



Saturday, September 05, 2009

Dear Mr. Williams,

Thank you for taking the time to respond to Hector Lugardo's question about your involvement in the case of my cousins, Denis Calderon and Julio Maldonado. As you know, I and others believe Denis and Julio were wrongfully convicted and now stand on the brink of deportation, facing permanent exile from their family here in the U.S. We have asked you to explain to the mothers of Julio and Denis your role in this miscarriage of justice.

From the start, the investigation was incomplete and biased. None of the 20+ people identified by your own witnesses (Boemer and Heim) who directly or indirectly attacked Denis and Julio were ever interrogated. More importantly, none of the people who were nearest Christian during his attack on Denis testified either. The five "at the scene" witnesses you did bring forth were unreliable (caught in lies and conflicting testimonies during cross examination) and biased (good friends of Christian). Most crucially, extensive detailed medical records show that Christian did not have a single trace of trauma to his head or body. Physical evidence by medical experts can not be denied. You said:

Please feel free to contact me at your convenience. As with many cases this was a case filled with tension, and was very unfortunate, but you need to learn the facts. The two hispanic males were being called names by several young white males. The hispanics responded, and a white boy threw a bottle at the hispanic males. This led to a street fight between the two hispanic males and a large crowd of white teenagers.

I am well acquainted with the facts of this case. I have reviewed the court transcripts of the original trials and all subsequent appeals. Boemer (your witness) testified and named his friends and brother as the ones who were yelling the racial slurs. Boemer also testified he didn't see the 40 oz. beer bottles thrown, instead he heard them drop. However, after it was all over, the street had broken glass from Frontenac to Denis' home on Rosalie. Boemer stated that only three were fighting with Denis, but that did not match what your other witnesses described as a "crowd" (20 were named between Boemer and Heim). When a group of white drunken, young men are screaming racial slurs; chasing; throwing bottles; physically attacking and threatening Latinos with even more violence, is by definition a racial attack, not a street fight. You said:

One of the hispanic males ran into his home to get a baseball bat the other ran to his car to get his car-club. Pennsylvania law allows for self-defense but does not allow you to retreat to places of safety and then to launch an offense. When the male came back from the car swinging his car-club at folks he struck Christian Saladino at the base of his skull. All witnesses claimed that Christian had not been a part of the original fight and was unarmed, and ran to the block to see what was going on.

As per the trial transcripts, Julio grabbed the "club" anti-theft device from his car in an attempt to defend Denis, who was being stabbed by Christian and pummeled by other attackers. Denis was cut and he still has the scars. He was freed when the attackers backed away after Christian collapsed. Denis then ran into his house to call 911 (which his wife did) hoping Julio was already inside. When he realized Julio was still outside and saw a mob on his front porch, yelling and threatening the safety of his family, he grabbed a bat to back them away and to look for Julio. Denis had lost sight of Julio from the moment the attack divided them. He didn't even know Julio had potentially saved his life. He never hit anyone with the bat or launched an offense. He was strictly moving the mob away from his home, as witnesses testified.

Even though the two 17-year old girls (your witnesses) who were together sitting on their front porch on the next block 400 feet away with obstruction in between constantly changed their testimonies during the various proceedings of this case, they were the only ones who stated seeing Christian get hit in the back of the head by Julio and in the back and on the stomach (while Christian was down) by Denis. However, if they are to be believed when they testified this, then there should have been some medical evidence that such a blow occurred. There was none. Additionally, Heim, Boemer and Townsend (all much closer in distance to Christian, and your only other "at the scene" witnesses) testified that they did not see Julio or Denis hit Christian at any time.

Christian Saladino (18) was portrayed as a peacemaker and innocent bystander, by his friends (your witnesses). However, for his young age, he already had an extensive history of violence. At trial, Officer Royster testified that on 3/2/94 -



Christian (a minor at the time) and friends beat up John Brunner on Cheltenham and Loretta. Ironically, Christian was charged with the same exact charges that Denis and Julio faced as a result of their attack. The case was dropped. Officer Mora also testified that on 7/26/96 (one week before the attack) Christian was arrested after punching an officer and threatening him with a gun. His trial was ironically scheduled within days of Denis and Julio's trial. Alissa Townsend who was your witness and the girl Christian had been talking to prior to joining the attack, testified that when they heard the bottles breaking and all the commotion (yes, he was not part of the initial attack, but Boemer did testify he was with them), Christian was adamant about going over to where the attack was actually taking place (in front of Denis' home) and pushed her out of the way when she tried to stop him by blocking his path. She said she tried to stop him because she thought he would get in "trouble". Christian was found by the paramedics in front of Denis' home.

And while it was never admitted by Christian's friends (your witnesses), the Private Investigator hired by Denis and Julio discovered that on the night of the attack, Christian and his friends were out on a "vengeance in memory of" their best friend "Lil' Jake" (John Shaffer) who had been killed (almost to the date) one year earlier by an African-American. The investigator also found that Christian had been connected to the beating of Robert McCalister (43) in what was described as a "clash of generations" rooted from Jake's murder. This attack left Mr. McCalister with a broken cheek bone (Phila. News 9/6/95). Christian and many of the attackers that were identified shared a tattoo "In memory of Jake". Today, there is still the graffiti post (next to Frontenac Bar, where Denis and Julio were heading) in memory of Jake. Racial tension was a common theme in that neighborhood (as per news articles from 1995 and on). Before making any charges, a full investigation on these events known by the Philadelphia Police Department and the District Attorney's office should have been done, not to mention running fingerprints and/or DNA on the knives and Denis' T-shirt collected at the scene.

