

TODAY

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THE  SUN

The Trials of Tom Merrill

"When I was found guilty, I broke. I hurt so much that I found a place where there wasn't any pain."

Tom Merrill



MICHAEL LUTZKY: SUN STAFF

Mother's work: *Certain that Tom was innocent, Sara Merrill hired the best legal team she could find for him.*

■ **Verdicts: Three juries passed judgment. The last set him free. By then he had spent five years in prison for double murder. No verdict could erase that punishment. Nor will it silence skeptics who find suspicion in his legal odyssey. But he is ready to go on — with strength and resolve.**

By ANN LO LORDO
SUN NATIONAL STAFF

Tom Merrill will never forget Friday, Oct. 13, 1995. It is the day a jury ended his five-year fight to prove his innocence in a double murder. It is the day he rejoined the world.

March 14, 1989, is another date he won't forget — precisely because he can't remember where he was. A robbery that day ended with two people dead in a coin shop in Newport Beach, Calif.

Tom Merrill had no reason to mark that March date until 20 months later, when police arrested the Marine. It was too uneventful to stand out in his memory — too much like every other day.

Maybe he left the base to escape the monotony of Marine life. Maybe he caught a movie at the local mall. But pinpoint a day in time 20 months earlier? He couldn't do it. Who could?

If Tom could have remembered where he was late that afternoon, proven it somehow, the case of circumstantial evidence against him would have dissolved into a handful of unrelated facts. His bunkmate confessed to the crime, no physical evi-

dence implicated Tom, and a surviving victim testified that Tom was never in the shop.

Tom's whereabouts on March 14, 1989, became the subject of three trials. The Roland Park boy, college athlete, and son of a nurse and psychiatrist shuffled between prison and jail.

First, as an accused killer with a bail of \$1.3 million. Then as a convicted murderer with no chance of parole. Last, as a jailed man

awaiting a new trial.

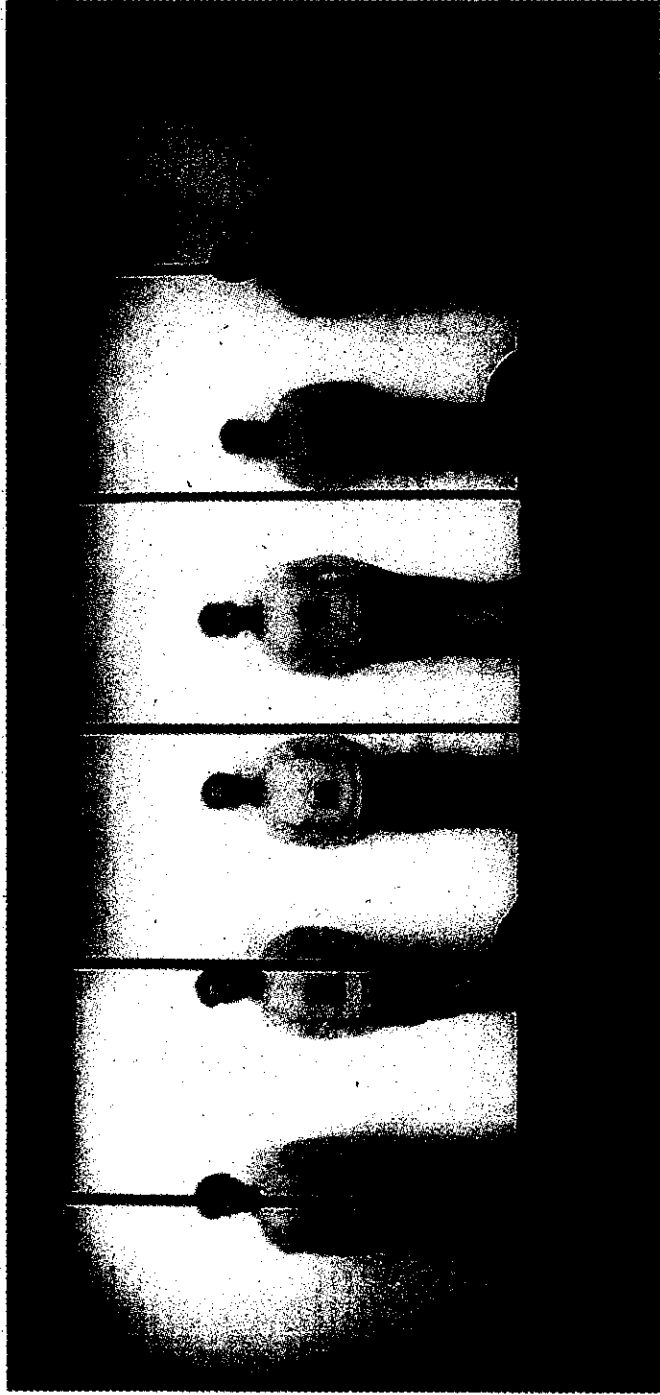
"I'm only starting to realize how much the last five years took from my life," says the 31-year-old. "It takes so much to keep doing it, to keep going."

