

A Mistaken Identification Leads To A Wrongful Conviction and Death Sentence — The Tony Ford Story

By Richard Burr

On December 18, 1991, two people broke in to the home of Myra Concepcion Murillo in El Paso, Texas. Saying they needed to see “the man of the house,” and demanding to know where “the money” was, the two men became angry when their demands were met with confusion. Within moments, one of the men shot and killed Ms. Murillo’s eighteen-year-old son, Armando, then shot Ms. Murillo and her two daughters. Ms. Murillo and her daughters survived.

The prosecution’s case at trial turned on the daughters’ identification of Tony Ford from a photo array as one of the two men who broke in to their home and as the one who did the shooting. In his defense, Tony testified that he was not involved in the home break-in though he had driven the two men to the Murillo’s house. He testified that he was outside in the vehicle waiting for the two men when the break-in occurred and that he did not know that the men planned to break in to the house and kill people.

A man named Van Belton (Van) was charged along with Tony Ford with breaking in to the Murillo’s home. Van was the only person initially identified by Ms. Murillo’s daughters. One of them recognized him from high school. Both daughters said Van was the second man involved in the break-in and was not the shooter. Neither knew the other man.



El Paso PD Mugshots
Victor Belton (L) and Tony Ford (R)

After Van was arrested, he told the police that Tony was the other person. In Tony’s statement to the police and in his testimony at trial, he confirmed that Van was one of the two men who broke in to the Murillo’s home, but he testified that the second man was Van’s brother Victor Belton (Victor).



Tony’s Lawyers Tried To Question The Reliability Of His Identification

At trial, the critical factual question for the jury to resolve was whether the Murillo’s subsequent identification of Tony Ford from a photo array was reliable.

Based on all the other evidence, the Murillo sisters’ identification of Tony appeared to be a mistake, because no other evidence connected him directly to the crime:

- In a search of Tony’s home after the crime, nothing related to the crime was found.
- By contrast, property taken from the Murillo’s house was located at Van and Victor Belton’s home.
- The only physical evidence suggesting a link to Tony was inconclusive. Three wool fibers found on Armando Murillo’s shirt were determined to be similar in color, size, and appearance to the wool fibers from Tony’s trench coat. The state’s expert testified that the fibers “could” have come from the coat. In her lab report, this witness was even more equivocal. She reported that “[t]he three dark gray wool fibers were similar in color to some wool fibers in the overcoat

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Eduardo Velazquez Awarded \$2.95 Million For Wrongful Rape Conviction

By JD Staff

Eduardo Velazquez was convicted in 1988 of the 1987 knife-point rape of an Elms College student in Chicopee, Massachusetts. The prosecution relied on the victim’s identification of Velazquez as her attacker, although he claimed she had mistakenly identified him.

Velazquez’s conviction was vacated in 2001 after DNA tests unavailable at the time of his trial excluded him as the source of the attacker’s bodily fluids on the victim’s coat. He was released after 14 years of wrongful imprisonment.

In 2003 Velazquez filed a federal civil rights lawsuit in U.S. District Court in Springfield. The lawsuit sought \$10 million in damages, and named the City of Chicopee, the city’s police department, and six police officers as defendants. The suit alleged that the police induced the victim to mistakenly identify him, and that they failed to disclose exonerating evidence.

After Massachusetts’ wrongful conviction compensation statute was signed into law in December 2004, Velazquez filed a lawsuit against the state claiming damages. In August 2005 he became one of the first three people awarded compensation under the statute, when his suit was settled by the state Attorney General’s Office for the statutory maximum of \$500,000.

Three months later, in November 2005, Chicopee and Velazquez agreed to settle his lawsuit for \$2,450,000. The city’s aldermen voted to

approve the settlement after their attorney told them the city was facing a judgment of up to \$20 million if a jury ruled in Velazquez’s favor. The aldermen also took into consideration that taking the case to trial would cost at least \$1 million in attorney’s fees — since the city had to not only pay its legal fees, but also those of the six police officers named as a defendant, each of who had a separate lawyer. Alderman Jean Croteau Jr. said of the decision to settle the case, “It would still cost us \$1 million if we went to court and won. The risk factor is too great.” In agreeing to the settlement, the city didn’t acknowledge any intentional or unintentional wrongdoing by any police officer.

Velazquez, 39 and living in Puerto Rico, was awarded a total of \$2,950,000 for his 14 years of wrongful imprisonment.

Source: Settlement Set At \$2.45 Million, Etta Walsh, *The Republican*, Springfield, Massachusetts, November 16, 2005.

John Spirko Update

John Spirko’s first-person story of being on Ohio’s death row when there is evidence he was over 100 miles from the scene of Elgin, Ohio Postmistress Betty Jane Mottinger’s 1982 abduction and murder, was in *Justice Denied*, Winter 2005, Issue 27.

Spirko’s execution scheduled for September 20, 2005, was stayed by Ohio Gov. Bob Taft until November 15, 2005, who also ordered an unprecedented second clemency hearing. After that October 12, 2005, hearing, Ohio’s Parole Board found by the same 6-3 vote as after the first hearing, that the new evidence of Spirko’s innocence didn’t merit clemency.

On November 7, Gov. Taft granted a stay of execution until January 19, 2006, at the request of Ohio Attorney General Jim Petro, so that the painting tarp and duct tape wrapped around Mottinger’s body, and a cinder block found near her body could be tested for the presence of the killer’s DNA — who a witness has

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