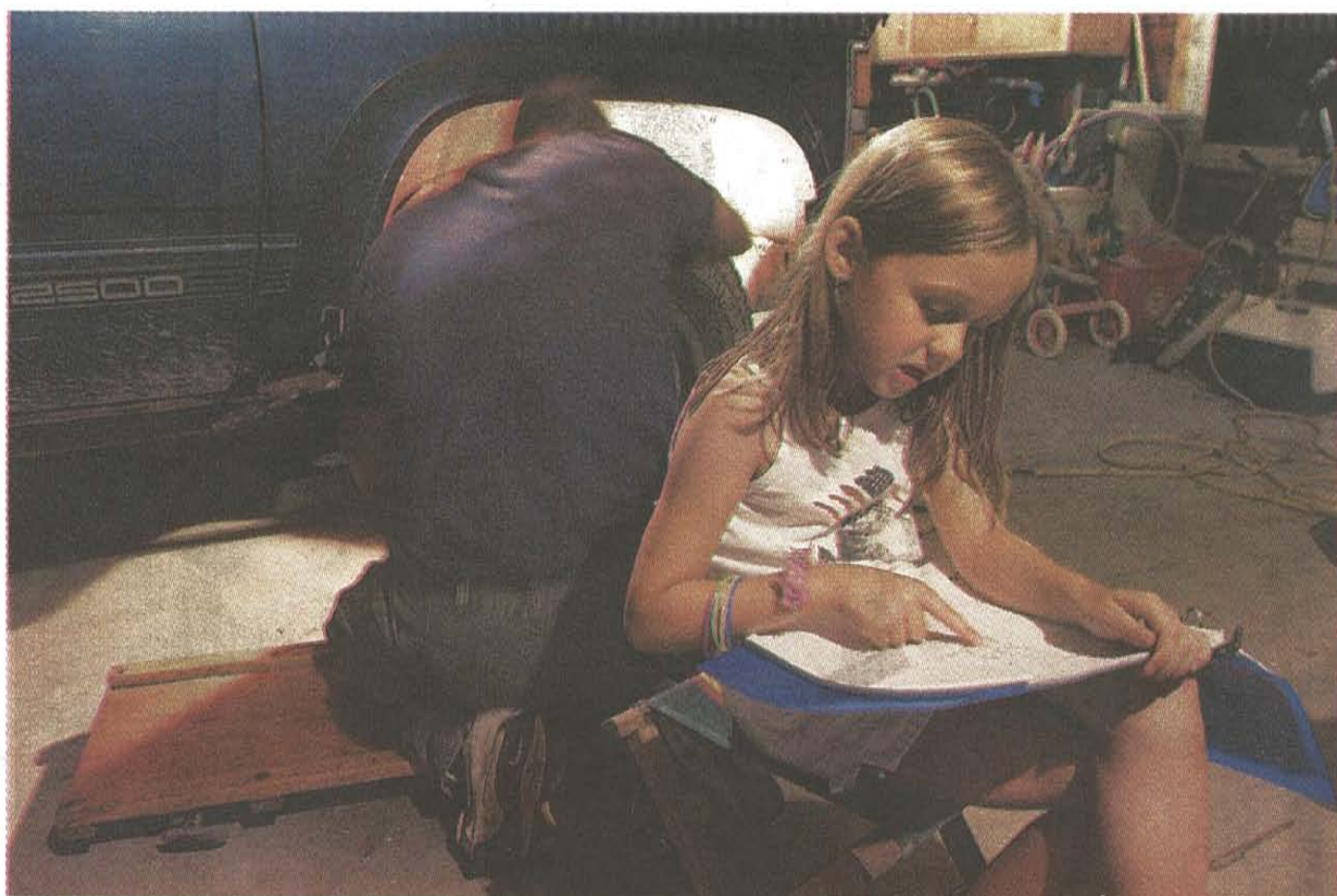
"Dad," she asked, "when is spring?"

**E**VEN THOUGH he'd moved his tools home and there was nothing left to do, it felt strange cutting out from the job in the middle of the day, wrong somehow. Working was in Bob's DNA: His father had labored in the coal mines of Pennsylvania before moving his seven sons and seven daughters to Ohio and taking a job with TRW in the valve division, making parts for Boeing and NASA. After his shift, he'd come home, eat dinner, then report to a machine shop to earn extra money.