In the beginning, Thomas Read Merrill believed the truth of his innocence would prevail. He had been taught to respect the law. He channeled his energy into wrestling while in boarding school, then crew in college. And when his future seemed

unclear, Tom chose the Marines to help define it.

A self-described law-and-order conservative, he had never been in trouble. An unpaid parking ticket and an errant left turn were the extent of it.

But the system betrayed Tom's confidence and sent the young Marine to prison. For most, the story would have ended there. But Tom possessed what many other inmates don't — an unflinching advo- [See Merrill, 4k]



In the lineup: A web of circumstantial evidence, including descriptions of a dark-skinned man, led to Tom (No. 4, above).



MICHAEL LUTZKY: SUN 67

Comforts of home: Five years after a jury found him guilty of murder, Tom Merrill, 31, is a free man, living with his mother in Monkton, trying to find his place in the world.

A tale of trials ends in freedom

[Merrill, from Page 1K]

cate in his mother and family money to finance a fight.

It was a dizzying, stomach-wrenching ride that left a young man emotionally spent, his family financially depleted. Their victory can only be bittersweet. For there are those who will always doubt Tom's innocence, who will find something to suspect in the voluminous details of his legal odyssey.

Today Tom Merrill is a free man, living with his mother, Sara, in the family's Monkton home, trying to find his place in the world.

It is difficult to detect even a trace of the psychological strain that accompanied his legal battle. But make no mistake, the man behind the winning smile and mirthful eyes is wary.

Soon after his return to Maryland, Tom bought himself a pocket tape recorder. He uses it like a diary, recording places he has been, the time of day.

"I had a bad experience once," he says, "because I didn't know where I was."

Friends and second family

The March robbery of the Newport Coin Exchange left the owner critically wounded, his wife and best friend dead. On the store counter was an order for \$45,494 in coins. It was in the name of "Eric Watt," and written on the form was the phone number of a barracks at the Tustin Marine Corps Helicopter Air Station. In June, agents with the Naval Criminal Investigative Service arrived at Barracks 132.

Among the Marines who lived there were Tom and his bunkmate, Eric J. Wick. They had met at ordnance training school in Aberdeen. At Tustin, they shared the assignment of controlling the storage of guns and ammunition at a base armory, a job that requires a security clearance.

Armorers often bunked together because they occasionally worked odd hours. But Tom and Eric's friendship was more than a matter of convenience; they had a lot in common. Both had enlisted after dropping out of college — Tom, just a course shy of graduation at Washington College in Chestertown. And both were accomplished marksmen who shot together at the range. They shared a locker off-base to store Eric's gun collection. The two also practiced martial arts.

"He just seemed more my type of people," says Tom, whose adoptive father is both a psychiatrist and a retired Episcopal minister. "My uncle is in Scotland Yard; his father is in the FBI."

