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Did Texas Execute an Innocent Man?

New article revisits haunting questions about the case of Carlos DeLuna

(Austin, TX) – A book-length article published today in the Columbia University *Human Rights Law Review* sheds new light on the case of Carlos DeLuna – who was executed by the State of Texas on December 7, 1989 for the 1983 murder of convenience store clerk Wanda Lopez in Corpus Christi – and seeks to answer haunting questions as to whether he was in fact innocent of this crime. Reinforcing previous investigations, this groundbreaking article by Columbia Law School Professor James Liebman and a team of students also provides compelling evidence of the identity of the real killer, a violent and dangerous man who was well-known to law enforcement yet was ridiculed by prosecutors as a “phantom” of DeLuna’s imagination during his trial.

Los Tocayos Carlos: An Anatomy of a Wrongful Execution represents one of the most thorough depictions of a criminal investigation and its aftermath in U.S. history, cataloguing in minute detail all of the flaws and failures – from a desperate 911 call from Wanda Lopez that took minutes for the police to answer to concerns regarding the effects of the lethal injection cocktail administered to Carlos DeLuna. Everything that could possibly go wrong in a death penalty case did so here. Among the many issues calling into question the reliability of DeLuna’s conviction are:

- A single cross-ethnic eyewitness identification conducted at night, at the crime scene, while the suspect was in the back seat of a police squad car;
- No corroborating forensics and a sloppy crime scene investigation;
- Grossly inadequate representation at the trial and appellate levels, including failure of his court-appointed attorneys – one of whom had never tried a criminal case in court, let alone a capital murder case – to present any witnesses or mitigating evidence during the sentencing phase; and
- Prosecutorial failure to turn over potentially exculpatory evidence to the defense.

At the time of his trial, DeLuna claimed that Carlos Hernandez, a man who closely resembled him – and who matched the initial description of a witness who came face-to-face with the killer – had committed the murder. Prosecutors derided his claim as a “lie” and told jurors that there was no Carlos Hernandez. In upholding the conviction and death sentence on appeal, multiple courts said the same thing – Carlos Hernandez did not exist. Yet evidence uncovered years after DeLuna’s execution and presented here in painstaking detail reveals not only that Carlos Hernandez existed, but was well-known to police and prosecutors at the time of trial and had a long history of violent crimes similar to the one for which DeLuna was executed. Hernandez’s violence against young Hispanic women in Corpus Christi continued after his “*tocayo*” (namesake or twin), Carlos DeLuna, went to death row and was executed.

“The institutions meant to protect public safety and promote justice failed utterly in this case,” said Kristin Houlé, Executive Director of the Texas Coalition to Abolish the Death Penalty. “They not only failed to provide Carlos DeLuna with a fair chance to defend his life but they also failed the community by leaving another suspect – a dangerous man with a history of violence – free to terrorize more innocent victims.”

Now, nearly 25 years since Carlos DeLuna's wrongful execution, Texas is steadily moving away from use of the death penalty as prosecutors and juries embrace alternatives that punish the truly guilty and protect society. Last year, the state carried the fewest executions since 1996 and death sentences in Texas remained at a historic low level, when just eight people were sentenced to death statewide. Overall, new death sentences in Texas have declined more than 70% since 2003 and have become isolated to a small number of jurisdictions.

Yet the flaws and failures that were starkly evident in the case of Carlos DeLuna still persist in today's imperfect system. Since 1973, 140 people – including 12 in Texas – have been exonerated from death rows nationwide due to evidence of their wrongful conviction. The cases of Cameron Todd Willingham, Claude Jones, Gary Graham, and Ruben Cantu also have raised serious questions about the risk of wrongful executions in Texas.

“This article is appearing at a critical time, as concerns about the risk of wrongful conviction continue to call into question the reliability and fairness of the state's death penalty system,” said Houlé. “Attitudes toward the death penalty are shifting as public confidence in the ultimate punishment continues to erode. TCADP urges all concerned citizens, community leaders, and elected officials to use *Los Tocayos Carlos* as an opportunity to confront the realities of this irreversible punishment and reconsider the wisdom, efficacy, and virtue of the death penalty as a means of achieving justice.”

Los Tocayos Carlos: An Anatomy of a Wrongful Execution is based on an 18-month investigation by Columbia Law School Professor James Liebman and a team of students. The article and accompanying materials can be accessed at www.thewrongcarlos.net.

The Texas Coalition to Abolish the Death Penalty is a statewide, grassroots membership organization based in Austin. Visit www.tcadp.org for more information.

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