



Francisco Vera

Shortly after midnight on September 3, 1990, 29-year-old Francisco Vera and some friends left a fiesta at a church on the Near North Side of Chicago and were attacked by a group of mostly Italian-American youths who had been drinking at a tavern across the street.

Witnesses said that one of the men pulled a board from a bench and began striking one of Vera's friends and Vera was attacked by two or three others. Vera attempted to fight off the attackers by swinging a key chain attached to the keys to his van.

During the melee, a blue van pulled up and the driver fired two warning shots into the air. When the fracas continued, the driver emerged and fired another shot that hit one of the attackers Joseph Dzialo, in the head, wounding but not killing him. The blue van sped off.

Vera and his friends got into to Vera's van, which was brown and white, and as he attempted to get out of the parking space, the youths smashed windows and hit one of Vera's friends in the head with a board.

Police were called and two witnesses said the shooter drove off in a blue van.

Within minutes, a blue van fitting the description of the vehicle containing the gunman was stopped for a traffic violation a few blocks from the shooting. The driver, Humberto Beltran, was not questioned about the shooting and was allowed to go on his way.

Police traced the license plate number of the brown and white van to Vera, who told police about the fight. He was then handcuffed and put in a police car.

Two of the Italian-American youths were brought to Vera's home where they identified Vera's van and identified Vera as the gunman. Vera was taken to a police station where three more witnesses—two from the group of Italian-Americans and one bystander who happened to be there when the shooting occurred—all identified Vera as the gunman.

Police charged Vera, who never been arrested before, with attempted murder and aggravated battery with a firearm. A gunshot residue test performed on Vera's hands tested positive for the presence of gunpowder.

Although police considered Beltran a suspect, they did not question him, put him into a lineup or test him for gunshot residue.

Prior to trial, Vera's attorney and a private investigator showed photos of Vera and Beltran to two of the witnesses who had identified Vera as the gunman. The two men looked so much alike that neither witness

State: Illinois

County: Cook

Most Serious Crime: Assault

Additional Convictions:

Reported Crime Date: 1990

Convicted: 1992

Exonerated: 1998

Sentence: 17 years

Race: Hispanic

Sex: Male

Age: 29

Contributing Factors: Mistaken Witness ID, Inadequate Legal Defense

Did DNA evidence contribute to the exoneration?: No

could say which man was the gunman.

The investigator, John Rea, tracked down a member of the Italian-American group that police had not interviewed. Shown photos of Beltran and Vera, the man identified Beltran as the gunman.

Under the direction of his lawyer, Vera also secretly taped conversations with Beltran and two others who were in Beltran's van that night. The two others confirmed on the tape—which was in Spanish—that Beltran was the gunman. When Vera talked to Beltran, Beltran did not deny firing the gun and would only say he didn't recall what happened.

Vera, who was free on bond, went on trial in Cook County Circuit Court in December 1992. He elected to have the case decided by a judge without a jury.

The evidence was conflicting. The Mexican-Americans who saw the shooting testified for the defense that the gunman was Beltran. Three prosecution witnesses—members of the Italian-American group—testified that Vera was the gunman, but one said the gunman left in a blue van.

The tape recordings were not admitted into evidence. The defense called Beltran, but he invoked his 5th Amendment protection against self-incrimination and refused to testify.

On December 29, 1992, Cook County Circuit Court Judge Shelvin Singer acquitted Vera of attempted murder, but convicted him of aggravated battery with a firearm, and he was taken into custody. Vera was sentenced to 17 years in prison.

The law firm of Jenner & Block agreed to handle Vera's appeal for free. On December 4, 1995, the Illinois Appellate Court overturned the conviction, ruling that Vera's trial attorney had provided inadequate legal assistance.

The court ruled that Vera's lawyer had failed to lay a foundation for a Spanish-to-English translation of the secretly recorded tapes which led to the translation being barred from evidence. The lawyer had failed to introduce impeachment evidence and also failed to clear up a minor inconsistency that prompted the judge to disregard the testimony of a defense witness who identified Beltran as the gunman.

Vera was released on bond on January 18, 1996.

In February 1998, Vera, defended by attorneys from Jenner & Block, went on trial a second time. Three prosecution witnesses identified Vera as the gunman, although two of them said Vera arrived at the fight in a blue van and then left in his brown and white van.

Three defense witnesses said that Beltran was the gunman. Two more witnesses—including Beltran's ex-girlfriend—testified that they were watching Vera get punched when the shots were fired and that he did not have a gun in his hand.

In addition, Dzialo's friends identified a photograph of Beltran as the gunman.

On February 26, 1998, the jury acquitted Vera after deliberating 40 minutes.

Vera, who went to truck driving school funded by anonymous donors and went on to a successful career as a driver, sought a pardon based on actual innocence in 2000. The petition was denied. A second petition was filed and is awaiting a decision. Beltran was never charged in the shooting.

– Maurice Possley

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One Shooting, 2 Trials, 7 Years Later: He's Free **Violent Brawl In 1990 Cost An Innocent Man His Family, Freedom**

February 28, 1998 | By Maurice Possley, Tribune Staff Writer.



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For more than seven years, Francisco Vera has lived under the heaviest of burdens--accused of a shooting he did not commit.

After a legal struggle that involved two trials and more than three years in prison, a Criminal Court jury this week exonerated Vera of the 1990 shooting.

Chicago Tribune

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Though immensely relieved, Vera discovered he could not cry with joy.

"I had been crying for almost eight years," he said in an interview Friday, a day after the jury brought back the good news. "I couldn't cry anymore."