It was September 2, 2003, the day before Bob's final hearing. That morning, he'd moved through a gauntlet of awkward but heartfelt goodbyes in the front office. There was no etiquette for how to send somebody off to prison; Hallmark didn't make cards for that sort of thing.

By noon, he'd turned in his cell phone and the keys to the company pickup.

He hated to part with that truck; he was about to crack 300,000 miles on the thing and it was still in good condition. His son's car was beyond repair; even Bob couldn't bring it back from the dead. He'd taken one look at it, felt a wave of nausea and called a tow truck and handed the driver the title. They were down to Mary's Blazer and the old



Late at night, Bob worked to repair the family truck while Alex read alongside him. Did he still have the key chain she made for him, Alex asked. He pulled it out of his pocket: The small blocks spelling D-A-D were intact, but the pink hearts had cracked and fallen off.

“I love you,” Bob said to the girls before the hearing. “Don’t be forgetting about me.”

blue truck they used to haul wood and plow the driveway, and now Little Bob said he thought it was leaking oil.

He was sweeping up when Mary arrived to give him a lift. “I just talked to the lawyer,” Bob told his wife.

After many requests, the Perry County prosecutor finally had faxed Barry Wilford copies of Wooten's medical bills.

“They’re asking for \$40,000 in restitution,” Bob said.

The amount was nearly double what Wooten originally asked for.

Mary let out a harsh laugh. “I oughta bring him some of Rob’s medical bills,” she said. The cost of their son’s care had barely come to \$10,000, and he’d been jettisoned, head first, from a moving car.

“Wilford gave me some good news today,” Bob said with a crooked grin. “He’s not charging us for this hearing tomorrow. He feels bad about all the money that we spent but got no results.”

There was more. Bob explained:

The prosecutor had made an offer through Wilford: If Bob would agree to

sign over his Perry County vacation property, including the two cabins, to Wooten, the state would consider Wooten paid in full.

His prison term was nonnegotiable.

“Just tell your client, Mr. Kreischer, that after the hearing on September 3, he should be prepared to go back and do the rest of his time,” Prosecutor Flautt had said.

Wilford had advised him to strongly consider taking the deal.

“I sold the land to Jim to pay you guys. How am I supposed to get the money to get the property back?”

“I’m just letting you know what the prosecutor said,” Wilford had answered. “It’s your decision.”

Bob had felt as though he were speaking in some incomprehensible tongue. No one understood him. “I really have no decision to make,” Bob had told Wilford. “I have no money left and I have no property, so I really have nothin’ to give him.”

The prosecutor was under the impression that Bob actually still owned

the spread, Wilford had explained, and that he was just hiding it under another man’s name so Wooten couldn’t get it.

“Why would I hold on to the property when I got the legal bills that I got now?” Bob had asked. “I’m gonna hold on to that property and stiff my boss for the money he lent me for my appeals?”

“No,” Bob had said. “That ain’t me.”

**B**OB SPENT that night fixing the blue truck. No speeches. No last suppers. Just work. Like always.

“What are you gonna wear tomorrow so I can have that ready?” Mary asked him, then added, “Don’t wear a suit because it’s gonna be 77 degrees. Wear khakis, a shirt and a tie.”

“I’m not wearin’ a tie because I have absolutely no respect for that courtroom,” he answered. “I went in there every time with a suit and look where





The family drew together on Bob's last night, as the evening grew quiet and cool. Nicole (left), Mary and Alex huddled in the garage as Bob worked on.

“As 7 slid into 8 and 8 slid into 9, they gathered around Bob, campers to his bonfire.”

it got me.”

Friends and family wafted in and out. Bob's mother-in-law, Rose, stopped by and made arrangements to stay with the girls so Mary could go to court with her husband.

The women stood in the yard waiting to learn the truck's prognosis.

“Bob's coming home,” Rose said suddenly. “He's coming home with you tomorrow after the hearing.”

Mary didn't answer.

