

Police and Prosecutor Violations

Case # 5-080656-2

This is a short overview of the obvious violations that occurred in my case. To see a more complete overview, you can read: [Police and Court Corruption](#).

There were five recordings taken by the Walnut Creek Police (WCPD) the day of the murder. In violation of California Rules of the Court (CRC), section 2.1040, none of these recordings were transcribed. They were also, never made available to the jury, appellate attorney, or me:

1. 911 Recording – Rhoads, (tampered volume, exculpatory and impeachment statements to the 911 operator were withheld from the jury and me)
2. 911 Recording - Sean Mendell, who stated multiple times during his recorded interview that I was not who he saw (911 recording never turned over)
3. Witness interview – Longfellow, (WC PD, claimed the audio didn't record)
4. Witness interview - Mendell, with witness tampering, and impeachment evidence (not used at trial)
5. Witness interview – Rhoads, with impeachment evidence (not used at trial)

A substantial amount of exculpatory evidence was withheld by the prosecution during the trial phase. The evidence that is crucial to exoneration was only turned over after a civil claim was filed, and an attorney hired by Allstate Insurance turned it over to my family in 2014, many years after my conviction. The attorneys hired by Allstate Insurance were able to acquire these recordings for a civil matter, from the very same agency that ignored a subpoena and told my family that they were not in possession of them. As of February 15th of 2024, the court has denied every petition and motion requesting an evidentiary hearing, in order to keep this exculpatory evidence from being presented. The prosecutor and judge even removed a juror over his objection, at the end of the trial who requested the equipment to review the un-transcribed recordings.

Rhoads:

March 20, 2008 at 10:32am: Beverly Rhoads called 911, while shots were being fired, she stated that Nathan Medina just shot her son. This part was played to the jury; however, (Tape Played) was all that was typed by the court reporter. In fact, everytime one of the un-transcribed recordings were played to the jury "(Tape Played)" was all that was entered into the court record. This made the un-transcribed recordings unavailable for my direct appeal. Later during that same extensive 911 call; Rhoads stated that she was immediately pepper-sprayed in the face, that she could not see, that she really couldn't see, that it had to be me, because she claimed to not have any other enemies.

While there was evidence (police reports), that she had a very persistent enemy, before her falling out with my parents, this evidence was also kept from the jury and me.

As reflected in the appellate court's response to my direct appeal, the evidence entered into the trial record regarding Rhoads' identification of defendant as the perpetrator of this crime is the following direct quote:

"Rhoads walked toward the front door. Into the living room. There stood Defendant. Whom Rhoads positively identified in court. She recognized him immediately. She had no problem recognizing him because she knew him so well. There was no chance the intruder was not Defendant. Defendant was wearing a black beanie, sunglasses, and a black coat. Defendant started spraying Rhoads with pepper spray"...

Rhoads' interview: she never saw the assailants face, she stated multiple times that she couldn't see, that she thought the assailant was wearing a mask, she just claimed to know it was me. She also stated that she filed a police report the year before, stating that I threw a rock through her car and house window, even though she did not see who did that crime either. During trial, she denied ever making that false accusation.

Because this recorded interview was kept from the jury, my family, and me until 2014, after my trial was over, Rhoads was able to testify during the trial that she immediately recognized who she said was me without a mask. When asked about a mask at trial Rhoads said, "I remember the detective asking me about a mask, but I never mentioned one. I just remember telling him I could see his nose, and his mouth, and his chin, and sunglasses with a rolled up beanie, that's what I remember". This was repeated to the jury multiple times. It was never rebutted, objected to, or had any evidence presented to challenge it. So this stood as a fact.

At trial Rhoads made two separate claims regarding when she couldn't see:

1. She stated that whenever she mentioned during her interview that she couldn't see, she meant that it was much later (after the fumes from the pepper spray that hit her chest and not her face) got into her eyes.
2. She claimed that when she couldn't see, it was while detective McColgin was interviewing her, not before she saw who she knew to be Nathan Medina.

