



## ACTUAL INNOCENCE - INVALID SCIENCE - CONVICTION VACATED

The Justice Project is proud to announce that in a courtroom filled beyond capacity, Judge Glenn Davis vacated Armando Castillo's conviction. Castillo was convicted in 1998 for second-degree murder and child abuse. He was convicted based on the state's shaken baby theory in which they argued that Castillo must have shaken Steven Young, his girlfriend's two-year-old son, to death. Under this theory, if a baby had bleeding in the brain, bleeding in the eyes, and damage to the brain's axons, then the baby must have been shaken by whoever was with the baby last. Because Castillo was taking care of Steven the day he collapsed, the state assumed Castillo must have violently shaken him to death. Castillo has always maintained his innocence. He had never hurt little Steven or any of his own three young boys. But in 1998, he didn't know how to prove his innocence.

Ten years later, in 2008, Castillo contacted the Arizona Justice Project for help in proving his innocence. After an intensive review, the Project accepted Castillo's case and immediately, student-volunteers from ASU's law school began searching through the transcripts and combing the medical records, medical articles, and expert testimony. The Castillo team sought help from a nurse practitioner, Colleen Bonner, and a private attorney specializing in medical malpractice cases, Steve Leshner. The Project found experts willing to volunteer their time to Castillo's case. Finally, the Project found what Castillo had been looking for all these years to prove his innocence. The team found that Steven didn't die from shaking. He didn't die from an injury inflicted on the day he collapsed. Instead, Steven died from an abdominal wound that was between a week and two weeks old.

The abdominal injury was present when Steven was rushed to the hospital not breathing. The surgeons tried to repair it. Steven's history confirmed what usually happens with abdominal injuries of the type he suffered. He had flu-like symptoms for days prior to his collapse. He couldn't eat. He was lethargic. Both of Steven's parents and Castillo treated him by giving him Tylenol. No one knew that his symptoms were actually much more serious and were caused by the fluid seeping into his belly from the abdominal tear.

The problem for the doctors was that Steven also had the unexplained bleeding in the brain. The injury to the brain led the doctors and the prosecutors in the wrong direction. They latched onto the Shaken Baby Syndrome theory and ignored evidence of what actually caused Steven's collapse and subsequent brain injury. The abdominal injury slowly caused a decrease in his blood pressure. His oxygen levels dropped and he suffered shock. When he went without oxygen to the brain for an extended period of time on the way to the hospital, his brain became hypoxic. Upon arrival, there was really no hope that he would recover.

The problem with the State's theory was that none of Steven's injuries were new, and there was no evidence of shaking. The medical examiner found no bruising on Steven's torso, no injuries to his neck, and no damage to his spinal cord. If someone abused Steven, it was not Castillo and it was not on the day of his collapse.

The Justice Project gathered reports from five different experts. They all worked independently without knowing what the other experts in the case had opined, and they all came to the same conclusion. Steven did not die from injuries inflicted on the day Castillo watched him. Armed with this new evidence, and compelling studies proving the foundations of shaken baby syndrome no longer sound, the Justice Project prepared a post-conviction petition arguing that Castillo



should receive a new trial based on this newly discovered medical evidence. The Project also argued that Castillo was entitled to immediate release because this overwhelming evidence supported his claim of innocence.

On the very day all briefing in the case was complete, the judge who had previously sentenced Castillo to 27 years in prison issued an unprecedented order. Without even waiting for the evidentiary hearing, the judge found that Castillo had presumptively proven that he was entitled to relief on both the second-degree murder and child abuse convictions. The judge's order paved the way to an agreement. To avoid an evidentiary hearing, the State agreed to vacate Castillo's conviction, reserving the ability to try him again if they find evidence to support a new conviction. However, Castillo and the Project are confident that the advances in science will convince the State, as it convinced the trial judge, that Castillo never hurt Steven.

Since his recent release, Castillo spends every day texting the volunteers that made his release possible - Colleen Bonner and Steve Leshner, Erin Ronstadt, a recent ASU law grad who stepped in to help when the case became overwhelming and needed another attorney, Larry Hammond, who loaned support to ensure Castillo was released in a timely fashion, Carrie Sperling, who guided the team over the past three years, and Sheri Castillo, who always believed in her husband's innocence and worked tirelessly to move the case forward.

As with all Justice Project cases, the team effort goes well beyond these people. Dozens of students dedicated their time to Castillo's case. Experts willingly devoted hours of their unpaid time. Finally, lawyers in the community came forward to share their research and experiences with the team so that they could piece together a more compelling case. Although Castillo can't text them all, we know he would like to thank everyone involved in this victory.



Arizona Foundation for  
LEGAL SERVICES  
& EDUCATION

The Justice Project examines claims of innocence and manifest injustice, and provides legal representation for inmates believed to have been failed by the criminal justice system.