His first Christmas stationed at Tustin, Tom spent the holiday with Eric's family in Reno. He made the 500-mile drive several other weekends, once with another Marine buddy, John Brady. Tom came to consider Eric's parents, Bruce and Sylvia, to be "like family." The feeling appeared to be mutual: In letters to Tom's mother, Mrs. Wick thanked her for sharing her son.

The two friends and bunkmates were on the list of Marines the Naval investigative officers wanted to interview. They asked questions about the robbery at the coin shop, including: Do you own or know anyone in the barracks who owns a 9 mm handgun?

"Everybody had the same answer to the question, except Eric Wick," Tom says. "He said he had a gun, a 9 mm."

Before investigators left, they took Eric's fingerprints.

Sometime that day, Tom and John Brady moved four guns from Wick's bunk and car to the off-base locker. Eric had been disciplined for having weapons on base; they worried their friend was in trouble and thought it best to move the guns.

The next day, Eric went AWOL and drove to his parent's home. As he got out of his Nova, a car stopped in front of the house.

Reno police arrested the 20-year-old Marine in the driveway. Eric's palm print had matched one found in the store. A search of his car, which had recently been repainted, uncovered the 9 mm SIG-Sauer under the front seat. The gun was loaded and would prove to be the murder weapon.

Police also found three other guns and a blue duffel bag in the car. Inside the bag were three Australian platinum coins.

News of Eric's arrest stunned Tom: *How could they be so wrong about a guy?* He stood by his friend — and by his "second family."

That summer, before celebrating his birthday in Maryland, Tom spent Fourth of July weekend at the Wick home in Reno. He returned there that year for Christmas — in Eric's place.

As Eric's lawyer began preparing a defense, Tom offered to help. He spoke with the defense investigator, an ex-Marine, about conversations he had had with police. He had volunteered to them that he moved Eric's guns and was buying the SIG-Sauer pistol on lay-away from Eric.

Tom also visited his friend in jail.

"In the first few visits I went to see him, I asked him if he had been there, if had done it," Tom testified in his first trial. "He looked at me and shook his head, no."

What the sergeant wrote

About a week after Eric's arrest, two police detectives arrived at the Newport Beach jail to interview him. Eric told Detective J. W. Desmond that he "had trouble remembering what happened" at the coin store. Sgt. Robert T. Long decided to take a crack. He told Eric he knew he had lied about the crime. According to the sergeant's report of the interview, Eric then began to talk:

"I did the shooting," he said. He said he had acted alone.

When Bill King, the owner of the coin shop, pulled out a shotgun, he said, "I had to defend myself. ... I didn't plan on having to kill anyone."

Eric said he shot Mr. King's wife, Renee, who was moving around on the floor.

"So you were afraid she would be a witness against you and you wanted her dead?" the sergeant asked the Marine.

"Yes," Eric answered.

Eric told the sergeant he drove to the locker he shared with Tom Merrill, dropped off the stolen property and then returned to the Marine base. When he later fled to his parents' house, Eric said, he stopped in Carson City and tossed the two handfuls of stolen coins in a Dumpster.

The Marine was not read his rights, nor was the conversation taped. He would later deny making the statements Sergeant Long attributed to him. (He declined to be interviewed by *The Sun* on the advice of his lawyer.)

"At times, he seemed cold in his emotions," the sergeant wrote. "He said he loves his family very much and that he is 'very sorry he did such a stupid thing.'"

Under suspicion

More than a year later, in the summer of 1990, Marines at the Tustin base shipped out to the Persian Gulf. For Tom, the call-up to confront Iraq's Saddam Hussein meant fewer Marines at the armory and longer hours for him.

Then, in October, Tom got word that his and Eric's friend, John Brady, had been recalled from Saudi Arabia.

The police wanted to talk to him about the murders. John admitted that Eric had talked about the slayings.

"I did it. I'm going to fry. I was there and I did it," John says Eric Wick told him during a visit to the Orange County jail in July 1989.

Eric also told John that he had not been alone. An older friend from Reno, a guy who taught Eric martial arts, had committed the crimes with Eric, John told police.

