



Rafael Madrigal

In July 2000, a man was shot and injured in a gang related drive-by shooting in Los Angeles, California. Several witnesses identified Rafael Madrigal in a photo lineup as either the shooter or driver of the car involved. These witnesses testified against Madrigal at trial. Madrigal had been at work, a 50 minute drive away, at the time of the shooting. A co-worker could have confirmed his alibi, and his boss could have testified that he was certain Madrigal was at work because he was the only one who knew how to operate one of the machines in the production line. However, Madrigal's defense attorney called only Madrigal's supervisor to the stand, who testified that he thought Madrigal was at work, but couldn't be certain. In addition, Madrigal's attorney failed to present a recording of Madrigal's co-defendant admitting that Madrigal was not involved. In January 2002, a jury convicted Madrigal of attempted murder and he was sentenced to life imprisonment.

In 2008, with the help of the California Innocence Project, Madrigal was able to present the evidence his defense counsel failed to present at an evidentiary hearing. In September 2009, a United States District Court judge granted Madrigal's habeas corpus petition on the basis of his ineffective defense counsel, and overturned his conviction. Madrigal was freed on bail in October 2009, and a retrial was scheduled for October 2010. Prosecutors eventually decided not to retry him.

- *Stefanie Denzel*

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State: California

County: Los Angeles

Most Serious Crime: Attempted Murder

Additional Convictions:

Reported Crime Date: 2000

Convicted: 2002

Exonerated: 2009

Sentence: 53 to Life

Race: Hispanic

Sex: Male

Age: 25

Contributing Factors: Mistaken Witness ID, Inadequate Legal Defense

Did DNA evidence contribute to the exoneration? No
:

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The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

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Rafael Madrigal



Profile

County of Conviction: Los Angeles
Convicted of: First-Degree Murder
Sentence: 25 Years to Life
Years Served: 9 Years
Released: October 6, 2009
Cost of Wrongful Incarceration: \$405,000

U.S. District Court Judge Gary Feess granted a petition filed by the California Innocence Project and Attorney Eric Multhaup, effectively reversing the 2002 murder conviction of Rafael Madrigal. The decision follows the recommendation of U.S. Magistrate Judge Marc Goldman. Madrigal is the third person in three months to be exonerated by the California Innocence Project, based at California Western School of Law in San Diego.

Madrigal and co-defendant Francisco Olivares were charged with committing a drive-by shooting in East Los Angeles on behalf of the Ford Maravilla gang and convicted in January of 2002.

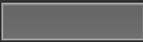
Witnesses testified that Madrigal and Olivares committed the July 2000 shooting. Madrigal



CIP NEWS

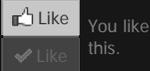


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contended his innocence from the beginning; at the time of the shooting he was at work at Proactive Packaging & Display in Rancho Cucamonga, approximately 35 miles away. The petition submitted on Madrigal's behalf established his alibi and argued that his trial counsel was ineffective in his representation, failing to call an alibi witness or properly investigate the case.

During an evidentiary hearing on November 3, 2008, alibi witness Robert Howards, Madrigal's direct supervisor at Proactive, testified that the production line would have shut down had Madrigal not been at work. Madrigal was the only employee trained to operate the laminating machine and his failure to operate that piece of machinery would have impacted production. Howards was never called as a witness, despite his submission of a notarized alibi statement in Madrigal's defense.

An audio tape was also produced during the evidentiary hearing. On the tape was a telephone conversation between Olivares and his girlfriend. In the conversation, Olivares admits that Madrigal was not involved in the shooting, nor did he know any details of the crime. The audio tape was never entered as evidence. The alibi witness and audio tape prove Madrigal's innocence. Together, both pieces of evidence were crucial in the reversal of Madrigal's conviction.

"Rafael should never have been convicted of this crime," says Justin P. Brooks, Director of the California Innocence Project and Professor of Law at California Western School of Law. "I am so pleased that the truth has come out. He is another innocent victim of a flawed justice system."



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Conviction Reversal Illustrates Importance of Competent Defense Counsel

Posted on [November 19, 2012](#) by [Nancy Petro](#) | [5 Comments](#)

Rafael Madrigal, Jr. embraced his children—Kimberly, 8, Raphael, 11, and Andrew, 15—and his wife Veronica after his release in October 2009 from a California prison. See video ([here](#)). A federal judge overturned his conviction for attempted murder related to a drive-by shooting after Madrigal had served 9 years in prison. The reversal was based on evidence supporting Madrigal's innocence that his attorney never presented to the jury.

As reported ([here](#)) by the California Innocence Project, U.S. District Court Judge Gary Feess granted a petition filed by the California Innocence Project and Attorney Eric Multhaup. The decision followed the recommendation of U.S. Magistrate Judge Marc Goldman.

