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Freed prisoner: 'I just thank God'

DA'S OFFICE DROPS CHARGES AMID SIGNS OF A WRONGFUL CONVICTION

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A grateful San Jose man walked free on Monday after five years in prison, as prosecutors concluded they no longer are certain that he committed the 2001 robbery for which he was serving a potential life sentence.

"I just thank God," said Jeffrey Rodriguez, 29, emerging from the San Jose main jail to waiting family members. Rodriguez won his freedom after officials in the district attorney's office elected to drop charges against him, amid increasing indications that he had been wrongly convicted of robbing an employee behind a San Jose auto parts store in December 2001.

The doubts grew as a new laboratory examination cast doubt on a witness's earlier conclusion that Rodriguez's jeans were stained with a mixture of oils that probably had come from the scene. Investigators also re-enacted part of the crime, and that exercise heightened concerns that the victim's The new evidence was developed as the district attorney's office prepared to retry Rodriguez, whose 2003 conviction was overturned by the 6th District Court of Appeal last June.

At times during his years in prison, Rodriguez said Monday, he felt as though "I had just been put under a rock and kept there." But, he said, "I knew in my heart that one day I would be vindicated."

Poor lawyering

Rodriguez's case was highlighted last March in the series "Tainted Trials, Stolen Justice," as an example of how questionable conduct by prosecutors, judges or defense attorneys can increase the small but significant risk of wrongful conviction. The case illustrated a recurring but unfortunate combination: Poor lawyering, coupled with a prosecution built on eyewitness identification, can often lead to wrongful convictions.

Rodriguez was arrested the day after the robbery when the victim, an assistant manager at Kragen auto parts, thought he recognized Rodriguez as the two stood in line at a Department of Motor Vehicles branch. Police discovered that Rodriguez had been released from prison days earlier after a previous robbery conviction, and he was arrested and charged.

At trial, the jury voted 11-1 in favor of acquitting Rodriguez, after his defense attorney, Paul Raj Gideon, aggressively challenged the prosecution and introduced evidence from family members that Rodriguez was with them at the time of the incident.

Prosecutors chose to retry Rodriguez, and in April 2003, Rodriguez was convicted and sentenced as a "three strikes, you're out" defendant to 25-years to life in prison. The family had run out of money for Rodriguez's defense, and Gideon significantly curtailed his effort.

The 6th District Court of Appeal reversed the conviction last June based upon its finding that Gideon's performance violated Rodriguez's right to an adequate defense and undermined confidence in the trial's outcome.

Preparing for a third trial, the district attorney's office lost faith in the case. As Assistant District Attorney David Tomkins said Monday, "We felt there was a reasonable doubt as to Mr. Rodriguez's guilt, and we were prepared to resolve those doubts in his favor."

Said Irma Castillo, the appellate lawyer who first raised the concerns about the case before the state appeals court: "I'm just so happy for Jeffrey. I'm just sorry it took so long for justice to be done."

There were always questions about the identification of Rodriguez by Carmelo Ramirez, the victim of the robbery, which became increasingly evident as the case developed.

Rodriguez was not clean-shaven, as Ramirez initially told police; he was taller than the initial description. Initially, Ramirez testified that the suspect wore a hooded sweatshirt. But at the second trial, he testified that he recognized a leather jacket police confiscated from Rodriguez as matching a jacket worn by the robber.

Extensive review

Deputy public defender Andy Gutierrez, working with an intern from the Northern California Innocence Project, developed these and other discrepancies in an extensive review of Ramirez's statements.

At the original trial, defense attorney Gideon presented nine witnesses that included several family members who testified that Rodriguez was at home, playing video games with his son. Gideon also presented an expert on eyewitness identification.

On retrial, Gideon did not call those witnesses. He also failed to obtain the transcript from the first trial, which deputy defender Gutierrez said Monday was necessary to fully detail the discrepancies in Ramirez's testimony from one trial to the next.

In December, Gutierrez and Deputy District Attorney David Pandori - who both had been assigned the case after the conviction was overturned - conducted a re-enactment where a suspect wore the jacket to see how it appeared on the same auto parts store's video surveillance.

Gutierrez said Monday that the image from the re-enactment did not match the image taken of the robbery - making it apparent the robber was not wearing Rodriguez's jacket.

At the earlier trials, Deputy District Attorney John Luft had relied on the testimony of Santa Clara crime lab examiner Mark Moriyama that Rodriguez's pants contained a stain including both motor oil and cooking oil - a combination that Luft contended would have come from the oils splashed on the loading dock. But Friday, as he announced the office was dropping charges, Pandori provided Gutierrez with the report of a state Department of Justice laboratory that concluded "no foreign chemicals/oils were detected in the stain."

Pandori on Monday referred all questions to Tomkins, who said that he had specifically reassigned the case to Pandori to offer a fresh look at the evidence. "That's just his MO," Tomkins said, referring to *modus operandi* - his way of working. "He's a creative, bright, guy."

Rebuilding life

Asked what he will do now, Rodriguez said: "A lot was taken from me. My son is 9, and I haven't been there for him. I look forward to rebuilding that relationship."

As Rodriguez walked from the jail with his mother and sister, attorney Gutierrez said, "Whatever happened in the last five years, he has got such support that I feel hopeful he is not going to become a statistic," doomed to return to prison.

Gutierrez said the case of Rodriguez was only the latest in a series he has handled of suspects who appear wrongly charged, and added, "It makes you wonder how often this happens."