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Court tosses out verdicts in store-clerk killing

By PEGGY FIKAC
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AUSTIN — The fate of two Mexican men is in the hands of West Texas prosecutors after the state's highest criminal court overturned their convictions and said they are entitled to new trials in the slaying of a convenience store clerk.

The Dallas-based lawyer who led the fight on behalf of Jesus Ramirez and Alberto Sifuentes said he hoped prosecutors would dismiss their indictments after the finding of grave mistakes by their original lawyers in the 1996 death of Evangelina "Angie" Cruz. The two had been sentenced to life in prison.

"These two men have suffered far too long as victims of our legal system," Barry McNeil, of Haynes and Boone, who led the effort, said in a statement. "They are innocent. There is not a shred of evidence against them, and they deserve to be freed immediately."

The Texas Court of Criminal Appeals' decision dated Wednesday said, in part, that if trial lawyers had adequately investigated the case, "there is a reasonable probability that the evidence that would have been discovered and presented at trial would have created a reasonable doubt in the minds of the jurors and resulted in a different verdict."

One prosecutor's view

The Lamb County district attorney, however, indicated a dismissal isn't where he's headed. Mark Yarbrough said his office has met with the family of Cruz, who was working at a Jolly Roger convenience store in Littlefield, northwest of Lubbock, when she was killed.

"The Court did not find that the defendants were innocent, nor did the Court find that there was any prosecutorial misconduct," said Yarbrough in a statement. "Since the Court's ruling, our office met with the victim's family and made them aware of the situation. We are obviously disappointed that Angie's family has to continue to endure these cases.

"The Court of Criminal Appeals directed that the defendants be returned to Lamb County and answer the charges against them," he said. "We will do exactly as the court directed."

Yarbrough's office prosecuted Ramirez, while Sifuentes' case was handled by Lubbock County and the state attorney general's office. McNeil said in an interview, after being told of Yarbrough's statement, that he still hopes he can persuade the Lubbock County district attorney's office to dismiss Sifuentes' indictment.

Kollin Shadle of the Lubbock County criminal district attorney's office didn't have an immediate comment.

Among other points, McNeil's team highlighted the lack of evidence to tie the men to the crime, problems in trial testimony and the jurors never being told about an alibi witness.

Return the money?

Lamb County's Yarbrough, in his statement, took aim at the original defense lawyers, who were separate from the pro bono team led by McNeil.

"The other question that needs to be answered is whether or not the Lamb County taxpayers will be reimbursed by the defense attorneys in these cases? The defense attorneys received over \$30,000 from Lamb County for defending these cases. Three of those attorneys have since signed affidavits stating that they did not do a good job or were ineffective in their representation of Sifuentes and Ramirez, and the highest criminal court in Texas agreed with them," Yarbrough said.

McNeil called that "hogwash," saying the state doesn't adequately fund court-appointed lawyers for poor defendants.

"To try two cases like this to verdict, you would need at least \$400,000 each," McNeil said, "and they get a measly \$30,000, and Mark Yarbrough wants it back. That's horrible."

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danico wrote:

Bases on a previous articles I read, the victim gave a description of her assailants before passing away. She described two hispanic men between the ages of 18-20. One of the men arrested was more than double that age and looked it. It is really sad that the victim wasted her dying breaths, I am sure in an attempt to assure her assailants paid for what they had done. I guess the prosecuting attorney's conviction record was more important that the victims efforts. I wonder what kind of message she might have left for her family if she would have know she was wasting her words, but ha Yarbrough, pat yourself on the back you got two convictions while the real murders run free.

1/20/2008 9:33 PM CST

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Skifool wrote:

The defense attorneys should never be allowed to represent a criminal defendant again. Read the findings of fact and conclusions of law of the state habeas judge after the hearing. That judge recommended that the Court of Criminal Appeals grant habeas relief, and the CCA did grant relief, on the basis of ineffective assistance of counsel. The defense attorneys knew about the alibi witness and knew where to find her but completely ignored it. The alibi witness was an ex-girlfriend of one of the defendants who saw them at a bar in Lubbock at 2:00 a.m. The murder occurred at 2:10 a.m. in Littlefield, which is 40 miles away. These guys DID NOT DO IT!!!! I can't believe that DA will make them go through a trial again.

1/20/2008 7:10 PM CST

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fozz wrote:

"Garnish the wages of people who ask for free legal representation. Why am I paying for crooks to be defended?"

To begin with, many people who ask for free legal representation are NOT crooks. Their charges are often dismissed or they are found 'not guilty'. Asking for a lawyer does not mean you are guilty -- it means you are smart. Secondly, only the 'indigent' (i.e. poor) get free legal representation, if they had "good" jobs or money they would probably hire their own attorney.

And a brief civics refresher, since you obviously weren't paying attention in Junior High: Defendants in criminal trials facing potential jail have a *right* to counsel -- whether they are guilty or innocent. Likewise, in our nation a person has a *right* to trial, regardless of whether they did what was charged or not.

And, on a final note, you may be surprised to learn that if someone manages to 'bail out', they are often required to pay a "pre-trial services" fee that is supposed to help cover attorney costs (but in many places is often hi-jacked to pay for other things). There also a number of other "cost recovery mechanisms" that are used to squeeze blood from the turnips (i.e. money from the poor who are accused). Strictly speaking, most of my clients are *not* getting "free" legal representation (though it may be cheap).

1/19/2008 3:20 PM CST

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Percival wrote:

Here's an idea: Garnish the wages of people who ask for free legal representation. Why am I paying for crooks to be defended?

1/19/2008 2:53 PM CST

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