

Free Juan and Rosendo Hernandez



Rosendo Hernandez

At the age of 20 and 19, respectively, Juan and Rosendo Hernandez, two brothers, were arrested for murder and later sentenced to natural life in prison, where they have remained for the past 20 years. Incarcerated for a crime they did not commit, the brothers have been fighting to prove their innocence and win their freedom.



Juan Hernandez

At every turn in their nightmarish case -- from the initial witness testimony that clearly did not fit the brothers' description yet served as the sole evidence used to convict them, to the prejudicial

line-up and interrogation, to the complete lack of physical evidence linking them to the crime, the fact that their solid alibis were ignored, to the disturbing lapses in ethical conduct that resulted in a mistrial for Juan and ineffective assistance for both – these two men have been subjected to a grave miscarriage of justice. Perhaps most importantly of all, the Hernandez brothers also found themselves in the crosshairs of two of the most notoriously corrupt police detectives in modern Chicago history.

Detectives Guevara and Miedzianowski

One of the detectives responsible for the Hernandez brothers' fate, Joe Miedzianowski, was indicted in 2001 in a federal sting operation. He is currently serving a life sentence of his own, convicted of having used his police powers to run a \$12,000-a-month Chicago-Miami drug ringⁱ. Juan Hernandez was living in one of Miedzianowski's drug stash houses when it was robbed and the Detective's drugs stolen – shortly before he was accused of murder.

Convinced Juan had stolen his stash of drugs, Miedzianowski made his intention to frame Juan known on more than one occasion, according to an affidavit from Frederick Rock, a member of Miedzianowski's drug ring who later testified as a state witness in the federal trial against the detective. Rock also stated that Miedzianowski held a grudge against Juan even before the alleged robbery took place. During another conversation, Rock heard Miedzianowski and Guevara declaring their intention of framing Juan for murder.

In fact, the theft had been orchestrated by a drug dealer who also worked for Miedzianowski, a man named Francisco Figueroa, who convinced Juan to move into the apartment where the detective's drugs were stashed, then robbed the apartment -- including the drugs – only to pin the whole thing on Juan. Figueroa would later testify against Miedzianowski in federal court as part of the undercover operation that brought the Detective down.ⁱⁱ

The other detective involved, Reynaldo Guevara, has been accused of framing at least 56 people for murder, coercing confessions and falsifying eyewitness testimony in order to promote his own career as a detective. Dr. Thomas Streed, an expert witness on wrongful convictions, investigated and reviewed several Guevara cases in which suspects and witnesses were tortured, abused and coerced over extended periods of time. Using this sample, Dr. Streed concluded, "the police procedure utilized by Detective Guevara and accepted by the Chicago Police Department, whether in the area of [a] interrogation practices, or [b] dealing with eyewitnesses, consistently reflect a disregard for accepted standards of police practice. Thus, there can be no confidence in [the investigated] convictions" (Streed, 1995). In the last two years, 19 men framed by Guevara have had their sentences vacated.ⁱⁱⁱ Now retired, Guevara has multiple lawsuits pending against him. Miedzianowski and Guevara worked together in

the Chicago Police Department's Gang Crimes Unit. They have been accused in the past of jointly extorting protection money from others who have since been exonerated. Guevara was the lead detective in the murder case for which the Hernandez brothers were imprisoned.

The Murder

The murder in question occurred at night on June 27th, 1997. Seven people sitting on a porch said three men approached them, brandished weapons and began shooting. The victims immediately ran for cover; some of them never turned around to see what was happening. In the process, one person was killed and one wounded. This entire chaotic scene unfolded in 4 to 5 seconds in the dark.

Two days later, on June 29th, 1997, the detectives assigned to the case, Reynaldo Guevara and Ernest Halverson, interviewed three of the witnesses who had been attacked: Juan Cruz, Jose Gonzalez, and Jesus Gonzalez. Detective Guevara stated in his testimony that he could not recall whether or not he spoke with the three while he was driving them to Area 5 for questioning. Once there, the witnesses were shown photobooks of suspected members of the Spanish Cobras Street Gang, but were unable to positively identify the shooters who had killed Jorge Gonzalez.