Bob emerged from the garage.

“It has a broken brake line,” Bob announced.

The old Chevy hadn't been dripping oil but transmission fluid; when Bob replaced the transmission line, he'd somehow damaged the brakes.

“Everything's just so rotted under there, anything you touch falls apart,” he said.

The sun was setting, the sky painted with streaks of lavender and salmon; if Bob didn't fix the truck tonight, Mary would have to have the thing towed to a service station and pay for work her

husband could have done for free. And they didn't have money to spare.

They couldn't do without the disintegrating jalopy. They would need it to plow the driveway when the snow came. Without it, they wouldn't be able to get the car they still had to the road.

Bob was running out of time. He'd spent the last few weeks helping his neighbor build his deck, then burned most of yesterday delegating new responsibilities to the kids.

He'd brought Little Bob down to the basement and showed him the things that could go wrong with the furnace and how to fix them; he'd taken him out back and taught him how to change the water filters in the well and what to do if it started to leak.

He'd told Nicole she'd have to mow the lawn; luckily, she was just big enough now to reach the pedals of the tractor.

Alex would help take out the trash and clean the rugs using the little self-propelled vacuum cleaner he'd bought her.

Bob stood at the mouth of the garage, wiping his hands on a rag, staring at the spot where the horizon met the sky.

It would be dark soon.

Nicole plopped down on the cement steps leading from the garage to the kitchen, opened a laptop she'd borrowed from the neighbor next door and began fielding instant messages like an air-traffic controller on speed.

Mary positioned a folding lawn chair near the right-front wheel of the truck and sat down, a pile of photo albums in her lap.

Alex took a seat on a stool, crossed her legs and began reciting poems she'd written and collected in a big binder.

Bob grabbed a portable light and peered inside the open hood, then knelt down to study the truck's underbelly.

He turned to Alex and pointed at one of the pages. “What kind of lizard is that?” he asked.

“I don't know,” she said, shrugging dramatically and studying a crayon drawing she'd made of a smiling reptile.

“You don't know what kind of lizard that is?” Bob pressed. “You got a lizard crawling on your book and it could be poisonous?”

“It's like living with the Nature Channel, isn't it, Al?” Mary teased.

On an ordinary night, Mary and the girls would have dispersed to all corners of the house to pursue their own chores and projects, leaving Bob to tinker alone. But there was nothing ordinary about this Tuesday, as 7 slid into 8 and 8 slid into 9. No one said a word; they just gathered around him, campers to his bonfire.

Mary flipped through the snapshots: There they were at Disney World, clustered in front of Cinderella Castle.

“Al, look how *tiny* you were,” Mary marveled.

“Where's me?” Alex asked, leaping to her mother's side.

“You're the one crying in all these pictures — the only time you were happy was in ‘It's a Small World.’”

“That was a freaky ride,” Nicole said and, momentarily roused from her cyber-coma, rose and peeked over Mary's shoulder.

Little Bob, who'd been watching TV with his girlfriend in the basement, suddenly surfaced and drifted over to his sisters and mother.

“Bet you wish you had those sunglasses back, don't you, Rob?” Mary said, pointing to the oversized Elton John shades eclipsing her son's face.

He grinned for the first time in weeks. He wasn't used to smiling. The wires holding his broken jaw shut had only recently been snipped.

Bob grabbed the lamp and joined his family. “We went to NASA, too, remember?” he said. He stood above them and held the lantern aloft to better see the photographs. For a few seconds, they huddled together in the dim present, a buttery light illuminating their carefree past.

Bob broke away first, taking the radiance with him. He climbed onto the Chevy's grill and perched there, sinking his arms and torso into the guts of the truck until it looked as if it would swallow him.

