

The State of Texas v. Manuel Velez
404th Judicial District Court of Cameron County, Texas
Habeas Cause No. 07-CR-721-WR

Manuel Velez is an Innocent Man

The victim, a baby named Angel Moreno, was home in Brownsville, Texas with his mother Acela Moreno, his siblings, and Manuel Velez, his mother's boyfriend, when the baby went into cardiac arrest on October 31, 2005. Both Mr. Velez and Ms. Moreno were arrested and charged with capital murder for intentionally striking the child in the head causing his death. The baby's first birthday was on November 1, 2005. He was pronounced dead the next day.

At Mr. Velez's trial in 2008, the State of Texas presented no evidence that Mr. Velez ever struck the child (or any child). The State's case was entirely circumstantial, and relied on the theory that the child was perfectly healthy and uninjured until two weeks before his death, when he and his mother moved in with Mr. Velez, and then suffered two episodes of significant head injuries within those two weeks. This timeframe was critical to the State's case because prior to that time, Mr. Velez had been working in Tennessee for five weeks. Mr. Velez's trial attorney, Hector Villarreal, made no effort to refute the testimony that the child was perfectly healthy in mid-October when Mr. Velez returned from Tennessee, or to challenge the State's theory on the cause and timing of the head injuries to the child. In fact, his attorney failed to ask a single question of the child's pediatrician and presented no medical evidence of any kind relating to the cause of death or the timing of the injuries.

The attorney's performance was wholly inadequate. As set forth in Mr. Velez's Habeas Application filed with the court in January 2012 and summarized below, the medical evidence (which the Jury never heard) proves that Mr. Velez could not have caused the injuries to the child. As a result of the incompetent performance of Mr. Velez's trial attorney and the State's misconduct, the Jury wrongfully convicted an innocent man and sentenced him to death.

1. The medical evidence proves that the child was injured when Mr. Velez was working out-of-state.

- Contrary to the State's theory at trial that all of the child's injuries were inflicted within 2 weeks of his death, the medical evidence demonstrates that the older injuries were inflicted more than 2 weeks prior to death.
- For example, based on a recent review of slides of the baby's brain by the State's own neuropathologist (who drafted part of the autopsy report), the older subdural hematoma on the child's brain was inflicted at least 18-36 days before death.
- A pediatric forensic pathologist also examined the slides of the baby's brain and similarly concluded that the older subdural hematoma occurred more than 2 weeks before death.
- In addition, two forensic pathologists and a neurological surgeon date the two skull fractures as more than 2 weeks old.
- Mr. Velez was working in Memphis for a 5-week period from September 10 – October 14, 2005. Thus, Mr. Velez was not in Texas when the injuries were inflicted.

- Mr. Velez’s trial attorney did not present any medical evidence on the cause of death or the cause or timing of the injuries to the baby. Thus, the Jury never heard that these injuries to the child occurred when Mr. Velez was out-of-state.

2. The baby’s pediatric records show that he suffered a violent head trauma months before his death—before the child and his mother lived with Mr. Velez for the first time.

- The child’s pediatric records show a rapid change in the circumference of his head from the 50th to the 95th percentile over a period of one month in June – July 2005.
- The child and his mother moved in with Mr. Velez in August 2005 for a few weeks before he left to work in Memphis.
- Because the autopsy rules out any other possible cause, all doctors and pediatricians affirm that the only cause for the rapid change in the baby’s head size is violent trauma to the head.
- Neither the State’s doctors, nor Mr. Velez’s trial attorney noted the change in head size from the baby’s pediatric records.
- Despite this evidence in the pediatric records, the baby’s pediatrician testified at trial that the baby was perfectly healthy on October 18, 2005.
- Mr. Velez’s trial attorney failed to provide the baby’s pediatric records to a doctor for review, and did not ask the baby’s pediatrician any questions on cross examination at the trial.
- Thus, the Jury never learned that the baby was not was not in good health on October 18, 2005, and had suffered violent head trauma before he and his mother lived with Mr. Velez.