The Photo Array

While the witnesses were at Area 5, Guevara and Halverson were told by a Sergeant Bemis that an anonymous tip had been called in the night before. The informant stated that "Junebug" and "Poochie", two Spanish Cobras from the gang section at Fullerton and Kilbourn, were the shooters. The identity of the informant and the factual basis of their claim remains unknown. Bemis was familiar with the nicknames and knew they belonged to Juan and Rosendo Hernandez. On the basis of that tip, Bemis sent Detectives Guevara and Halverson black and white photos of the brothers, which were then shown to the witnesses. To influence this witness identification, Guevara used a suggestive photo array: of the twelve photographs comprising the array, only three featured men who were bald. Though they said they were uncertain, the witnesses picked out two of those men: Juan and Rosendo.

The next day, June 30th, Det. Guevara and his partner attended the wake of the victim, Jorge Gonzalez, and showed the same photo array to two more witnesses: Daniel Violante and Nancy Alvarado. Alvarado was made to review the photos in the doorway of the funeral home during the services of her murdered friend. Both witnesses, according to Guevara, selected Juan and Rosendo, though court documents reveal that the selections were tentative, with witnesses saying they were not sure.

Witness Testimony

Owing to the chaos at the scene, and the fact that they had run for cover when the shooting started, the witnesses differed in their accounts of what was said by the assailants just prior to the shooting and which of the victims was shot first and by whom – a fact that caused each of their testimony to be impeached at trial. One of the witnesses originally told police that he didn't see anyone firing a weapon. In addition, they differed on their descriptions of what the assailants had been wearing.

More significantly, the witnesses described the three assailants as bald. Yet, Rosendo had a ponytail at the time of the shooting and neither Juan nor Rosendo were bald in the line-up three days later (this was also cause for several of the witnesses' testimony to be impeached at trial.) Four of the witnesses were juveniles at the time of questioning and were questioned without their parents present. It should be noted that Guevara has been accused of coercing juveniles into serving as witnesses in order to clear murders and advance his career as a detective.

Despite this obvious discrepancy in description, the witnesses' identifications were later upheld in court as definitive proof. In fact, the Hernandez brothers were convicted solely on the basis of this impeached witness testimony. One of those witnesses, Daniel Violante, later recanted his testimony in a written affidavit, saying he was pressured to identify Juan and Rosendo as the shooters in order to settle a longstanding score between two rival gangs. There is no physical evidence linking the Hernandez brothers to the crime scene or the crime. Moreover, both had solid alibis backed up by credible witnesses. Juan was at a pizza parlor miles away helping prepare for a party. Rosendo was at a bowling alley.

The Interrogation and Line-Up

Informed by their parents that the police wanted to speak with them, and on the advice of their attorney, Juan and Rosendo voluntarily turned themselves in on the evening of June 30th. Their lawyer, Kent Brody, had been told by Sergeant Bemis that a warrant had been issued for the brothers' arrest, a statement that turned out to be inaccurate. There was no such warrant^v. However, on the basis of such information, Brody instructed his clients to report to Grand and Central police station, where they were placed in separate rooms and cuffed to the wall. The brothers were not permitted to speak with counsel in private before being questioned. They were informed they were being investigated in connection to a murder.

That same day, only hours after the witnesses were shown the suggestive photo array, the two brothers were included in a lineup and identified as the offenders sought. At trial, several of the witnesses said the only individuals they recognized in the line-up were the ones they had been shown photos of just hours before: Juan and Rosendo.

During their lineups, both Juan and Rosendo were separately forced to stand in the number four spot (the other spots were already taken when they entered the room).^{vi} The brothers' attorney, Brody, was refused access to the room during these lineups: Detective Guevara told Brody he did not have the right to be in the room as the Hernandez brothers were not yet under arrest^{vii}. Brody was therefore unable to see the witnesses point out both Juan and Rosendo as the assailants. Brody instead was placed in the lineup room with Juan and Rosendo, but as the microphone was turned off, neither he nor the brothers could hear the witnesses making identifications or the level of certainty with which they made those identifications. It is important to note that Guevara was alone with each witness as they identified the brothers.

Solely on the basis of these witness identifications, the Hernandez brothers were officially arrested and moved to Cook County Jail to begin their criminal justice proceedings.