When Tom saw John during his return to Tustin in November, they talked about the trouble they might be in for moving Eric's guns. Unbeknown to Tom, John agreed to record their conversation for police. But Tom said nothing to implicate himself.

That same week, Tom arrived for work at the armory at 3:30 a.m., only to find a line drawn through his name on the roster.

A call to his boss explained the problem — his security clearance had been pulled. Police suspected him.

On the evening of Nov. 14, as Tom drove to a nearby mall to buy a dozen Mrs. Fields cookies, the police moved in. Lights flashed. A voice on a loudspeaker called to Tom.

It was a sergeant from the Newport Beach police: Roll down the window. Stick your hands outside the car. Get out of the car.

Tom slowly got out of his Chevy Cavalier. About a dozen police — detectives, uniformed officers, Naval Service investigators — surrounded him. Some had shotguns.

Walk backward, the voice instructed him. Kneel.

Tom followed the instructions. As he knelt in the mall parking lot, an officer walked over, cuffed and frisked him.

Why is this happening? I haven't done anything. This must be about moving Eric's guns.

Tom exchanged words with a detective, telling him that whatever he had might look good on paper, but it wasn't going to fly. The detective, Sgt. Robert Long, leaned over to Tom and looked him in the eye. You're being arrested for murder, he said. Tom realized he could be facing the death penalty. Frightened and angry, he said, "If you execute me, I'll be your worst nightmare."

Tom was taken to the Newport Beach jail, where he made his one phone call — to Sylvia Wick, Eric's mother. He knew she would help him, and he thought it was too late to call his parents in Maryland.

Tom saw Eric two days later at the Orange County Jail. "I'm sorry about this," Eric said. "I'm sorry this happened to you."

"It isn't your fault, is it?" Tom

TODAY



MICHAEL LUTZKY: SUN STAFF

Filial affection: *If anyone knows the value of a supportive family, it is Tom Merrill. Here he hugs his adoptive father, Dr. George Merrill.*

replied. "You didn't do anything."

On the cellblock

Lockdown. A flurry of activity on the cellblock below. Tom peered down from his cell on B10, trying to piece together the scene from the shadowy reflections on the plexiglass partition. Four or five inmates in their underwear. A man carrying photographic equipment and a box. *The coroner's box!* A sergeant escorted the man down the cellblock.

"The lieutenant wants some good shots of that arterial blood spray on the wall," the officer says.

Arterial. A blood vessel that runs from the heart. His mother a nurse, Tom knew the consequences.

The guy is dead unless he's in an emergency room in three to five minutes. If he got it in the throat or the back, he's a goner.

"Until then," Tom says, "I had been thinking this is like Camp Snoopy."

His job, he realized, was to stay alive and "to stay sane."

The trial

Eric Wick and Tom Merrill went on trial in June 1991. It was a convoluted case, prosecutor Geoffrey L. Robinson told the jury — a "series of circumstances" that would lead to the two Marines. He likened the case to a jigsaw puzzle.

The circumstantial evidence against Tom came piece by piece. A box of 9 mm bullets found in Tom's car. His skill at pistol shooting. Various descriptions of a dark-skinned man. (Tom is olive-complexioned and dark-eyed, traits inherited from his biological father, a Pakistani.) John Brady, who had been given immunity to testify in the case, told police that he, Tom and Eric had talked about robbing crack houses, in a joking way.

A policeman riding in the ambulance with the lone survivor provided a potentially damning piece of evidence. Shot four times, bleeding from the head, coin shop owner Bill King was combative

and delirious in the ambulance. He believed he was dying. Earlier, he called out to someone named Fred. In the ambulance, he blurted out the name Tom.

Who is Tom? asked the police officer. "Tom shot me," Mr. King replied, later saying that Tom was "black."

But when Mr. King took the stand, he identified only Eric. Had he ever seen Tom Merrill before? No, he told the jury.

Despite Wick's confession to police that he acted alone, his public defender told the jury in his opening statement that Tom had fired the fatal shots — an assertion not backed up with testimony. He said Eric had been influenced by the older, craftier Tom Merrill. Eric never testified.