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## **Death Threats and Race-Baiting in Court As Judge Glenn Davis Orders Armando Castillo Released on Bond**

By Gregory Pratt Wed., Feb. 16 2011 at 1:25 PM

Comments (20)

Categories: News

(photo from Arizona Department of Corrections)

Armando Castillo will be released on bond later this week.

It was a wild scene at the Maricopa County Superior Court building today as Judge Glenn Davis ordered that Armando Castillo be released on bond while awaiting re-trial in a 13-year old shaken-baby case.

Prosecutors agreed to a new trial for Castillo last week. You can see our report here.

Judge Davis opened the proceedings this morning by declaring that he was inclined to order the release of Armando Castillo on bond but was willing to listen to any argument against.

Prosecutors began their presentation by calling Steve Young Sr., father of victim Steve Young Jr., to address the court.

Tall and thin, wearing a sports coat with blue jeans and a deeply-etched scowl, he expressed astonishment that the court had failed to contact him before last week's hearing. Young lamented having to read the news in "a blog," presumably New Times.

Prosecutors later clarified that the mix-up was due to Young not having signed up to receive appellate updates at the end of the first trial.

Young declined to criticize the court's decision but let loose on Castillo, who, he said, "is Hispanic, speaks Spanish, and has friends and family in Mexico." If he were in the same situation, Young said, there would be "no Earthly way he would show up for trial."

His voice rising, Young said he foresaw two possibilities if Castillo were released on bond. "In the event that he is not killed outright by angry family members, he will go to Mexico."

Young ended his speech by imploring the judge to rely on his years of wisdom and deny bond. Several deputies entered the room after he spoke and took positions around the room, something defense attorneys speculated caused by Young's passive threat.

Clara Yates, mother of Steve Young Jr., was more subdued in her anguish. She said that she thought of her son every day, and that his death had prevented her from experiencing various milestones of motherhood.

"No kindergarten. No 8th grade graduation. No high school football, his favorite activity. No report cards." Instead, she says, she gets "letters from the district attorney about the murderer's status."

In receiving a new trial, she said Castillo continues to destroy her life. Yates told the assembled that she suffers severe depression and is unable to work or function normally.

"He has smiled in our faces and refused to take responsibility for what he did," she added, asking that he remain in prison. Castillo has been adamant in insisting he is innocent.

Prosecutor Frankie Grimsman argued that Castillo's bond should be \$160,000, the same as the original figure. Grisman said she was "horrified by the pre-sentencing report" that recommended a low-bond and supervised release.

She said Castillo could not be counted on not to flee and that the people who would bond him out could not vouch for him. Disparaging Castillo's wife, Sheri, as "the woman who writes as his wife," Grimsman noted that she had "married him in prison and cannot take responsibility for him" because they had never lived together.

Larry Hammond from the Arizona Justice Project countered by suggesting that Pre-Trial Services interviewed Yates and took her concerns under advisement.

"This gentleman, Mr. Castillo, has not only been granted a new trial but one based on post-conviction relief that would probably lead to his innocence. This man knows now he will have a new trial afforded to him with a new trier of fact. That is not the same position as 13 years ago."

Grimsman rose to make it clear that the state did not agree to a new trial based on "new evidence" - she made

air-quotes with her fingers - but based on the argument that Castillo had received ineffective counsel in his first trial.

Defense attorney Steve Leschner stood up and asserted that the state did not mention why they were agreeing to a new trial last week, and that he would not allow them to "re-write history."

Grimsman angrily fired back that they always made it clear in conversation with the defense that it was over ineffective counsel. "The defense does not have the right to stipulate reasons" for the state, she fumed.

In making his order, Judge Davis addressed the elephant in the room: scientific evidence. He says that he hoped the state had filled the family of Steve Young Jr. in on the "real and genuine question here and understand that according to what has been presented there is a real possibility that an innocent person has been sitting in prison all these years.

"I would want the truth to come out if I were a parent," he added, causing Yates to visibly shake her head.

Grimsman said that she had filled the family in on the state's side of the case.

In their petition for post-conviction relief last week the Arizona Justice Project argued that scientific evidence shows that Young Jr. did not die of injuries suffered on the day before his death but were older and might have been caused by the father.

Ruling that Castillo is an unlikely flight-risk because he is in a situation where he might be acquitted, which is more appealing than a lifetime as a fugitive, he ordered him released on 50K bond and ankle-monitoring.

The case is set for a status hearing before a different Judge, Judge Kristin Hoffman, at 9 a.m. on March 18th.

Yates said "thank God" when she heard that a new judge would be hearing the case.

Neither Yates nor Young were willing to speak with New Times after the hearing. Sheri Castillo said her husband barely speaks Spanish and has no family in Mexico.