

**MELENDEZ, Juan (H/M)**

DC# 046466

DOB: 05/24/51

Tenth Judicial Circuit, Polk County, Case # 84-1016

Sentencing Judge: The Honorable Edward R. Threadgill

Trial Attorney: Roger Alcott, Esq.

Direct Appeal Attorney: Marshall G. Slaughter, Esq.

Collateral Appeals Attorney: Martin J. McClain, CCRC-N

Date of Offense: 09/13/83

Date of Sentence: 09/21/84

**Circumstances of Offense:**

On the evening of 09/13/83, the body of Delbert Baker was found in the back room of his cosmetology school in Auburndale, Florida. Mr. Baker's throat was slashed and he had been shot in the head and shoulders. His jewelry (four diamond rings, watch, and gold bracelet) and \$50 in petty cash were missing, but the business receipts from the day were found in his briefcase.

Juan Melendez was arrested and charged with First-Degree Murder and Armed Robbery on the basis of an allegation by an acquaintance of Melendez, David Falcon, who alleged that Melendez confessed to the crime while the two were doing cocaine together.

Falcon testified at trial that Melendez claimed that he and an accomplice went to Baker's cosmetology school with the intent of robbing him. According to Falcon, Melendez's accomplice slashed Baker's throat, Melendez shot Baker, and the two cleaned up any fingerprints and took the jewelry and money.

John Barrien testified at trial that he, his cousin George Barrien, and Melendez drove to Auburndale on 09/13/83 so that Melendez could get his hair done and pick up some money. John Barrien dropped Melendez and George Barrien off at Baker's cosmetology school and picked them up two hours later. Neither Melendez nor George Barrien had any blood on them or their clothes when they were picked up. According to John Barrien, on the next day, he took George Barrien to the train station, so that George could take a train to Wilmington, Delaware to visit his children. While at the train station, Melendez gave two rings and a watch to George and asked him to sell them in Wilmington.

George Barrien testified at the trial, during which he denied riding in the car with Melendez and said he had seen Melendez only once before at John Barrien's house. Melendez's girlfriend, Dorothy Rivera, testified at trial that Falcon told her that he was going to falsely testify against Melendez. She also testified that she was with Melendez on the night of the murder, which was corroborated by her sister's testimony.

A prisoner named Roger Mims testified at trial that his cellmate, Vernon James, told him that he [James], his partner, and another man robbed and killed Baker.

Prior to trial, Vernon James, who was incarcerated on other charges, was interviewed by Melendez's attorney, Roger Alcott. In a taped statement, James admitted that he was sexually involved with Baker and had been at Baker's cosmetology school when he and his two accomplices killed Baker. An FDLE agent interviewed James, and he again admitted his presence at the killing of Baker. A State Attorney investigator also interviewed James and, again, James admitted his involvement in the murder, although this interview was never disclosed to the defense. At trial, James invoked his Fifth Amendment rights and refused to testify. The judge ruled that the testimony of the FDLE agent that James had confessed to was inadmissible hearsay evidence. The defense counsel failed to offer his taped interview of James as evidence.

**Trial Summary:**

09/20/84	Jury returned guilty verdicts on the following charges:
	Count I First-Degree Murder
	Count II Armed Robbery
09/21/84	Sentenced as follows:
	Count I Death
	Count II Life Imprisonment

**Codefendant Information:**

John Barrien was arrested, but pled no contest to charges of Accessory After the Fact, in exchange for testifying against Melendez, and was sentenced to two years probation.

George Barrien was never charged.

**Additional Information:**

On 03/25/75, Melendez was sentenced to 10 years imprisonment for an Armed Robbery conviction and was released on 07/01/82.

