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Comment of the Day

Reader: Alejandro Perez attorney responds to prosecutor's spin in failed death penalty case

By Michael Roberts Fri., Feb. 4 2011 at 10:27 AM

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Alan Prendergast's post about the [acquittal of Alejandro Perez](#) in the killing of a fellow inmate included comments from prosecutor Jason Siers, whose boss Carol Chambers, is known for the zeal with which she seeks the death penalty. Defense attorney Jim Castle wasn't pleased with Siers's spin and added intriguing remarks of his own.



Perez.

Jim Castle writes:

Cases should not be tried in the press. It is the Court of law which should decide a man's fate and not the court of public opinion. It is also inappropriate to try and "spin" a verdict after a trial to explain away why one side lost a trial. It is even more inappropriate to infer a man is guilty after a jury of citizens unanimously acquitted him as it demonstrates a complete disrespect for our system of justice.

The law does, however, authorize fair comment by an attorney when it is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. As such I am responding to the

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prosecution's unfair comments and to set the record straight as one of Alejandro Perez's attorneys.

The prosecution dismisses the verdict in part based on a claim that witnesses took contempt charges rather than testify. That is true. Two witnesses took contempt charges. The first witness was a man who, through his attorney, openly admitted in court that he had perjured himself in the Bueno death penalty trial. This witness indicated that he did not wish to testify in the Perez trial and thereby implicate himself in the crime of perjury in the Bueno proceedings (in Colorado, perjury in a failed capital case can be charged as attempted first degree murder). Despite the knowledge that the witness admitted to perjuring himself in the Bueno capital trial, the prosecution made the decision to grant this man use "immunity" for any and all admissions of perjury and false statements. Although the propriety of such a decision certainly can be questioned, the prosecution should not be heard to contest the verdict on the jury's inability to hear from an immunized, perjurious witness. That witness took a 6 month contempt charge rather than expose himself to a possible prosecution for attempted first degree murder. I am confident the good citizens of Prowers County, if such witness had testified, would have rejected his testimony soundly.

The second witness was a man the prosecution openly accused of conspiracy in the murder and who was not provided with an attorney. Given the 18th JD DA's office penchant for prosecution in this case can anyone blame the man.

The prosecution also blames the verdict on delays. Those delays were largely the result of appeal after appeal filed by the prosecution and hearings necessitated by government failures to produce exculpatory evidence required to be produced by the Colorado and U.S. constitutions. Alejandro Perez, meanwhile, spent 7 years in solitary confinement at Colorado State Penitentiary awaiting his day in court. A day in which each of the prosecution's claims of his guilt were soundly rejected.

The prosecution also complains of the jury not hearing evidence and witnesses refusing to testify. This is true also. The prosecution successfully blocked the jury from hearing evidence which directly linked a different inmate to the Heird murder. Witnesses did refuse to testify when confronted with evidence the defense possessed which pointed the finger at them as possibly being involved in the murder. These witness absences hurt the defense much more than the prosecution.

Instead of using the post trial commentary period to complain about the jury's decision or to insinuate Perez is still guilty the prosecution instead should have used the opportunity to admit their mistake or to focus on the sadness being experienced by the Heird family at this time.

On behalf of Mr. Perez and his attorneys our only public comments were to be that our thoughts and prayers were with the Heird and Perez families at this time. The prosecution's decision to spin the verdict, however, demanded that I submit a more thorough and specific response.



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Tags:

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