At Each Step, Justice Faltered for Va. Man

First of two articles

By Dana Priest
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D avid Vasquez is not at ease in the world. At 42, he clutches his mother's hand as they stroll the Manassas Mall. When a neighbor invites him to a local bar, he sits through happy hour, but his insides churn and he can't wait to leave.

Since January, when Virginia Gov. Gerald L. Baliles pardoned him after he spent five years imprisoned for a murder he did not commit, Vasquez has spent most of his time inside his mother's Manassas town house. In June he got a part-time, nighttime janitorial job, but the only time he's out in public is the van ride to and from work.

"I just sit here or get the vacuum cleaner and vacuum clean, or whatever," Vasquez said. "Five years in there, it's hard. I don't know what the situation out here will be for me . . . . I'm afraid maybe somebody might try to accuse me of something else."

Vasquez wants to blame someone, everyone: the Arlington detectives who interrogated him; the prosecutor who took him to court; the judge who ruled that one of his three confessions was admissible; the defense attorneys who suggested he plead guilty; the prison officials who placed him in a hostile cellblock; the Prince William County social worker who said he was ineligible for financial assistance; and Timothy W. Spencer, the four-time convicted murderer whom Arlington police ultimately linked to the murder of lawyer Carolyn Jean Hamm, though they did not charge him.

The system, with all its parts functioning, with all its checks and balances in place, failed David Vasquez.

"I think everyone involved tried to do the right thing," said Arlington Commonwealth's Attorney Helen F. Pahey, who asked Baliles to pardon Vasquez. "I think people should know that; that even when the system didn't work, they tried.

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David Vasquez, pardoned of an Arlington murder, stays close to his mother, Imelda "Mel" Shapiro.
Flustered Suspect Wove In Details Told to Him by Detectives

David Vasquez, above, wept when, everyone, for his last years: the Arlington detective who interrogated him; the prosecutor who took him to court; the judge who ruled that one of his three confessions was admissible; the defense attorneys who sought his acquittal; the police officers who held him in a hostile cellblock; the William County social worker who said he was ineligible for financial assistance; and Timothy W. Spencer, the four-time convicted murderer whom Arlington police ultimately linked to the murder, though they did not charge him.

Timothy W. Spencer, above center, was a suspect in the case.

Hudson, at left, is accused of murder.

Arlington Commonwealth's Attorney Bob Ely, right, asked for evidence for Vasquez.

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In Custody, Vasquez Told Of ‘a Horrible Dream’

VASQUEZ From A16

In Virginia, hair similarities can be used only as corroborative evidence to exclude or include someone as a suspect. The defense could show that footprints found outside the basement window entered by the assailant did not match the soles of the shoes the police had confiscated from Vasquez. Vasquez did not drive a car, so how did he get from Manassas to Arlington and back? His co-workers would testify that he appeared the same as usual when he showed up for work at 6 a.m. the next day.

The defense would use the forensic blood and semen tests to argue that someone else had committed the crime. But Vasquez’s attorneys could not find an alibi and, toughest of all, they did not know how to explain Vasquez’s “confessions.”

Vasquez’s two court-appointed attorneys, McCue, then 34, and Matthew Bangs, then 32, were both well respected among Arlington Court House lawyers, but neither had tried a capital murder charge.

They asked the judge to rule the confessions inadmissible. McCue argued that the first confession was inadmissible because no Miranda warning had been given and that the two subsequent confessions were “tainted” by the illegality of the first because the three statements are so closely interconnected.

McCue also argued that the confessions were not voluntary, as required by law, because Vasquez was incapable of making a voluntary decision about whether to talk to detectives and what to say to them because of his low intelligence and his state of mind, particularly the trance-like behavior he exhibited during his “dream.”

Prosecutor Hudson argued that any taint from the first statement, without the Miranda warning, “had been purged” by the time Vasquez met with detectives the third time.

Hudson also argued that the confessions were voluntary and cited a Virginia Supreme Court case in which the court held that a suspect with an IQ lower than Vasquez’s was capable of voluntarily waiving his rights.

“There is no question that detective Shelton was persistent,” Hudson told the court, “... but there is no indication that detective Shelton overrode the will of the defendant, that there was anything done contrary to his will, and given the circumstances and the setting, the decision that [Vasquez] made in this case was his own.

To help Judge Winston make his decision, the defense hired two psychiatrists to examine Vasquez and the prosecution hired one. The psychiatrists ran from one end to the other, which left everybody nowhere,” said Arlington Commonwealth’s Attorney Falvey.

Winston decided to allow a jury to hear only the third confession. He has declined to elaborate on his decision.

Given the ruling, McCue and Bangs could introduce all three interrogations in hopes of showing that the detectives had put words in Vasquez’s mouth, but if they did, Hudson would also have all three interrogations for his case.

Three days before the trial, the defense made a last-ditch attempt to find something that would exonerate Vasquez, who was administered sodium amytal, truth serum, at Mount Vernon Hospital. But Vasquez said he recounted the same “dream” that had become the core of the confession.

Seeing themselves with few options and the death penalty a possible result of failure, McCue and Bangs discussed an “Alford plea” with Vasquez. That plea, which is regarded in the eyes of the law as a guilty plea, nonetheless allows a defendant to maintain his innocence while recognizing that the evidence would probably result in a guilty verdict.

Vasquez said that his attorneys explained the plea, but that he did not understand it. “I think they were putting it just up to me, but I just didn’t know what to do all,” Vasquez said, “I think when they said you’ll have the chair, that scared me and everything.”

“T think there was a lot of stress on David,” Bangs said.

Vasquez agreed to the Alford plea. Prosecutor Hudson reduced the capital murder charge to second-degree murder with 20 years and 16 years for burglary, making him eligible for parole after a little more than five years, about the amount of time he served.

Hudson said he agreed to the deal because he believed Vasquez had not acted alone. “What he pleaded to was consistent with him being the lesser of two participants,” he said.

After Vasquez pleaded guilty, Shelton frequently visited him in jail, bringing him cigars and magazines and trying to make him remember an accomplice. Vasquez said that he would hang his head on the cell wall in frustration.

On Feb. 4, 1985, Vasquez stood before Judge Winston for the last time.

“Now I would like to ask the defendant this: Do you read English?” the judge said slowly.

“Yeah, but not too good,” Vasquez replied.

“Not too good. Did you read this memorandum [the plea agreement]?” Winston asked.

“I had them read it to me,” Vasquez responded.

Again and again, Winston asked Vasquez if he understood the plea, if he understood that he waived his right to a jury, to an appeal.

And solemnly, again and again, Vasquez answered yes.

NEXT: Prison and freedom