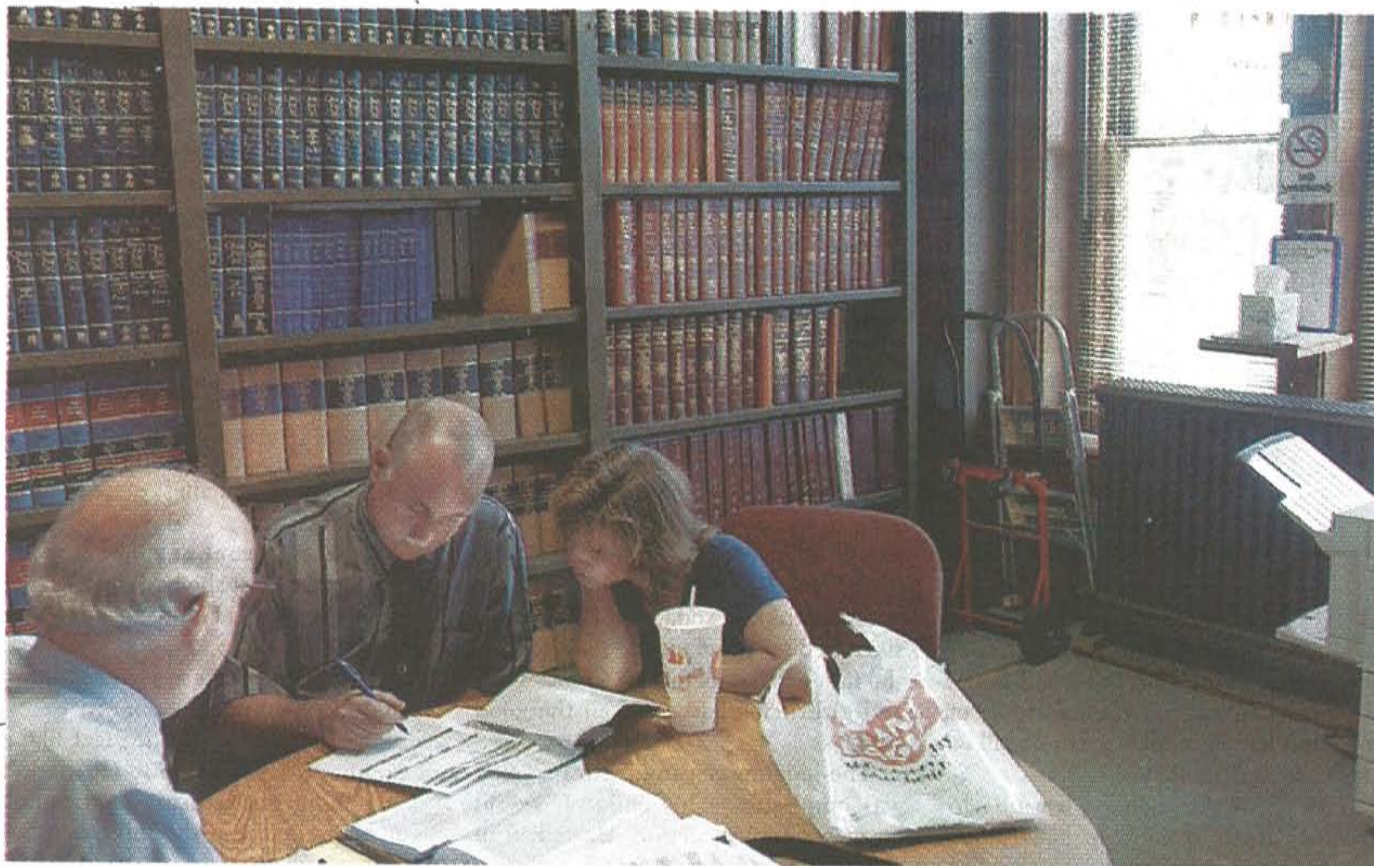
THE NEXT morning, Bob got out of the shower and began dressing in his room off the kitchen. Nicole slipped through the creaking door. She came to him wordlessly through the post-dawn gloom and wrapped her arms around him.

“I love you,” she said.

“I love you, too,” he answered, barely able to speak. “I'll try to be home soon.”

“Write me.”





Before the September 3 hearing, attorney Barry Wilford met Bob and Mary in the Law Library of the Perry County Courthouse. Bob filled out a form stating that if he went back to prison, he would be indigent and no longer able to afford an attorney.

"I will," she answered and ran to catch her school bus.

Bob went into the kitchen to watch his daughter walk down the long drive, struggling under a load of books in her arms that looked as though they weighed as much as she did.