Tom took the stand in his own defense. He stated under oath that he did not commit the crime and believed his friend Eric incapable of it as well.

But Tom proved to be a lousy witness. He couldn't remember where he was during the robbery. He admitted moving Eric's guns but explained he did so because his friend was in trouble.

The talk of robberies between Tom and his buddies?

In jest, he told the jury.

When Tom's lawyer asked him if he and Eric were still friends, Tom hesitated before answering, "I don't know."

The jury convicted both men on July 1. Tom rode back to jail handcuffed to Eric Wick.

'I broke'

Tom Merrill entered the California prison system as No. H21647, a convicted murderer with a life sentence and no possibility of parole. It was January 1992.

"When I was found guilty, I broke," Tom says. "I hurt so much that I found a place where there wasn't any pain. The psychological term for what I did was depersonalize. You just pull a little switch. ... It's like all of a sudden your mind is off-line.

"The only hard part is it's hard

to come back after awhile."

Collect calls to his mother and notes of support from his family's church in Monkton kept Tom in touch with the world outside the maximum-security prison. He read his way through the prison library.

For inner strength: Holocaust survivor and psychiatrist Viktor E. Frankl, prisoner-of-war accounts, Zen philosophy. For distraction: thrillers, Louis L'Amour novels. He nearly memorized the Scrabble dictionary. *Aa, a form of lava; qaid, a Muslim tribal leader, Xu, a coin from Vietnam.*

Along the way, he made a decision: Whenever his last day came, he wanted to be proud of himself.

"Eleanor Roosevelt said you cannot ever have your self-respect taken away from you," Tom remembers. "It's one of the few things in life you have to give away. You get down to a point where there's nothing but your self-respect left, your integrity and your self-respect. It's just there. You can either cherish it or let it go. I chose to cherish it."

A mother's crusade

As her son maneuvered through the maze of prison life, Sara Merrill set out to prove he was innocent.

She had not jumped to that conclusion.

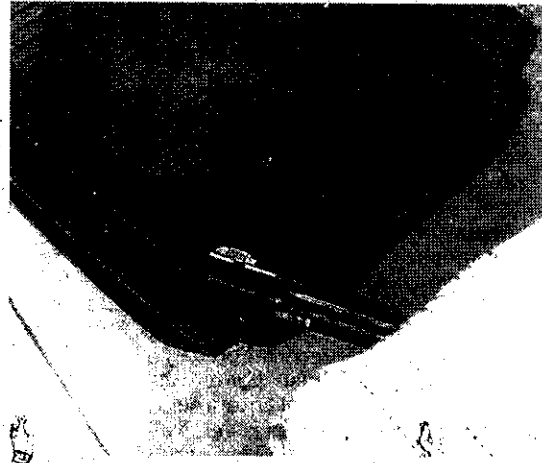
Since his arrest, she had immersed herself in the case — court documents filled boxes in her Monkton home. "If I thought for one minute — if Tom had done it, I would not want him home," says Mrs. Merrill, a Welsh-born nurse who enlisted the support of Episcopal church leaders.

Like Tom, Mrs. Merrill had faith in the system; the evidence against her son was scant. But the trial awakened her to another reality — ours is an imperfect system.

She set out to hire the best legal team she could find. Santa Monica attorney William J. Gene-go took the lead in challenging Tom's conviction. Orange County lawyer John D. Barnett, who suc-



Evidence: Two people died in the robbery of a coin shop (above) in Newport Beach, Calif., on March 14, 1989. The murder weapon, a 9 mm SIG-Sauer (below), was found under the seat of a car belonging to Eric Wick (left), who is still serving time for the crime. Tom Merrill was accused of being the shooter, but a third trial found him not guilty.



cessfully defended a police officer in the Rodney King trial, would work his magic for Tom in court. They plotted a strategy: Show how Tom did not get a fair trial.

To pinpoint Tom's whereabouts during the robbery, the lawyers pulled his bank records. They showed he had withdrawn \$20 from an automatic teller machine at 5:01 p.m., raising doubts about whether he could have been at the robbery scene half an hour later.

