

Six Men Acquitted Of Rape and Murder After 15 Years Of Wrongful Imprisonment

Six men were convicted in 2000 of rape and murdering a mother and her two daughters in Parañaque, Philippines in June 1991. Only the oldest daughter, 19-year-old Carmela was raped. The case was a media sensation in the Philippines and it was dubbed the Vizconde Massacre.

The six defendants, Hubert Webb, Antonio Lejano Jr., Michael Gatchalian, Miguel Rodriguez, Hospicio Fernandez, and Peter Estrada were arrested in 1995 and held in pre-trial detention for five years awaiting trial. Webb was alleged to have raped Carmela, but the others were charged with the rape as co-conspirators.

Also convicted in 2000 was police officer Gerardo Biong who was found guilty of being an accessory to the murders by allegedly causing the destruction of evidence at the crime scene.

The six murder defendants denied having any part in the crime and presented alibi defenses of being elsewhere when the murders occurred. Webb had the alibi of being in the United States living in Anaheim Hills, California (35 miles from Los Angeles) more than 7,500 miles from the Philippines at the time of the murder. Webb's alibi was supported by travel documents, visas, airline tickets, purchase receipts, and eyewitnesses. The day

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false confessions by five of the six defendants.

Credit must be given to Joseph White's attorney Doug Stratton, the Norfolk, Nebraska attorney who believed in White's innocence and continued representing him *pro bono* after his small retainer ran out in 2005. If he had not done so, the Beatrice Six would not have been exonerated.

Read Justice Denied's article in Issue 41 about the Beatrice Six at, www.justicedenied.org/issue/issue_41/beatrice_six_jd_issue_41.pdf

Source:

"Third settlement filed in Beatrice murder exoneration case," *Lincoln Journal-Star* (Lincoln, NE), February 4, 2011.

"Nebraska to pay \$500,000 to wrongfully convicted man," *Lincoln Journal-Star* (Lincoln, NE), October 1, 2011



Hubert Webb after his acquittal and his release after 15 years imprisonment.

before the murders Webb bought a Toyota that he registered with the California DMV, and on the day of the murders he bought a bicycle and had the receipt to prove it.

The defendants also presented evidence showing that the prosecution's star witness Jessica M. Alfaro, who claimed to

have been present in the house at the time of the rape and murders, had a bad reputation for truthfulness and that her account of the crime was beyond belief.

The Philippines doesn't have jury trials, and the judge found that Alfaro's detailed narration of the crime and the events surrounding it were convincing, even though she didn't report that she had knowledge of the crime until four years after it occurred.

Alfaro also provided the key testimony against Biong, claiming she had seen him destroy evidence.

The six defendants convicted of murder and rape were sentenced to life in prison and Biong was sentenced to a maximum of 12 years in prison.

The defendant's convictions were affirmed on appeal based on the reasoning that Alfaro's positive identification of them trumped their alibi defense -- including Webb's substantial evidence of being in the U.S. at the time of the murder.

It was discovered post-conviction that Alfaro was a paid informant of the Philippines National Bureau of Investigation (NBI), and that she volunteered to act out the role of an eyewitness to the rape of Carmela and the three murders. Evidence was also discovered that the NBI coached and manipulated Alfaro's testimony against the seven defendants.

Webb sought and was granted court ordered post-conviction DNA testing of semen recovered from Carmela in an effort to prove his innocence. On April 27, 2010 the NBI informed the court that it had turned the semen over to the trial court as evidence at the men's trial. However, the prosecution did not offer the semen specimen into evidence and it was not listed as evidence that was in the court's custody.

Based on the new evidence the government had either failed to preserve or was concealing the semen so it couldn't be tested, and the

new evidence undermining the credibility of Alfaro's testimony, including her testimony against Biong, the seven defendants filed motions to acquit them of their convictions.

The Philippines Supreme Court *en banc* acquitted all seven defendants on December 14, 2010. Their ruling concluded:

In our criminal justice system, what is important is, not whether the court entertains doubts about the innocence of the accused since an open mind is willing to explore all possibilities, but whether it entertains a reasonable, lingering doubt as to his guilt. For, it would be a serious mistake to send an innocent man to jail where such kind of doubt hangs on to one's inner being, like a piece of meat lodged immovable between teeth.

Will the Court send the accused to spend the rest of their lives in prison on the testimony of an NBI asset who proposed to her handlers that she take the role of the witness to the Vizconde massacre that she could not produce?

WHEREFORE, the Court ... ACQUITS accused-appellants ... of the crimes of which they were charged for failure of the prosecution to prove their guilt beyond reasonable doubt. They are ordered immediately RELEASED from detention ... (*Lejano vs. Philippines and Philippines vs. Webb, et al.*, G.R. No. 176389 -- G.R. No. 176864. 12-14- 2010.)

The six defendants convicted of rape and murder were released later that day after 15 years of incarceration since their jailing in 1995. They were jailed pre-trial for five years before their trial in 2000. Ex-police officer Biong had been released two weeks earlier, on November 29, 2010, after completing his sentence. Since all the men were acquitted on the basis of insufficient evidence, they cannot be retried because it would be double jeopardy.