Madrigal was convicted primarily on eyewitness's selection of his photo from a photo lineup.

Based on evidence presented at an evidentiary hearing years after Madrigal's conviction, it would have been impossible for Madrigal to have been at the crime scene. He always claimed innocence and said he was at work 35 miles away. He was the only person at Proactive Packaging &

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Display in Rancho Cucamonga qualified to operate a laminating machine at the plant, and his supervisor indicated that his absence would have impacted production.

A secretly recorded audio tape of a phone conversation between another man convicted with Madrigal also indicated that Madrigal wasn't involved and didn't know who was responsible for the shooting.

Additionally, Madrigal passed a polygraph test administered by a 23-year FBI veteran.

A law student working with the California Innocence Project told ABC 7 News ([here](#)), "For me it really solidified how important criminal defense work is. If Mr. Madrigal had gotten an attorney to begin with who did a sufficient job, we wouldn't be here right now."

"Bad lawyering" has been one of many consistent contributors to wrongful convictions. In retrospect, the evidence supporting innocence often appears obvious and substantial in many cases. However, if discovered after conviction due to an inadequate investigation or effort by defense counsel, correcting the error is often a laborious, time-consuming, costly endeavor. The California Innocence Project quantified the financial cost of Madrigal's wrongful incarceration alone to be \$405,000.

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5 RESPONSES TO CONVICTION REVERSAL ILLUSTRATES IMPORTANCE OF COMPETENT DEFENSE COUNSEL

Phil Locke | [November 19, 2012 at 9:53 am](#) |

[Reply](#)



In the cases I've worked over the past five years in five different states, "bad lawyering" on the part of the defense is commonly a major contributor to wrongful convictions. In some cases it's even downright incompetent.

acjpdebug | [November 19, 2012 at 3:30 pm](#) | [Reply](#)



Reblogged this on and commented:

Stopping wrongful convictions starts with proper defense and advocacy from the very start...

ODella Wilson | [November 19, 2012 at 4:03 pm](#)

| [Reply](#)



My son, William John Ziegler, has been battling for his life, literally, for over a decade now. And while "bad lawyering" on the part of the defense is a major contributor to wrongful convictions, how much accountability should be expected from prosecutors? Due to 'procedural bars' many cases will be overturned under claims of 'ineffective assistance of counsel' rather than the actual misconduct of prosecutors, police investigators, etc.

The need for exceptional (not just competent and let alone incompetent) defense lawyering arises due to misconduct and political pandering

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Dr. Carole McCartney
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– by the very people we entrust to uphold the law. And while a competent defense is crucial, it is also crucial that we start holding the investigators and prosecutors accountable for their actions when they skirt the law, instead of giving them a free pass, so to speak.

I don't know of a more incompetent attorney that my son's lead counsel, Habib Yazdi, but we need stronger deterrents in place for prosecutor/police misconduct as well.

[finallyhomerescue](#) | [November 21, 2012 at 9:31 am](#) | [Reply](#)



Reblogged this on [Finally Home Rescue's Blog](#) and commented:

This is what I am facing, yet I have countless people telling me I have NO right to competent counsel... One minute they tell me I have to find my own attorney & when I do they say I don't have the right to pick & choose... Really???

[samantha landry](#) | [December 24, 2012 at 1:08 pm](#) | [Reply](#)



hi my brother is now serving a 50year to life sentence for a crime he did not commit,due to bad lawering truely,it was. he fell asleep ,had no one talking to family,did not do a complete investigation,said one thing ,but did another,not really informing the family nor my brother.he was convicted on murder with no evidence of a gun just hearsay,no witnesses to point him at the crime .



Nancy Petro
Author and Advocate
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Kana Sasakura
Associate Professor, Faculty

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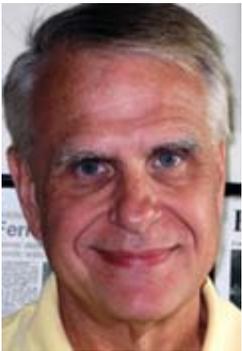
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Charges Dismissed Against Man Incarcerated for Nine Years After Wrongful Conviction

Rafael Madrigal, Jr. finally able to move on two years after California Innocence Project helped prove his innocence

SAN DIEGO, August 8, 2011 – Los Angeles Superior Court Judge Curtis B. Rappe ordered the dismissal of criminal charges against Ontario resident Rafael Madrigal, Jr. on July 29. The judge's order came after Los Angeles County prosecutors announced they were unable to proceed with their case against Madrigal.

Madrigal was released from prison two years ago after the reversal of an attempted murder conviction for a crime in which he was never involved. Prosecutors refused to say whether new charges will be filed.