The lawyers learned that a witness had ruled out Tom as one of two suspicious men seen outside the coin shop that day.

The witness, Finn Olsen, told prosecutors that if the two men he saw committed the crime, then Tom Merrill was innocent because he was not one of them. Prosecutors are required by law to give the defense all information that pertains to the innocence of a defendant. But Tom's first lawyer had not received the witness' entire statement. And the prosecutor had asked that Mr. Olsen not volunteer this information.

The appeal and petition to release Tom from prison argued for a reversal of Tom's conviction based on two key points — misconduct by the prosecutor and missteps by Tom's lawyer, who had failed to ask the court to try Tom separately from Eric.

Their argument prevailed. In June 1993, Tom's conviction was overturned.

But the state of California had not yet finished with Tom Merrill. He would spend another two years in the Orange County jail before his second trial convened.

Unexpected support

When he wasn't working on the jail tier, passing a mop and broom from cell to cell, Tom played chess to keep his mind sharp and tutored inmates learning English or studying for their high-school diplomas. He took up drawing to relax. One day in the spring of 1994, a letter from Towson arrived.

Theresa Scharper had read about Tom's plight in *The Sun*. She empathized with Sara Merrill's struggle, her son's dilemma. She wanted him to know that she believed in him. The married mother of a Marine, Terry encouraged Tom to write to her.

Tom wrote back. In one letter, he spoke of losing phone privileges for trying to swipe an adult-sized spoon from the dining room. "Since I'm not a criminal, I got caught," Tom wrote in July 1994. "I'm *really* tired of eating with a child's spoon."

He signed the letter with this thought: "Always remember: In any contest between Power and Patience — bet on Patience!"

Terry had a Mass said for Tom at her church. She sent him a picture of herself and her daughter. Tom responded with a portrait of Terry, a pencil-sketched likeness of the former hairstylist.

Not much of a letter writer, Terry told Tom to call collect. He gladly obliged.

"She knew I was innocent, and that was important," says Tom, "especially when I learned what her husband did."

Terry is married to a veteran Baltimore police officer.

The Scharpers came to expect Tom's phone calls, usually Wednesday nights. One week when he didn't call, Terry phoned the jail. She persuaded a jailer to check on her friend.

Even Terry's daughter, Katie, got to know Tom in those calls.

"We read the same books. We liked the same movies," the 21-year-old college student recalls. "Talking to him, you wouldn't know he was in jail."

The calls, the conversation, all translated into *Someone cares about me.* [See Merrill, 5K]

"If I was a father, I would not let my daughter speak to any inmate," says Tom, as if to underscore the faith the Scharpers must have had in him.

But that's the Tom Merrill of the 1980s talking, the Tom before the arrests. The Tom Merrill of today says: *Without human contact, the system will turn a man into an animal.*

Retrial

On March 25, 1995, Tom returned to the Orange County Courthouse for his retrial.

The emotional strain intensified; he was on anti-depressants. "You've got to deaden yourself when you're outside court and then you have to be alive inside court. For a day or two, anyone can do it. I did that for three-quarters of a year."

In this trial, Tom's attorneys hammered away at the unreliability of the prosecution's evidence. But Deputy District Attorney Richard M. King had a surprise witness — Eric Wick.

His appeal denied, his first possible parole date 13 years into the next century, Eric told the jury that he hoped his testimony would spark a new investigation of the case and prove his innocence.

Although police said he had confessed to doing the shooting alone, he now told a different story:

It was about 4:30 p.m. on March 14, 1989. Eric jumped into Tom's car and suggested the two get dinner. Tom drove to a shopping center and parked in back. Eric didn't know where they were going. He just followed Tom into the open door of the Coin Exchange.

Tom went over to talk to Renee King; Eric stayed near the door. Within a minute or two, Bill King, the store owner, and his friend Clyde Oatts entered the store. They went over to Tom and Mrs. King.