The United States' legal system has had an influence on the Philippines since the Spanish-American War in 1898. The 1987 Philippine Constitution's Bill of Rights recognizes the same rights as the Bill of Rights to the U.S. Constitution with one exception: a person charged with a crime does not have the right to a jury trial. However, it includes several provisions that significantly exceed the U.S. Constitution's Bill of Rights. Some of those provisions are in Article 3, Section 12:

(1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent

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Michelle D. Sprang's Second-Degree Murder Conviction Overturned By Arizona Appeals Court

Michelle D. Sprang was convicted in 2009 of second-degree murder in the death of 49-year-old Addie Mae Lee in a Tucson, Arizona motel room in October 2006.

During the 42-year-old Sprang's sentencing hearing Pima County Superior Court Judge Deborah Bernini stated that because she had doubts about Sprang's guilt, she was sentencing her to the minimum of ten years in prison. Commenting on the guilty verdict, Judge Bernini said, "I may have been more surprised than defense counsel at the ver-

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dent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

Section 12(1) does away with the need for a *Miranda* warning because a person can only waive their right to remain silent "in writing and in the presence of counsel." In the U.S. a dispute about when and if a *Miranda* warning was given determines the admissibility of an alleged "confession." Also, in 2008 the Philippine Congress enacted the additional safeguard against false confessions of requiring that "All statements made by a person during a custodial interrogation shall be electronically recorded."

Sources:

Lejano vs. Philippines and *Philippines vs. Webb, et al.*, G.R. No. 176389 -- G.R. No. 176864. 12-14-2010.

Explanatory Note about False Confessions, Fourteenth Congress of the Republic of the Philippines, Third Regular Session, S.B. No. 3378, August 11, 2008.

dict." Sprang's attorney Eric Larsen told the court during that hearing that she was only the second client he had represented at trial who he was positive was innocent.

Sprang was arrested and charged with Lee's murder more than a year after her death. Sprang denied murdering Lee.

During Sprang's trial there was testimony that she was seen entering Lee's room at the motel in the afternoon. Sprang was later seen leaving the motel and she returned after a short period of short time. She left again after a few minutes and didn't return.

Hours after Sprang left another motel tenant heard the television on in Lee's room.

The television was off in Lee's room when her body was found the next morning wrapped in a comforter and stuffed under the bed.

The prosecution's case was based on the testimony of experts. There was expert testimony that Sprang's palmprint the size of a quarter was found on the top of the toilet lid the medical examiner testified could have been used to strike Lee on the head. There was expert testimony that minute traces of Sprang's DNA were found under several of Lee's fingernails. There was also expert testimony by the medical examiner that Lee could have been strangled by a ligature made of panties and string found in the motel room.

Attorney Larsen countered that there were innocent explanations for the evidence the prosecution relied on. Sprang didn't hold the toilet lid because her fingerprints and a large palmprint weren't on it, but the quarter-sized palmprint suggested she could have touched it when she was in the bathroom, such as while reaching for a towel; The small amount of Sprang's DNA found on Lee's fingernails could have been transferred when Lee used the same wet towel Sprang used, when Lee touched the bed linen where Sprang had lain, or when she touched Sprang's skin while engaging in sexual activities. There was no evidence Sprang made the ligature or that the panties partially used to make it were anything other than similar to ones she had.

Two witnesses testified they did not hear any yelling or sounds of a struggle coming from the motel room while Sprang was there.

Larsen argued to the jury it was physically impossible for Sprang to have murdered

Lee because Lee's television was heard hours after Sprang left. So the television was either turned off by Lee or by her murderer.

Sprang was charged with first-degree murder, and prior to close of the prosecution's case and without knowing what the evidence could prove, Judge Bernini stated she was going to give the jury a second-degree murder instruction. The jury acquitted Sprang of first-degree murder that requires premeditation, but convicted her of second-degree murder that doesn't.

Sprang appealed her conviction on the basis the judge erred by giving the jury the second-degree murder instruction that the prosecution didn't request and that Sprang objected to, because the evidence proved that Lee's murder was premeditated and thus she could only be convicted of first-degree murder.

Arizona's Court of Appeals reversed Sprang's conviction on February 14, 2011. The Court wrote in *State of Arizona v. Michelle D. Sprang*, CA-CR-2009-0172 (2-14-2011):

"Even viewing the evidence here in the light most favorable to upholding the conviction, it shows only premeditation. ... We conclude the trial court committed an error of law and, therefore, abused its discretion because no evidence warranted an instruction on second-degree murder. ... Because we conclude the trial court erred in instructing the jury on second-degree murder, we vacate Sprang's conviction and sentence."

Although the Court did not bar Sprang's retrial on second-degree murder, their ruling effectively should prevent a retrial because they ruled the evidence related to Lee's murder only supports a conviction for first-degree murder. Sprang's acquittal of that charge bars her retrial because it would be double jeopardy.

Sprang currently remains imprisoned and the State will likely appeal the overturning of her conviction to the Arizona Supreme Court.

Sources:

State of Arizona v. Michelle D. Sprang, CA-CR-2009-0172 (2-14-2011).

Appeals court overturns Tucson woman's murder conviction, Arizona Daily Star, Feb 15, 2011.