3. The mother physically abused her children, including the baby.

- In her statement to police, the mother, Acela Moreno, admitted she “may have” burnt the baby on the foot with a cigarette.
- Moreno’s sister testified that Moreno bit the baby in the cheek so hard while Manuel was in Tennessee that there was a visible bite mark.
- Another witness recalls that Moreno threw the baby in anger approximately 5 feet into a couch and left the child screaming.
- In her statement to police, Moreno admitted to bruising her 4-year-old daughter.
- Many witnesses attest that Moreno hit her daughter in the face so hard the girl fell and cut her head. EMS records establish that they were called to the residence and the mother refused three times to have the child transported to the hospital for care.
- Moreno served just over 4 years in prison for striking the baby and causing bodily injury on or about October 31, 2005—the same day he was rushed to the hospital. After her prison term, she was deported to Mexico.
- Although Mr. Velez’s trial attorney told the jury he would show that Moreno was responsible for the child’s death, he never confronted Moreno with the vast and varied evidence of her abuse of her children.

4. The corruption surrounding the case is pervasive.

- The judge who oversaw the case is corrupt.
 - Judge Abel Limas, who oversaw Mr. Velez’s trial and sentencing to death, was indicted and pled guilty to 13 federal criminal counts of racketeering for accepting bribes in excess of \$340,000 to provide favorable results in cases before him.
 - The FBI had wiretaps on Limas’ phones throughout 2008 and intercepted more than 40,000 calls. He, along with his wife and son, used code words such as “calabazas” (pumpkins in Spanish) to indicate when a bribe had arrived.
 - At least 12 people, including many local attorneys and a former state representative, have been indicted in the bribery ring. Their trials are ongoing and some have been sentenced to terms in federal prison.
 - Limas is testifying in those trials presumably in exchange for leniency. In one case, he described receiving a bribe payment one afternoon – the same day that he stopped Mr. Velez’s trial early so that he would have time to pick up the bribe in the other matter.
- The Cameron County District Attorney whose office prosecuted Mr. Velez for the death of the child also faces corruption charges.
 - Armando Villalobos, the Cameron County District Attorney, was indicted on 12 counts for fixing cases in exchange for more than \$275,000 in bribes.
 - Villalobos remains in office as the District Attorney of Cameron County until January 1, 2013.

5. Mr. Velez’s trial attorney failed to present a case on his behalf.

- Mr. Villarreal failed to retain a forensic pathologist to review the baby’s medical records. He also failed to give the baby’s pediatric records to a doctor for review.
- Mr. Villarreal failed to pursue the timing of the injuries inflicted on the child, including never asking the State’s neuropathologist about the age of the baby’s injuries or the baby’s pediatric records.
- In addition, Mr. Villarreal did not cross examine key witnesses, including the baby’s pediatrician, and his cross examination of other critical witnesses was inept.
- Further, Mr. Villarreal failed altogether to investigate the mother’s abuse of her children. This left the State’s theory entirely unchallenged.
- In sum, Mr. Villarreal failed to present evidence to rebut the State’s theory that all of the injuries occurred within 2 weeks of the child’s death and that the perpetrator was Manuel Velez—a theory the evidence clearly shows is not true.

A hearing on Mr. Velez’s Habeas Application is scheduled to begin at 10:00 a.m. on December 11, 2012 before the Honorable Elia C. Lopez of the 404th Judicial District Court of Cameron County in Brownsville, Texas. Mr. Velez is represented in this matter by Lyndon Bittle of Carrington, Coleman, Sloman & Blumenthal, LLP, Dallas, Texas, tele. (214) 855-3000 and Gregory Kanan of Rothgerber Johnson & Lyons LLP, Denver, Colorado, tele. (303) 623-9000. Please contact either attorney with questions about the case.