

Vindictive prosecution?

Continuing series

Is Johnny Lopez an innocent man who was tried by an angry prosecutor and angrier judge?

In a letter to the Cheyenne Herald dated January 31, 2006, John Kenneth Lopez, WDOC (Inmate) #23323, repeated what was uncontradicted at his trial in which he was convicted of voluntary manslaughter.

He wrote that after he and the other person in the incident in a Casper apartment, Robert "Bondo" Herman, got into an argument and he had pushed Herman backwards onto a couch twice, he left the apartment within minutes. He set the time at 11:00 - 11:03 (am) on December 18, 1999. A pocket watch he had given Herman and that day had taken it back and stomped on it in displeasure of Bondo's behavior, had stopped at 11:03, according to testimony at trial.

"His clothes were clean, no bruising on him," Lopez wrote. Others testified similarly at trial.

When Herman was examined that night, his clothes were dirty, he was scratched on his arm and he had many bruises on his body.

In reviewing the transcripts of that trial, presided over by Judge Thomas Sullins of Natrona County District Court and prosecuted by ADA Stephanie Sprecher, there was so much contradictory testimony and no physical evidence that it defies logic that any jury could have concluded guilt beyond a reasonable doubt.

Evidence gathering at the scene of the alleged crime was poorly and incompletely done. Even though the evidence technician testified that the white thermal undershirt worn by Herman at the time he was found laying face down beside his bed had a brown stain on it, no testing was done to determine what the discoloration was or its origin. She had

gone to the scene with no camera or film. She (the evidence tech) testified that she had not been told "about a fresh scratch on the arm or bloody mucus coming out of the nose and mouth," and she put no luminol down to see if blood was on the carpet. Or, if there were, whose blood it was. She also didn't use a lumilight to check for bodily fluids (DNA) like semen or saliva. Her name is Chris Reed.

A police officer, Pat Carr, was first an investigator, then a back-up evidence technician, on the case. When asked at trial, he testified that he didn't collect any biological evidence but, "I'm pretty sure she (Chris Reed) did that." She didn't.

Defense attorney Kerri Johnson brought in two witnesses who testified they had seen Bondo in North Casper the afternoon he had supposedly been struck by Johnny Lopez. The lead detective on the case, when asked by Johnson if he had made any attempt to find out if anyone in Casper had seen Bondo from 2:30 - 9:00 pm that day, told her he had not.

Natrona County Coroner James Thorpen, a medical doctor and pathologist, testified that a blow to the left side of Robert Herman's head caused the injuries that led to his death. No one witnessed such a blow nor testified so.

Without that confirmation, the death could have been the result of a fall or other altercation the afternoon after the incident with Johnny Lopez.

There were, according to Lopez' statement to the Cheyenne Herald, only three people present in the apartment that morning. He was there. Robert Herman was there. And Bruce Hootman was there. Hootman testified that he had passed out and had seen no part of the

argument or what had happened between Lopez and Herman. He testified that he had awakened to a loud slap. He also testified that the only other two people in the room when he opened his eyes "after hearing the smack sound" were "Bondo and Kenny" (another nickname for John Lopez).

He was asked by defense counsel: "And you actually don't ever see a strike, do you?" He answered, "no." He was asked, "And is Mr. Qualls in the apartment?" "Yeah, he was there." Then, "Okay, do you remember seeing Mr. Chapin?" "No, not at that time." "Teresa?" "Not there." Chapin is "Bill."

Another tenant in the apartments complex, Cliff Qualls, was asked: "Okay. Were you the only person that went over there at that time?" "Yes." "Okay. So Teresa and Bill stayed back at your apartment, right, while you went over to Mr. Hootman's apartment?" Answer: "Yes."

Bill Chapin testified that he had seen the altercation. No one else put him in the apartment at the time he said he was there. Everyone else said he was NOT in the apartment until after the incident.

Chapin had an outstanding warrant for his arrest at the time of the incident, but according to Lopez, it "went away" after the trial in which he testified against Lopez. But Chapin's testimony did not contradict Lopez' assertion that he never hit Herman with a straight arm or slapped him on the side of the head - that he had "shoved" Bondo back onto the couch.

Chapin testified that he had seen Lopez hit Bondo with "a swing from Kenny to Bondo - stiff arm, open-handed, left ..." And it landed on "the right side of his face." He testified that he saw Qualls intercede between the two guys, which both Qualls and Lopez testified had happened after Lopez had pushed Herman back onto the couch. Chapin was asked, "Was this before or after Kenny had hit Bondo in the head?" Chapin: "That would have been before."

In an effort to portray John Lopez as angry (heat of passion is required for a voluntary manslaughter charge), the prosecution attempted to elicit testimony that he (Lopez) had also knocked Qualls onto the couch. Qualls denied that. He said

he had gotten between the guys AFTER blows or pushing was over. "No, Kenny did not shove me. He threw me off balance."

Johnny Lopez testified that he had reacted to Qualls intervention with kind of "Oh, to hell with it" and threw up his hands to walk away - which threw the drunk Qualls off balance.

In both her opening and closing statements to the jury, the ADA said that John Lopez had "struck Robert Herman to the left temple area with a stiff-arm blow to the side of his head." She said in her opening: "... the blow inflicted by John Lopez on that date, a blow that he admitted to hitting against the defendant's temple." Both of those were untrue.

From the transcript, what follows is the verbatim exchange of her questions and his answers when he testified:

- Q. And you ended that shove match by putting your hand on his face, didn't you?
- A. **Underneath his chin.**
- Q. In fact, you gave him a stiff-arm blow to his face, didn't you?
- A. **Underneath his chin.**
- Q. A stiff-arm blow, correct?
- A. **Underneath his chin, right.**
- Q. It was a stiff-arm blow, Mr. Lopez?
- A. **Possibly could have been a stiff-arm blow, but it was underneath his chin.**
- Q. Didn't you characterize it as a stiff-arm blow?
- A. **It's possible, ma'am.**
- Q. Didn't you say that on numerous occasions?
- A. **It's possible.**

Is that an admission of an open-handed slap to the left temple area of the head? And what force blow would it have taken to dislodge his friend's brain two inches to the right from such a blow to the left temple?

In 1984, a professional wrestler, David Schultz, wrestling as "Dr. D," slapped ABC correspondent John Stossel on the side of his head to knock him down - and then on the opposite side when Stossel stood back up - for suggesting wrestling was fake. Stossel had a ringing in his ears and \$425,000 in his bank account but a slap on the head by a 275 pounder didn't kill Stossel. It is more likely that Bondo Herman died from an unprotected fall against a pedestal sink in his apartment than from anything Johnny Lopez did.



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