Regarding Rhoads' interview and the fact that she mentioned a mask multiple times. The issue is NOT that I am claiming that the intruder was wearing a mask and that is why she couldn't identify him. The legal issue is that both the prosecutor and counsel allowed her to lie to the jury regarding what she told the detective during her recorded interview. An interview which was withheld from them. Not once during Rhoads' interview did she mention sunglasses, or being able to see the assailant's nose, mouth, or chin.

All evidence (her 911 recording and recorded witness interview) prove that she did not see the assailant before being pepper-sprayed. Her trial testimony also revealed that she could not keep her story straight as to when she claimed to see the intruder.

1. She claimed that she heard the front door open, then close, and that when she came around the corner, the assailant was standing there with his left hand in the air ready to spray her.
2. When asked about her vision being affected, she said it was not before she saw the person come in the door.

Based on Mendell and Longfellow's statements, where they both had a clear view of the assailant, just moments after he shot Joshua. If we are to believe that Rhoads actually saw the assailant, then going by what she told the detective. The assailant would have had to stop, put on black gloves, remove a mask, put on sunglasses, and change from a long sleeve shirt or sweatshirt that possibly zips up, to a black leather jacket, in the seconds it took him to go into the backyard, where he confronted Mendell as Longfellow watched through a window.

Mendell:

10:36 Mendell called 911, this was a lengthy call, as he stayed on the phone with 911, until after the police arrived, and instructed him and his girlfriend, Longfellow to walk through the house and out into the street.

Mendell and Longfellow were then both shown a drivers license photo with my info next to it, on a police car computer, Longfellow remembered hearing Mendell mention to the officer; Nathan Medina, the lawsuit, and rock incident.

Mendel Interview: 1:40pm, during this interview he told detectives Reese and Jower multiple times that he did not think it was me, he told them to ask Rhoads or Joshua, because he had more confidence in their ability to recognize me. He described the assailant as having a shriveled up face like a method addict, and described his Jacket as not too big, seemed to fit, going just below the waist. (This was clearly not my huge 3XL trench coat that went below my knees, which he told the jury was the jacket he saw.)

4:00 – 4:10pm: Mendell stepped out of the interview room. Just outside the door, within camera audio range, he was introduced to detective Brian McColgin by Tracie Reese, who just finished interviewing him. Mendell had already told detective Reese during the interview multiple times that he did not think it was me. RT 1412, 1582, 1583, 1694

Detective McColgin did not know the interview room recorder was picking up their conversation. Detective Tracie Reese is heard introducing Mendell to McColgin. She had first hand knowledge of McColgin's manipulation of an eyewitness. A witness that she swore on an affidavit, in order to get the search and arrest warrant, that that witness positively ID'd me.

Mendell tried to tell McColgin that it wasn't me; however, McColgin told Mendell that Ms. Roads positively identified me. Then Mendell said, "She said it was Nathan for sure?" McColgin "Yes she did. He then misquoted her saying "He wasn't wearing a mask it was just a hat, a hat. A beanie rolled rolled up". And then he said "Hey man its him, it was him, she positively ID'd him".

Afterwards, according to Mendell, McColgin took him to pick my picture (The same picture that he and Longfellow were shown at the scene, with my info next to the photo) out of a six-pack photo lineup. My picture was in the middle, on the top, and had a different look than the other five pictures. Even at this point Mendell did not want to pick my picture, as it did not match who he saw. He was told, "Just pick whichever looks most like, whichever one seems the most familiar". Detective Jower claims that he was the detective who showed the lineup to Mendell, and that Mendell *immediately* picked my picture out of the lineup.

Only after being lied to and manipulated by detectives McColgin and Jower, did he state, " I think it was #2 that tried to kill me". Both Mendell and Longfellow made comments about my picture in the lineup being the same one they were shown at the scene. (Both McColgin and Mendell denied the conversation happened in the hallway until they found out there was a recording of it).