As promised, he wore a short-sleeved shirt and dark khakis. No suit jacket. No tie.

Little Bob came shuffling and squinting into the light of the kitchen, opened the refrigerator and grabbed some juice. He rubbed his eyes as he poured.

At 7:30, Bob slipped into the still-dark living room, where mute cartoons flickered on the TV screen, sending crazy colored patterns across the carpet. For a second or two, he stood above Alex, asleep on the love seat, then leaned down and kissed her head. She looked so relaxed, he didn't want to wake her. They'd let her stay up well past her bedtime last night to squeeze in a few more hours with Dad. He was relieved to find her sleeping. It would be a lot easier for both of them.

Back in the kitchen, he woodenly offered his son his hand. Little Bob took his father's large, rough paw, gripping the thick fingers, traces of engine grease still embedded under the short nails from the night before. No amount of scrubbing could ever really get the stain from beneath those nails.

"Take care of your mother," he said hoarsely, addressing the floor tiles. His son's eyes shimmered, but it was over in

seconds. Bob moved through the good-byes the way he chopped wood for the winter and bled air from brake lines — quickly, efficiently, with purpose.

He retreated into the bedroom and emerged holding a tie.

Mary looked up at him inquisitively. He folded it in two and gave it to her. She put it in a plastic grocery bag hanging off her arm.

**A**nd that's why God made Mexico  
A place where we can lay low  
Where the Cuervo goes down  
nice and slow  
And the warm winds blow  
That's why God made Mexico

The CD in the car stereo played itself out, then automatically began again, once, twice, a third time. Bob didn't bother to pop in another disc or snap on the radio. Mary's friend, Karen McCarthy, along for the ride, lit another cigarette.

Mary spent most of the trip composing a statement on a yellow legal pad. She hoped the judge would let her read it aloud. She really didn't think it would change his mind, but she had to try.

*If my husband goes back to jail today, he will lose his job ... Our son was in a terrible car accident and life fled. Sending my husband back to prison will leave our children and I*

*without healthcare, something that is very valuable to us at this time. I have a part-time 3rd shift job, but by no means am I the breadwinner. We have a home in a small community such as yours that we value dearly ...*

She studied what she'd written, tore the sheet from the pad, squeezed it into a tight wad and dropped in onto the pile of balled-up pieces of paper gathering around her chunky sandals.

As Bob eased the car through Maysville, a little strip of a town, he passed the Rolling Plains Church. "Sin always has its consequences" read the sign in the front yard.

He killed the engine in the parking lot across the street from the jail. The women hopped out. Bob stayed in the front seat and rolled down the window. He asked Mary for his tie. She retrieved it from her bag and handed it to him. He flipped up his collar and draped the tie around his neck, then angled the rearview mirror so he could see to knot it properly.

He couldn't explain why he was doing it, adding this formal accessory to his wardrobe of studied indifference, not to Mary, not to himself.

Nobody inside that courthouse deserved his respect anymore.

So why couldn't he bring himself to walk into the hearing without a stupid piece of cloth around his neck? He stared hard into the mirror. How could that courtroom and the system it represented still mean something to him?

He gave up trying to figure it out and joined his wife on the sidewalk. Mary straightened his tie.

## EPILOGUE

**B**OB SQUEEZED as much of his face as he could through the narrow bars of the holding cell to kiss his wife goodbye.

He found her lips.

"They can take me away and lock me up," he said softly, "but they can never take you and the kids out of my mind."

Mary started to cry.

"Did my statement sound too strong?" Bob asked her, his forehead pressed against the cool steel. "Was it disrespectful to the court?"

"No," Mary answered. "It sounded fine."

When Judge Linton Lewis had asked Bob if he had anything to say, Bob had unfolded the statement Mary had typed for him the night before. As he delivered it, his lawyer, Barry Wilford, inwardly cringed.

Bob still wasn't sorry for what he'd done.

*There is not a man in this courtroom or that I know of who would not have reacted the same way ...*, he'd said.

The judge had scribbled notes throughout the speech, then made his announcement. He hadn't yet decided what Bob owed Terry Wooten. But of one thing he was sure: Bob was going back to prison.