They exchanged "pleasantries" and walked toward an office. Eric said he just stood around, killing time. He had been to the store once before. With Tom.

And, although the store owner identified Eric as the person who ordered \$45,000 worth of foreign coins under the name "Eric Watt," Wick denied doing so.

As Tom chatted with the shop owner in the office, Eric looked in the cases. As he browsed, the voices of Tom and the owner got louder. Suddenly, Eric heard "the racking of a shotgun." Then he heard shots ring out.

"Did you see a weapon in someone's hand that was shooting?" prosecutor King asked.

Yes, Eric said.

"And who was that?" the prosecutor asked.

"Tom," Eric replied. "He fired

like basically from his right to his left and just went straight across at all his targets.

"He walked up to me and he stepped over the bodies and said, 'Let's go.'" Eric said he'd kept quiet out of fear of Tom.

If the testimony had been confined to Eric's version of the shooting, Tom would have been devastated.

But his buddy's credibility began to disintegrate as the questioning moved to the web of details implicating Eric in the crime.

His confession to the Newport Beach police?

"I gave no statement to them whatsoever," Eric testified.

The receipt in the name of Eric Watt that was left on the counter, the bag that appears in the crime scene video? The foreign coins found in the duffel bag in his car?

All lies or mistakes, Eric said.

Wasn't the new paint on his car an attempt to evade detection?

No, Eric said, he planned to repaint the car weeks before.

What about the murder weapon found in his car?

He didn't know how it got there. Anyway, he had sold the gun to Tom.

And the Marine who was his bunkmate, his buddy at the armory, the friend he brought home to meet the family?

"An enemy," Eric said.

Facing the third jury

After seven days of deliberation, the jury could not reach a verdict. A mistrial was declared May 17. News that seven jurors had voted to convict unnerved Sara and Tom. His lawyers fought to have the charges dismissed.

Bill King, the coin shop owner, took steps to express his belief in Tom's innocence. He met with the prosecutor, hoping to persuade him not to retry Tom. He tried to visit the judge. But he had no success.

A trial lawyer with 22 years of experience, John Barnett knew how statistically unlikely Tom's complete acquittal would be. "His chances of total success, regardless of the evidence, were incredibly small."

By summer's end, Tom faced a third jury. Sara arrived from Baltimore for yet another stay.

At the trial, the prosecutor repeated the state's theory of the crime — that Tom and Eric planned to rob the coin shop, and when an argument broke out in the store, Tom pulled a gun and opened fire.

Tom's lawyers argued that only one man, Eric Wick, committed the crime.

Bill King, the surviving victim, again identified Eric Wick as the lone assailant. Wick took the witness stand again and identified Tom as the shooter.

The prosecution's case pro-



MICHAEL LUTZKY: SUN STAFF

Making plans: *Now home, Tom Merrill says he wants to get himself and his family back on their feet.*

ceeded as it had in the second trial — with one exception. Public defender Tim B. Severin, the lawyer who represented Wick in the first trial, was called to testify. Wick had waived his right to keep their conversations privileged.

As the prosecutor began questioning Mr. Severin, Tom's lawyers braced for the worst.

Did Wick ever tell you who, if anyone, was inside the coin exchange with him when the shootings occurred?

Yes, Mr. Severin replied.

Was that constant throughout your representation?

Yes, the lawyer said.

And what was it?

He always told me he was alone, Mr. Severin testified.

"It was the moment to die for," recalls Mr. Genego. "I leaned over to John and said, 'It doesn't get any better than this.'"

Friday the 13th

Last October, on Friday the 13th, the jurors returned to the courtroom after deliberating nine hours over two days.

Tom took his place at the defendant's table.

His mother was not in the courtroom. She had returned to the hotel during the lunch hour.

As the court clerk began to read the verdict, Tom heard only one word. *Not.*

Then another. And another ... *six nots.*

He had been found not guilty on all counts.

Sara Merrill arrived at the courthouse to find the jurors leaving. She was confused. The faces

around her seemed a blur. Except for Tom's.

Tom spotted his mother.

