



TONY DICKENS

Unpopular Causes Virginia Larson

Mark Lundy – again. There he was, all over the news in late November after an appeal was filed with the Privy Council in London against his convictions for murdering his wife and daughter in 2000. And there were the dailies, radio and TV, rushing off to Lundy’s brother and his dead wife’s family and friends for the expected comments: “Why will he never admit to this brutal crime?” ... “All that we went through keeps coming back to haunt us” ... “We are never allowed to totally be at peace.”

He’s a bad bugger, right? Jail’s the best place for him. Let him rot. And remember what happened when Lundy’s case went before the Court of Appeal two years after the murders. The court not only upheld the guilty verdict, it also *increased* his minimum non-parole period to 20 years.

So why are we now devoting eight pages to this new appeal, including comment from the UK-based lawyers who have taken up Lundy’s case pro bono, new reports from expert forensic pathologists, and an interview with campaigner Geoff Levick on his 10-year, fact-gathering mission to overturn the conviction?

It’s not as if *North & South* writer Mike White, who first raised doubts about the case in our February 2009 issue, knows Lundy is innocent. I don’t know if he did it. The magazine’s not championing him, just as we weren’t advocating for Scott Watson when in 2007 White meticulously unpicked the police case that led to Watson’s conviction for the murders of Olivia Hope and Ben Smart.

Our purpose was only to highlight the deficiencies in the Lundy and Watson cases – and we reaped no public congratulation for that; we even took flak for our two stories on Ewen Macdonald’s trial that explained what the jury heard and why they acquitted him of murdering his brother-in-law, Scott Guy.

These are not popular causes. We know the police and prosecution have difficult

and often unenviable jobs. But the police investigations in all three cases were wanting – especially so with Lundy and Watson. The science they presented was wanting. You might argue the efforts of the defence were less than convincing in Lundy’s case and, conversely, outstanding in Macdonald’s.

The late Greg King, who led Macdonald’s defence team and whose life and work we commemorate in this issue, was the ultimate believer in a fair trial for everyone, with the evidence laid out dispassionately. “That’s what thousands of New Zealanders died for in two world wars,” he told White, “to fight for our system of justice; that’s democracy, that’s everything.”

So surely, if we value our justice system we must allow it to be tested and if it’s made a mistake, it has to be corrected. It’s fundamental to all we supposedly hold dear about our freedoms in New Zealand. The police and courts can never be above question or reproach. If you want that kind of society, there are some fetching little dictatorships around the world that should suit you fine.

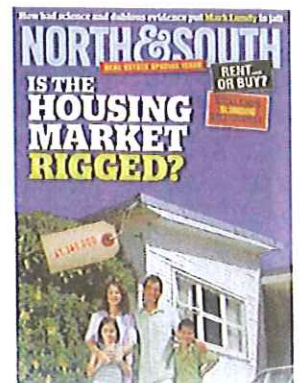
The lawyers and forensic experts who have rallied behind Lundy’s appeal have done so not because they’ve met the man and made some personal judgment about him, but because they studied the case against him and determined there was a miscarriage of justice. So I’m hoping you’ll suspend your prejudices until you see the new evidence presented in White’s report on page 56.

A prisoner we would like to champion? Intellectually disabled convicted murderer Jason Ferguson, whose case was first reported in this magazine by editor-at-large Donna Chisholm in July 2009. Lawyers have battled for more than four years to have him released from jail.

Ferguson was 19 when he killed 56-year-old Mamaku man John Sorrenson in June 2002 after Sorrenson sexually molested him. Leading human rights lawyer Tony Ellis argued Ferguson’s life sentence, imposed in 2003, was “manifestly excessive” given his intellectual disability. Ferguson’s IQ has been assessed variously at 56 or somewhere in the 60s. He’s said to have the mental functioning of a six-year-old.

Ferguson’s first application for parole, early in 2012, was declined as was an appeal in 2010 against the conviction. Ellis’ bid to file an out-of-time appeal against his sentence was heard by the Court of Appeal in November. The decision has been reserved. All Ellis wants is for Ferguson to be released into a special-care facility. A fair and reasonable petition? We think so. +

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