

Federal jury awards \$1.17M to man wrongfully convicted of double homicide

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A federal jury awarded \$1.17 million to a man who was wrongfully convicted of a double homicide in Chicago in 2012 and spent almost two years in jail.

Ramiro Bahena was released from Cook County Jail in 2014 after findings that the only eyewitness was legally blind and had been pressured into identifying him as the shooter.

Bahena sued the City of Chicago and several individual police officers, including Detectives Juan Morales and John Hillman, alleging false arrest and malicious prosecution. He alleged the detectives fabricated evidence that resulted in a deprivation of his liberty.

The detectives denied all claims and asserted there was probable cause to detain Bahena, then 45, and bring charges against him.

The case went to trial in the Northern District of Illinois for more than a week before U.S. District Judge Joan H. Lefkow. The jury reached its verdict Nov. 9, finding for Bahena on the unlawful detention claim. His award included damages such as loss of income and attorneys fees.

The jury ruled for the defendants on the malicious prosecution claim.

On June 17, 2012, someone shot several people on the porch of Maria Rabadan's Chicago home, killing Jaime Ocampo and Santiago Delgado and wounding Margarita Martinez.

None of the survivors saw the shooter, but Rabadan's 10-year-old daughter told a responding police officer that her mother's boyfriend, Bahena, had gotten into a verbal argument with Rabadan and Ocampo at the house earlier in the night.

The daughter also said Bahena had retrieved a gun from his car and threatened to come back and kill Rabadan and Ocampo, according to the opinion issued by Lefkow.

Another officer learned that Rabadan's adult son Arturo De La Cruz saw at least some of the shooting from his second-floor apartment. The officer recorded the shooter's identity as an unknown Hispanic male.

De La Cruz voluntarily went to the police station and was interviewed by police for several hours. Bahena claimed that based on De La Cruz's deposition and affidavit, in the first six hours after De La Cruz arrived at the station, the detectives badgered him into identifying Bahena.

According to De La Cruz, he denied knowing the shooter's identity, just as he had done at the scene.

De La Cruz selected Bahena's photo from a photo array, but the parties disputed what happened during the intervening hours, and both accounts find some support in the record, according to Lefkow. Bahena argued that instead of asking De La Cruz to pick the shooter from the array, they asked him to point to Bahena, which he did.

It was later discovered that De La Cruz has 20/100 vision, meaning he could not make any kind of identification beyond 20 feet.

Bahena's defense counsel later identified exculpatory evidence — surveillance footage of the shooter that detectives had obtained on the day of the killings.

While the shooter's face was not identifiable in the footage, other identifiers indicated it was not Bahena, including the shooter's height and build and the fact that Bahena had a ponytail and the shooter did not. The shooter also fully extended his arm, which Bahena could not do because of an old injury.

When De La Cruz was shown the footage for the first time, he concluded from the video that Bahena was not the shooter.

This evidence was part of what led to the State's Attorney dismissing criminal charges against Bahena in 2014, with Assistant State's Attorney Nancy Galassini, whose last name is now Adduci, issuing a two-page memorandum on the decision.

Lefkow referred to that memo in her opinion.

"The prosecutor did not dismiss the charges as an act of mercy or to preserve scarce prosecutorial resources — she did not believe that she could demonstrate Bahena's guilt. Because that dismissal is 'indicative of innocence,' the proceedings were terminated in Bahena's favor," Lefkow wrote.

Bahena was represented by Jeffrey J. Neslund and Nitu Patel of the Law Offices of Jeffrey J. Neslund and Robert Joseph Lane Robertson of Robertson Duric.

Neslund said the prosecutor's memo was critical to their case and was subject to a hotly contested motion to compel after the prosecutor's office claimed it was privileged.

Magistrate Judge Jeffrey T. Gilbert of the Northern District granted their motion to compel the memo. Neslund said it was a "roadmap to everything wrong that the detectives did."

"My client has waited a long time to get his day in court and tell the story to a jury, and we're just very pleased with the verdict," Neslund said.

The City of Chicago and the individual officers were represented by Lawrence S. Kowalczyk and Megan K. Monaghan of Querrey & Harrow, Ltd. They could not be reached for comment.

The City of Chicago Department of Law said in a written statement that it is "reviewing the verdict and assessing all available post-trial options."

The case is *Bahena v. City of Chicago, et al.*, No. 17 C 8532.