Outside the jailhouse, the rain hammered down as though punishing the earth for some centuries-old slight.

"Don't worry about me," Bob told his wife when the Perry County sheriff's deputy said their time was up. "Be strong."

As Mary moved quickly toward the exit, desperate to head home, Wilford pulled her aside. While she was spending her last minutes with her husband, Wooten, through his attorney, had offered a trade:

If Mary could persuade Jim Ponsart to transfer the title back to Bob or sell the land to buyers Wooten approved of, Wooten promised to write a letter to the judge. He'd tell Lewis he would support Bob's release from prison.

"Wooten says he doesn't want the land for himself," Wilford said. "He wants the land for somebody else — a neighbor he'd feel more comfortable with in his retirement."

"Wait a minute," Mary said, her small frame trembling. "I thought Wooten wanted Bob to do time. Now all he wants is the land?"

Even if she had been able to put the deed for the 20 acres into Wooten's hands, she knew the decision to bring



Bob home rested with the judge.

"What a low thing to do," she said, shoving through the jailhouse doors and out into the street.

Mary didn't know it at the time, but a week earlier, Wooten had filed a lawsuit against her husband and Ponsart claiming that Bob's sale of the land to his friend had been "fraudulent."

Four hours later, Mary walked up her driveway, alone. Her daughters flew out of the house, screen door banging, to greet her.

Alex slammed into her mother's legs, wrapped her arms around her middle, and wouldn't let go. Nicole draped her arm around Mary's shoulder.

That September night, Alex slept with Mary, on her father's side of the bed.

"I'm saving his spot," she explained to her mother.

**I**N OCTOBER 2003, a month and a half after Bob returned to prison, Judge Lewis decided that Bob owed Terry Wooten more than \$37,000 in restitution. Just over \$20,000 of that sum would go to reimburse Wooten's insurance company. The rest — \$17,000 — was awarded to Wooten for medical bills and the 865 hours he took off work for "eye surgeries, doctor visits and recovery time."

Lewis based his ruling on medical expenses compiled by Joan Wooten, a departure from the procedure used in other courtrooms throughout the state. Most rely on calculations by a disinterested third party appointed by the court.

At the restitution hearing, Bob's attorney had questioned Joan's book-keeping, and she had admitted on the stand that, indeed, her math was wrong in at least one place and had conceded that her final tally "was not a precisely accurate amount."

Wilford had argued that Bob should have to pay only Wooten's out-of-pocket medical expenses, which came to just under \$2,500. Bob should *not* have to reimburse Wooten for lost wages, because the U.S. Postal Service had paid Wooten in full for every sick day he'd taken.

Wooten had suffered no economic losses as a result of his injuries, Wilford went on.

In fact, he said, Wooten had applied for and already received \$3,600 from the Ohio Attorney General's Victims of Crime Compensation fund — for lost wages. The state had sent Bob the bill.

Perry County Prosecutor Joe Flautt argued that Wooten was indeed out

something — not only cash, but an earlier retirement. Postal workers can convert unused sick leave into a fatter pension check. Or they can give it back to the government and hang up their mailbags ahead of schedule.

Wilford cried foul, saying that Wooten's claim to sick-leave damages was speculative. "Is not the primary purpose of sick leave to get paid when you're sick?" he asked.

The judge disagreed and awarded Wooten almost everything he'd asked for.

**D**URING THE coldest week of the winter, the Kreischers' furnace broke. So did the plow on the blue truck. Before the snow melted, the wood-burning stove had consumed the pyramid of logs Bob had cut and stacked as tall as the basketball hoop.

Bob spent the holidays learning to crochet, anything to keep his restless hands occupied. He used his newfound skill to make baby blankets for needy women in Caldwell, the Southern Ohio town that houses the Noble Correctional Facility.

He swept the floors at the prison recreation center and picked up the cigarette butts that covered the prison grounds like rank dandelions.

Living in an open dormitory with 250

other inmates was better than being in a cell, but so many of the men at Noble were younger than Bob, with more to prove. He was careful not to bump into anybody, or look at anyone wrong. Fists might start to fly. He couldn't let himself be thrown in solitary confinement for fighting; he'd lose his shot at an early release for sure.