Mistrial and Second Trial

Upon the advice of their new attorney, Richard Beuke, the brothers originally asked to be tried separately. Juan was released on bail during this time while Rosendo's trial date was set. During his trial, Rosendo's attorney failed to call alibi witnesses or to question several witnesses at the scene of the murder who could have contradicted the state's witnesses. Rosendo was convicted of 1st degree murder and sentenced to 100 years in prison.

Juan's first trial began in 2000. Upon retaining him as counsel, Juan informed Beuke of his innocence and his belief that he was being framed by Dt. Guevara. During the trial a clear conflict of interest arose. Beuke's law firm, including his partner, Sam Shim, had represented Detective Guevara on several occasions, including in a child support case for Guevara, and Beuke and Guevara were known to be friends! It is also important to note that Beuke had worked several cases with Guevara in his former capacity as an Assistant State's Attorney (ASA).

Beuke concealed these facts from Juan and only admitted them when the prosecutors in the case brought the conflict of interest to light. The judge gave Juan two choices: call a mistrial or allow Shim, also conflicted due to his firm's former representation of Guevara and himself a former ASA, to represent Juan. Juan chose a mistrial and Beuke was required to terminate the representation. According to a BuzzFeed News article, "a convicted drug dealer who worked with [Detective] Miedzianowski alleged that Guevara and Beuke split under-the-table payments in exchange for Guevara allowing defendants to 'buy their way out of trouble.'"^{viii} Beuke also represented Jose Maysonet, who was beaten into confession by Guevara, sentenced to life in prison for a double-murder, but granted a new trial after evidence surrounding the torture and Beuke's relationship to Guevara came to light. Maysonet's sentence was vacated in 2017 and he was released. According to Maysonet, the reason he was framed was his refusal to continue paying Detectives Guevara and Miedzianowski "protection" money^{ix}.

During his second trial, Juan's defense attorney did not call important witnesses who could have corroborated his alibi. In the course of their deliberations, the jury sent a note to the judge indicating they could not reach a unanimous decision after three votes. The judge sent them back, and ultimately, they found Juan guilty -- solely on the basis of witness identification.

Juan and Rosendo Hernandez should be free, NOW!

It is clear that Juan and Rosendo Hernandez were not treated fairly under the law from the moment they entered the police station on June 28th, 1997, and they have not received fair treatment since. The only evidence used to convict them are an (uninvestigated) anonymous tip and the faulty identifications of several juveniles who were witnesses to a panicked and chaotic scene. It is important to note that in nearly all of the cases that Detective Guevara is said to have solved, the sole piece of evidence used to secure a conviction was the coerced testimony of an eyewitness or the false confession of the suspect. Detective Miedzianowski's criminal history combined with Detective Guevara's pattern of wrongful convictions and torture should be evidence enough to exonerate the Hernandez brothers.

ⁱ <https://www.chicagotribune.com/news/ct-xpm-1999-04-09-9904090337-story.html>

ⁱⁱ <https://www.chicagotribune.com/news/ct-xpm-1999-04-16-9904160111-story.html>

ⁱⁱⁱ <https://chicago.suntimes.com/news/another-man-cleared-murder-tainted-cpd-detective-reynaldo-guevara-gerardo-iglesias/>

^{iv} See <https://chicago.suntimes.com/news/jury-gives-17m-to-man-falsely-imprisoned-for-murder-in-case-tied-to-tainted-cop/> on the exoneration of Jacques Rivera, identified as the murder suspect by a then-12-year-old who later admitted his testimony had been coerced by Guevara and recanted, leading to Mr. Rivera's release and exoneration in 2012.

^v Trial transcript excerpt, Post-Conviction Petition, Hernandez v. Illinois, Separately Bound Appendix of Rosendo Hernandez, filed June 3, 2003, p. 27.

^{vi} In normal lineup procedure, the officer should not know ahead of time the number in which the suspect is standing

^{vii} This clearly contradicts what Sergeant Bemis told Brody: that a warrant had been issued for their arrest.

^{viii} <https://www.buzzfeednews.com/article/melissasegura/chicago-cop-accused-of-framing-dozens-now-also-accused-of>

^{ix} <https://www.chicagotribune.com/news/local/breaking/ct-met-maysonet-lawsuit-20180401-story.html>