Denis and Julio do not have a violent history of any sort, on or off the record. Denis is a family man who would never entertain the risk of his or his family's safety. On that night, Julio was "dressed up" and was going to be on his way to "The Felton", a landmark nightclub co-owned by Denis' brother (right after their quick drink at Frontenac Bar). These Latinos had no reason to escalate the confrontation in any way, even though your witnesses presented them in that way. You said:

The force of the blow to the skull caused a subdural hematoma and as a result oxygen was cut off to the brain. The hispanic male that had rushed into the safety of his own home came back out to the street swinging his bat. He held it over Christian Saladino as he lay on the ground and he screamed that everyone should stay back or he would crack Christian again. Christian Saladino lived in a hospital for almost 6 months. He never spoke again or had the ability to move any of his body parts voluntarily. He was discharged from the hospital and lived the rest of his life in a bed placed on the first floor of his family's home.

Christian had a "Subarachnoid Hemorrhage". Dr. DiPasquale (Neuro Pediatric Specialist and your medical expert) translated Dr. Brunner's notes on Christian's medical records. She confirmed that Dr. Brunner (his physician at Moss) was "unable to determine any external stimuli caused" the hemorrhage. It is true that blunt trauma could cause such an effect, but blunt trauma would also leave traces, something that was never found on Christian at any time.

It became clear during the murder trial that based on medical expert (Forensic Pathologist Dr. Hofman) evaluation of the medical evidence (including autopsy report); Christian never sustained any trauma on his head or body which could have led to the physical reaction he experienced. By then, we also had learned that Christian had a pre-existing blood clotting condition which (as explained by Dr. Hofman) when combined with the excitement of the moment and the alcohol he had consumed could have produced that result. Julio never hit Christian in the head.

Please note that as part of my research, I found medical articles that discuss Factor VII (the pre-existing blood clotting condition Christian had) and occurrences of Subarachnoid Hemorrhage. See <http://stroke.ahajournals.org/cgi/content/abstract/25/2/508> The reason I raise this is because once Dr. Hoffman learned Christian had this condition, he thought there could be a relation but did not have medical proof to confirm it 100%. Hence, since these findings come well after the trial, I am not offering it as an error in court, but I do feel it's important to note that although this medical connection may not have been proven then, it could certainly be proven today.



You said:

The two hispanic males were charged with Aggravated assault and related offenses. the were found guilty by a judge. Christian Saladino later died as a direct result of the strike to his head and both hispanic men were charged with homicide. A jury found them not guilty of the charges. Those are the facts. It was wrong for the white males to do what they did and it was wrong for Christian Saladino to lose his life.

It was never proven via any medical record or expert testimony that Christian died as a direct result of the strike to his head – since no physical trauma was ever found on his head or body. Your own witness (in the murder trial) Dr. Bruno (Christian's attending neurosurgeon) testified during cross examination that there was no proof Christian was hit in the head. That is why Denis and Julio were acquitted in both the murder trial and the appeal's evidentiary hearing.

With all due respect, the facts you mentioned were never proven to a jury. Judge Smith did find Julio and Denis guilty in a trial with no jury, but later vacated his own conviction in effort to give them a new fair trial. He stated "*Had the Trier of Fact heard the expert opinion at trial the outcome may have been different*" (Judge Smith – 05/01/2000). By "*Trier of Fact*," Judge Smith was referring to himself in the earlier trial. By saying this, Judge Smith conceded that he might have made a terrible mistake. That is just one indication of how these two Latinos were denied justice from the start of this case.

Mr. Williams, the only other point I would like to make today is the same one that several lawyers who have reviewed this case, starting with Mr. Marino, who was Denis' trial defense lawyer and former prosecutor/colleague/friend of yours and including Mr. Mitchell Bober, the prosecutor in charge of the appeal you initiated and won. To put it in Mr. Bober's own words to "Al Dia" on 12/12/2004 as he tried to rationalize why an investigation on the "Hate Crime" never took place; he stated "*This was not about the attack on them; but it was because two parents had a son in the cemetery*". That is exactly the point we have always made. From the beginning to the end, causation that led to self defense was ignored and never investigated. You brought Christian into the courtroom on a gurney, in a coma as a way to put focus on the injury and prejudice the Judge; and it worked. However, Judge Smith showed remorse and compassion to Denis when at a "go back to jail" hearing that the Saladino's wanted to expedite, the Judge did not give in to their demands. Instead he stated "*I wrestled with this case, they brought their son in on a gurney, I remember that so well. It was rivoting. But I also remember these two individuals who had no records, going around the corner to get a beer and being attacked by these racists...*". Judge Smith granted Denis permission to return to prison on the day he requested - after the holidays, so he could spend a few more days with his family.

My heart goes out to the Saladino family for their loss, but my family is suffering too.

I do understand that in this day of age, it is difficult to identify true innocence (noted by the extensive ongoing focus and new findings on wrongful convictions); however we can not allow losing ground in the foundation of our Judicial system where it is "*Better to free 10 guilty men, than to lock up ONE innocent man*".

Justice will be served the day these two Latinos are granted a new trial or exonerated from all convictions. It will not restore the years they lost or the pain their families have suffered, but it would certainly resolve their pending deportation. As proven, Judge Smith tried to correct a wrong; now I ask you to do the same. Please know that Julio is the one in most danger as we approach his deportation deadline – September 12th - I look forward to your response.

Your time and assistance is greatly appreciated.

Respectfully yours,

Maria Rolon

<http://www.DenisAndJulioAndFaith.com>