A mild-mannered Mexican immigrant, Vera was working two jobs as a cook and had never been arrested until the night of the shooting.

"I lost my jobs, I lost my home, I lost my family," he said, noting that his wife divorced him and his nephew,

whom they had raised since birth, now lives with a relative in California. "I lost everything for something I didn't do. That's not fair."

A deeply religious man, Vera, 36, credits his faith with sustaining him during the years he spent in prison after being convicted in 1992, and now he looks forward to restarting his life.

His dream is to enroll in a trade school to become a truck driver. "I don't have a job and I studied on my own, but I need financial aid to go to school," he said.

Vera's nightmare began about 1 a.m. on Sept. 2, 1990, on the Near West Side when, according to his friends, they were attacked by a gang of youths after leaving a church dance near Grand Avenue and Noble Street. Vera was set upon by three young men.

As he was being beaten, gunshots rang out and one of Vera's assailants fell. Within hours, three witnesses identified Vera as the gunman, and he was charged with attempted murder and aggravated battery with a firearm.

As often is the case in late-night brawls, a variety of stories emerged about exactly what happened.

A group of Italian-American youths contended that they crossed the street because a group of Mexican-American youths were fighting. The Mexican-American youths said there was no fight until the Italian-American youths crossed over and instigated the incident.

There is no dispute that a melee occurred and that Vera was being badly beaten by three youths when shots were fired. One of his attackers, Joseph Dzialo, was shot in the head. Though he survived, Dzialo lost the sight of one eye.

Chicago Tribune

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Two of the Italian-American youths identified Vera as the gunman, and a witness in an apartment across the street also identified him, according to police.

Vera always said he was not the gunman. Before his first trial, John Rea, a private investigator retained by Vera's lawyer, tracked down several witnesses who identified another man. In addition, one of the prosecution witnesses told Rea that Vera and the other man looked so much alike he could not tell which one was the gunman.

Vera went to trial in 1992 before Criminal Court Judge Shelvin Singer, who heard the case without a jury. Though the defense summoned the other man believed to have been the gunman, he refused to testify and asserted his 5th Amendment protection against self-incrimination.

In October 1992, Singer acquitted Vera of the attempted murder charge but convicted him of aggravated battery with a firearm and sentenced him to 17 years in prison.

Rea took the case to the law firm of Jenner & Block, and attorneys Robert Stauffer, David Jimenez-Ekman and Alyce Toohey agreed to handle the case for free.

Meanwhile, Vera was transferred to the Logan Correctional Center, where he spent his time studying English and writing songs and poems.

In appealing the verdict, the attorneys argued that Singer erred by not drawing an inference favorable to Vera when the man the defense contended was the actual shooter refused to testify. They also argued that Vera's trial lawyer failed to present evidence gathered by Rea that pointed to Vera's innocence--including a tape recording of a witness who said she saw the other man fire the gun that night.

In 1995, the appeals court set aside the verdict and ordered a new trial.

"I don't see how somebody could look at this evidence and find him guilty beyond a reasonable doubt," Jimenez-Ekman said. "I didn't have a doubt in my mind that he didn't do it."

Stauffer agreed, noting that Vera passed a polygraph exam.

After the appeals court ruling, a bond of \$100,000 was set and Vera's friends were able to raise the \$10,000 for his release.

At the second trial, which began Feb. 19 before Criminal Court Judge Joseph Urso, three defense witnesses said that the man who refused to testify in the first trial was the real gunman. Two more witnesses--including the ex-girlfriend of that man--testified that they were watching Vera get hit when the shots were fired and that he did not have a gun in his hand.

In addition, one of the victim's friends identified a photograph of the other man as the gunman. That suspect, however, cannot be charged because the statute of limitations has expired.

Vera said the pressure was immense when the jury retired Thursday afternoon to begin deliberating.

But the suspense ended quickly--after just 40 minutes, the jury announced a verdict of not guilty.

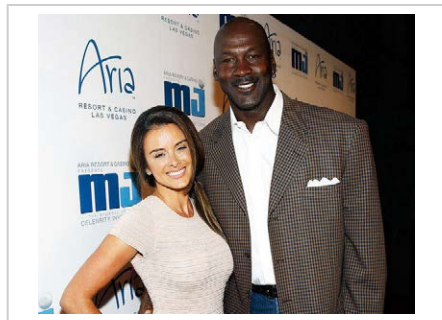
"I believe in God," Vera said Friday. "I believed I was going to win, that God was helping me, that he would help me win, especially when I knew I didn't do the crime.

"Everybody deserves a chance--now I've got hope for a better life, for a better future."

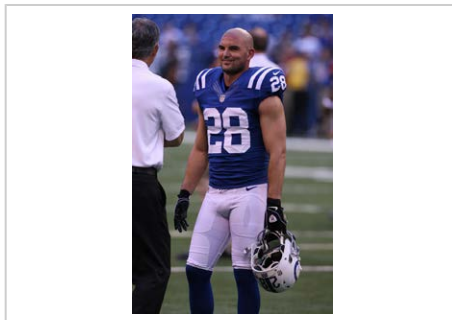
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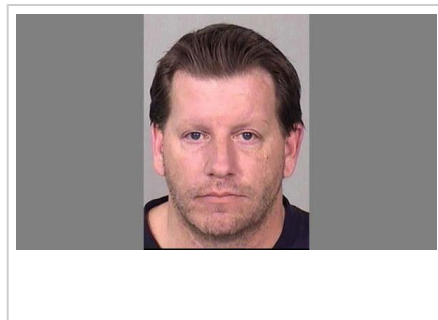
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