"Acquittal," Tom said, silently mouthing the word. "All counts."

Sara Merrill screamed. "I want to hug my son," she cried out. "He's innocent now. He's been innocent for six years."

But a court staffer was escorting Tom back to a holding cell.

Tom's lawyer tried to calm Sara. In a minute, he said. In a minute, the bailiff returned Tom to the courtroom.

Sara held her son: "My darling, my love."

Free at last

Six hours later, Tom walked out of the Orange County jail.

That night, he dined at a restaurant for the first time in five years — and couldn't decide what to eat. (He ordered steak, burnt.) He called his friend Terry in Towson and told her the news: Not guilty. He joked with the hotel's female van driver.

Tom realized how much he had missed the company of women. *Not what everybody thinks ... But the presence of women. The conversation, the way women listen when you talk and really enjoy it when you listen to them; a female sense of humor.*

He returned to the South Coast Mall, the shopping center where he was arrested, and bought tennis shoes. His feet hurt.

Rev. Darrell L. Ford, an Episcopal priest from Newport Beach who had befriended Tom, announced in his church bulletin: "Tom Merrill is Free at Last." A

parishioner invited Sara and Tom to use his beach house. From there, Tom called Terry again.

"Do you know what I'm doing?" he asked. "I'm lying in a king-sized bed."

Mother and son flew home a week later. A sign on the front door in Monkton read: "Welcome Home Thomas." Friends left eggs, sausage, breads and homemade jams on the porch.

'A hellacious load'

For Tom Merrill, the days and weeks of suspended animation are over. His attitude made the difference on the inside. Perhaps it will do the same on the outside.

"I want to get myself back on my feet," says Tom, sitting comfortably in the living room of his parent's colonial. "And I want to try and help my family get back on their feet. Because it's been a hellacious load."

Tom's 58-year-old mother sold family residences at fire sale prices and mortgaged her husband's retirement to finance the fight. Legal bills exceeded \$500,000. The family has established a defense fund to cover the remaining costs and is suing Tom's first lawyer for malpractice.

For the past five years, Sara divided her time between two loves — an imprisoned son on one coast,

an ailing 86-year-old husband on the other. During the last trial, Dr. Merrill was in a convalescent home in Baltimore.

Don't mistake Sara Merrill's tireless fight for blind love. Her son knows better.

"My mother loves me. But if I had committed this crime, she'd be loving me in prison," says Tom firmly.

When Tom reflects on the years lost, he does get angry. But his anger hasn't consumed him.

"I was used, and 'used' is the word," Tom says. "I was a life buoy for Eric Wick and a real disposable one."

When he contemplates the future, he envisions working with a lay minister in New Jersey who helps free the innocent from prison. He hopes to finish college at Loyola, maybe go to law school. Or learn a new business from the ground up.

Tom Merrill is collecting the credentials of personhood — a library card, a driver's license, his military discharge papers.

He's dating again. "I'm available," he says brightly.

He carries with him a small black binder that zips shut. Tucked inside this daily planner is a copy of a certified court document. Five pages that chronicle the final day of Tom's last trial. Spelled out in black and white are the jury's verdicts — not guilty.

"It's something my mother and I independently came up with," Tom says, "as a preventive thing."

Tom doesn't trust the system to accurately reflect his record or lack of one.

"Can you imagine if I got stopped for a red light" and police checked the record? "Their blood pressure would pop."

The daily planner may be a hedge against paranoia, but it won't silence the skeptics who may think he beat the system. Tom Merrill is ready for the cynics.

"The moment somebody says something like that, I'm going to blink and a shell is going to come down over my face. I'm going to look at them with that thousand-mile stare," says Tom. "Essentially, I don't care what people think of me. Because of what I've been through, ... there is a core here that does not change. I have a sense of self. There's this saying, you only form steel through adversity."

"Look at a Japanese sword: It's heat, pressure, force and a lot of skill. In a way, life is a crucible. You either come out as pig iron or you can come out as steel — flexible and yet incredibly strong."