"Rafael is an innocent man. He should never have spent a single day in prison," says California Innocence Project Director Justin Brooks. "I hope the judge's order gives Rafael some closure, so he can continue rebuilding his life."

Background on the Case

In October 2009, Magistrate Judge Marc Goldman granted a motion for bail, filed on behalf of Madrigal by the [California Innocence Project](#) and co-counsel Eric Multhaup. Goldman cited several factors, including alibi witnesses, unreliable eyewitness identifications, and a favorable polygraph exam taken by Madrigal as indicators of Madrigal's innocence and rationale for granting Madrigal's bail.

Madrigal and co-defendant Francisco Olivares were charged with committing a July 2000 drive-by shooting in East Los Angeles on behalf of the Ford Maravilla gang. He was convicted in January of 2002.

Witnesses testified that Madrigal and Olivares committed the shooting. Madrigal contended his innocence from the beginning; at the time of the shooting he was at work at Proactive Packaging & Display in Rancho Cucamonga, approximately 35 miles away. A petition submitted on Madrigal's behalf by the California Innocence Project established his alibi and argued that his



Rafael Madrigal, Jr. upon release in 2009

trial counsel was ineffective in his representation, failing to call an alibi witness or properly investigate the case.

An audio tape was also produced during the evidentiary hearing. On the tape was a telephone conversation between Olivares and his girlfriend. In the conversation, Olivares admits that Madrigal was not involved in the shooting, nor did he know any details of the crime. The audio tape was never entered as evidence. The alibi witness and audio tape prove Madrigal's innocence and were crucial in the reversal of Madrigal's conviction.

On October 6, 2009, Madrigal was released from the California Institute for Men in Chino and returned to his family. (Watch news coverage of Madrigal's release on our [YouTube channel](#).)

About the California Innocence Project

Founded in 1999, the California Innocence Project is a law school clinical program housed at California Western School of Law. The Project is dedicated to the release of wrongfully convicted inmates and providing an outstanding educational experience for students enrolled in the clinic. The California Innocence Project reviews more than a 1,000 claims from inmates each year and has earned the exoneration of eight wrongfully convicted clients since its inception.





Donors give \$4,500 to Ontario, CA man following overturned conviction

Will Bigham, Staff Writer

Created: 11/07/2009

ONTARIO - Twenty-five people have donated about \$4,500 to a local man who was released from prison last month after a judge overturned his attempted murder conviction.

With the donated money, Rafael Madrigal and his family were able to afford a rental home in Ontario. They lost their home to foreclosure and had until today to vacate the property, he said.

Madrigal's father died in January, and the family was unable to keep up with mortgage payments on the home they had owned since 1995.

The federal appeals process that resulted in Madrigal's release after nine years of incarceration ended last week, with the state Attorney General's Office announcing Thursday that it wouldn't appeal the judge's ruling to a higher court.

A electronic-monitoring bracelet he had worn on his ankle as a bail condition since his release from prison was removed at Thursday's hearing in Santa Ana federal court, Madrigal said.

In overturning his conviction for a 2000 drive-by shooting in East Los Angeles, a federal judge highlighted evidence indicating that Madrigal was innocent of the crime, and faulted Madrigal's defense attorney for failing to effectively assist him.

He was reportedly working at a Rancho Cucamonga factory at the time of the shooting, but his attorney failed to call enough witnesses during his trial to prove the alibi, the judge wrote.

The defense attorney also failed to present a recording to the jury of Madrigal's co-defendant making statements in a phone conversation that point to Madrigal's innocence.

The Los Angeles County District Attorney's Office is now reviewing Madrigal's case and has until mid-January to decide whether to bring the case to trial, said a district attorney spokeswoman.

Madrigal is scheduled to appear Jan. 8 in a downtown Los Angeles courtroom, where prosecutors are expected to announce whether they will take the case to trial, Madrigal said.

When one of Madrigal's son's former schoolteachers learned of the family's financial troubles, she set up a bank account for people to donate to the family.

In less than two weeks, donors gave enough money to help the Madrigals cover a security deposit and the first month's rent at a new home in Ontario, plus moving expenses, Madrigal said.

"It's a big blessing," he said.

Madrigal, a father of three, said he was relieved that his children wouldn't be forced to change schools as a result of the foreclosure and move.

He said he has been looking for work, and even has gone on job interviews, but so far hasn't landed a job.

"It's going to be an uphill battle," Madrigal said. "But I'm hoping I find a job real quick and real soon. And I feel once that happens, we'll be OK."

Madrigal said he hasn't decided whether to bring civil action against his trial attorney or other people or agencies responsible for his apparent wrongful conviction.

"I want all this to be finalized first before any type of consideration is taken into that matter," Madrigal said. "I have to sit down with my attorneys to see what they say and which direction they want to go with this."

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