Mary was allowed to see him only twice a month — prison rules. The first time she made the four-hour trip, she sat next to Bob in the visitors room and cried.

As the weeks passed, she became a hardened vet. She knew to bring change and dollar bills for the vending machines so she could buy Bob coveted outside-world delicacies such as potato chips and soda. She'd learned to start feeding coins into the slots when she first arrived, before the other wives and girlfriends harvested all the good stuff.

The kids never came with her. Bob was emphatic — his children would never see him in prison. He talked to them in 15-minute, recorded-for-security intervals on the phone. One Saturday, he called when Alex was playing outside. He was cut off before Mary could beckon her to the phone. Alex burst into tears. There was no way to call him back.

Bob read the newspaper daily; it was always a few days old by the time it arrived at the library, but he didn't

mind. The law-and-order stories were his favorites. He sent Mary clippings about wrist-slap sentences meted out for horrible crimes, including the one about the guy who beat someone to death with a cane during a fight over golf balls. The man took a plea and was sentenced to two years of home confinement.

Sometimes, when Mary wrote, she censored herself. She didn't want to tell him how everything in the house seemed to be breaking at once.

"You always tell me there's nothing goin' on," Bob complained.

She knew the smallest piece of news could sting.

Even the offhand mention of a trip to the store meant she had the freedom to jump in the car and go anywhere she wanted.

He was a man in a two-year induced coma, alive, but unable to move.

Some days he really did feel like a patient. Sickly, decrepit. He hadn't been taking his arthritis medication. He'd requested it at the infirmary, but it never materialized. Nobody would explain why. He used the \$18 a month he earned pushing a broom to buy over-the-counter analgesics at the commissary, but sometimes when it rained, his knees hurt so bad he could barely climb down from the top bunk.

He could stand all of it — the separation from his family, his aching joints, the bristling packages of testos-



At the hearing, Wilford (holding papers, with left to right, Wooten, Flautt and Bob) asked Judge Lewis to place Bob on probation, saying it would allow him to keep his job and start paying off whatever damages the court awarded Wooten.





When the sheriff's deputy led Bob from the courtroom, Bob's arms dangled at his sides. The officer told him he didn't think he needed to be restrained. "You're right," Bob answered. "I'm not a criminal."

terone that were his roommates — as long as he believed he'd be out in the spring.

In late January 2004, on the eve of Bob's sixth month in prison, Barry Wilford filed a petition with the court asking Lewis to free his client. On February 10, Lewis denied the request without explanation.

Mary delivered the news to Bob long distance, as a line of convicts waited behind him to use the phone. He stopped writing everybody for a while after that.

That month, Mary applied for food stamps. She was told by a county worker that she made too much to qualify.

Still, the state computers spat out an automatic demand for child support. Bob received the papers by mail. He had to laugh. He told Mary he wouldn't be able to blow his skimpy wages on Advil and name-brand toothpaste anymore.

Mary didn't think it was funny. All this time, Bob could have been earning a living and paying taxes. Instead, it was costing Ohio taxpayers nearly \$20,000 a year to keep him locked up. She knew the correct figure because she'd looked it up on the Internet.

Bob resolved to try harder; he was determined to show Lewis he deserved to go home. In addition to his job and

hundreds of hours of community service, he joined an anger management group.

"Did Judge Lewis call and ask about me?" Bob asked his case manager.

The answer was always the same. "No."

Since he'd been locked up, Bob's son had turned 19. He'd missed Nicole's 14th birthday and her confirmation, too. It was a big deal. Bishop Anthony Pilla of the Cleveland Catholic Diocese was there. Mary filmed the event but got all teary and the video camera shook. That's why Bob was the family videographer. He was so steady.

In early April, Wilford filed another

petition asking for Bob's release.

Ten days later, as the green buds on the trees in the Kreischers' back yard began to open, Judge Lewis denied it.

Today, Mary keeps a few of the things Bob brought home from the shop in a neat pile on the kitchen counter, right where he left them.

His worn work gloves sit atop his pocket-sized version of the Constitution, waiting for his battered hands. ■

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