Longfellow:

3:30pm: Longfellow was interviewed by detectives Jower and Carmen. We may never know what Longfellow said during her 1 hour and 12 minute video interview, because the Walnut Creek Police claim, the audio did not record during it. (We have never been able to verify this.) Longfellow stated that while she waited for more than an hour before her interview a female detective kept coming in, asking her questions, then leaving again.

4:42pm: Longfellow was shown a six-pack photo lineup by Jower. She recognized the photo from the police car. Longfellow was reluctant, as this photo did not match who she saw. Jower wrote for Longfellow on photo lineup "#2 is what best fits my memory". Longfellow signed it at 4:51pm.

Jacket:

The Walnut Creek Police (WCPD) took a 3XL black leather trench coat from my home, a coat that did not match the witness's descriptions of the clothing worn by the assailant. They claimed to have found 3 parts per million (PPM) of gunshot residue (GSR) on the sleeves. (In *People v. Watson*, 2023 Cal. APP, Unpublished LEXIS 5008; According to Kenton Wong, of the Forensic Analytical Lab: GSR from a gunshot leaves a 'plume' of thousands of residue particles.) [3PPM is only consistent with contamination, not a gun being fired approximately six times.]

The Walnut Creek Police officers filed their police reports after the black leather trench coat was taken from my home. They falsified the witness descriptions to try to match what was seized from my home. None of the three main witnesses' described a trench coat in their initial statements. After receiving Mendell's recorded interview in 2014, he stated that the jacket was not big, and seemed to fit, going just below the waist. In the police report, it said a black leather trench coat that went down below the knees, which matched my 3XL black leather trench coat seized from my home.

The same drivers license photo of me that was shown to Mendell and Longfellow at the scene, then again used in the photo lineup, was also broadcast all over the television news, and then used in the local newspapers. This forced me to turn myself in to the Walnut Creek Police the next day, with the aid of an attorney, for a crime that I did not commit.

The day after the murder, detective Jower, showed witnesses; Mendell and Longfellow, the jacket taken from my home, along with the shoes I was wearing, when I turned myself in. During trial both Mendell and Longfellow, stated that the jacket and shoes were the same ones they saw worn by the assailant. Mendell even stated that he recognized the Sketchers logo on the shoes. (During Mendell's interview, he never mentioned Sketchers).

Their recorded interviews and previous statements which contradicted their testimony were kept from the jury and me.

Blood/Pepper-Spray:

Rhoads stated: that the assailant, held her in a bear-hug from behind, while pepper-spraying her for the second time. The detectives swabbed the crime scene, testing for pepper-spray; however, the prosecution claimed to not have tested my jacket, or any of my clothing, or property for pepper-spray.

After Rhoads and her son, Joshua were both pepper-sprayed, they somehow got past the assailant, and went into the laundry room, where the assailant shot Joshua through the door. The assailant, then broke the door in half, where Joshua was lying on the floor, with his head next to the door. The assailant reached over the broken bottom half of the door, put the gun next to Joshua's head, and shot him. The blood sprayed up the door, leaving a 5" wide void where the assailants arm was.

The prosecution hired a blood-splatter expert to give false expert witness testimony, stating that the blood would have completely missed the jacket, or that the most logical explanation was that it was wiped off. Whoever pepper-sprayed Rhoads and then Joshua, would have had pepper-spray all over their clothing, and the sleeve of their jacket would have been saturated in blood. Counsel did not bring in any expert witnesses to rebut the prosecution's expert witness testimony.

This case was summed up by the prosecutor in his closing statements:

"This case is about identity and that's all it is about." RT 2665 L12

"But you can bet that if there was other information that would be helpful to you in your decision making process that either Counsel or myself would have brought it out during the trial." RT 2667 L7

"Miss Rhoads was honest. She told you what happened. She told you what she saw...." RT 2668 L1