**Appeals Summary:**

**Florida Supreme Court – Direct Appeal**

FSC# 66,244  
498 So.2d 1258

11/30/84	Appeal filed
12/11/86	FSC affirmed convictions and sentences

**Trial Court – 3.850 Motion**

Case# 84-1016

01/16/89 Motion filed  
07/12/89 Trial court denied Motion

**Florida Supreme Court – 3.850 Motion Appeal**

FSC# 75,081  
612 So.2d 1366

11/30/89 Appeal filed  
11/12/92 FSC affirmed denial of 3.850 Motion  
02/18/93 Rehearing denied and Mandate issued

**U.S. District Court, Middle District – Petition for Writ of Habeas Corpus**

USDC# 93-662

04/19/93 Petition filed  
01/04/02 USDC administratively closed case

**U.S. Supreme Court – Petition for Writ of Certiorari**

USSC# 93-5528  
510 U.S. 934

08/06/93 Petition filed  
10/18/93 USSC denied Petition

**Florida Supreme Court – Petition for Writ of Habeas Corpus**

FSC# 82,570  
644 So.2d 983

10/18/93 Petition filed  
09/08/94 FSC denied Petition  
11/16/94 Rehearing denied

**Trial Court – 3.850 Motion**

Case# 84-1016

09/22/94 Motion filed  
07/17/96 Trial court denied Motion

**Florida Supreme Court – 3.850 Motion Appeal**

FSC# 88,961  
718 So.2d 746

09/16/96      Appeal filed  
06/11/98      FSC affirmed denial of 3.850 Motion  
09/15/98      Rehearing denied  
10/15/98      Mandate issued

**Trial Court – 3.850 Motion**

Case# 84-1016

10/19/00      Motion filed  
12/06/01      Trial court granted Motion and ordered a new trial

**Clemency Hearing:**

02/10/88      Clemency hearing held (denied)

**Case Information:**

Melendez filed a Direct Appeal with the Florida Supreme Court on 11/30/84, citing errors in police evidence-gathering, the trial court's failure to grant a mistrial when two defense witnesses refused to appear in court to testify, and aggravating factors that were not proven beyond a reasonable doubt. The FSC affirmed the convictions and sentences on 12/11/86.

Melendez filed a 3.850 Motion with the Trial Court on 01/16/89, citing issues involving ineffective assistance of counsel and the fundamental fairness of the trial. The Trial Court denied the Motion, without an evidentiary hearing, on 07/12/89.

Melendez filed a 3.850 Motion Appeal with the Florida Supreme Court on 11/30/89. The FSC affirmed the denial of the 3.850 Motion on 11/12/92.

Melendez filed a Petition for Writ of Habeas Corpus with the U.S. District Court, Middle District, on 04/19/93 that was administratively closed on 01/04/02.

Melendez filed a Petition for Writ of Certiorari with the U.S. Supreme Court on 08/06/93 that was denied on 10/18/93.

Melendez filed a Petition for Writ of Habeas Corpus with the Florida Supreme Court on 10/18/93, alleging ineffective assistance of counsel. On 09/08/94, the FSC denied the Petition, finding it to be without merit.

Melendez filed a 3.850 Motion with the Trial Court on 09/22/94, seeking to present newly discovered evidence that another man, Vernon James, killed Baker. At an

evidentiary hearing held on May 23<sup>rd</sup> and 24<sup>th</sup> of 1996, Melendez called five witnesses, all of which testified as to James' involvement in the murder, yet the court found that the witness testimony fell short of the standard required to grant a retrial. The Trial Court denied the Motion on 07/17/96.

Melendez filed a 3.850 Motion Appeal with the Florida Supreme Court on 09/16/96, citing issues of newly discovered evidence, the State's failure to disclose exculpatory evidence regarding John Barrien's statements to police, and ineffective assistance of counsel. The FSC affirmed the denial of the 3.850 Motion on 06/11/98.

Melendez filed a 3.850 Motion with the Trial Court on 10/19/00, citing newly discovered evidence, the State's failure to disclose exculpatory evidence, and ineffective assistance of counsel. Melendez's newly discovered evidence consisted of the transcript of the taped interview of Vernon James by Melendez's original trial attorney, notes from State Attorney files relating to interviews that the State held with James, and new witnesses who claimed that James implicated himself in the Baker murder. The ineffective assistance of counsel claim focused on the defense counsel's failure to investigate an interview that James had given to John Barrien's trial counsel, implicating himself in the murder of Baker. On 12/06/01, the Trial Court granted the 3.850 Motion and ordered a retrial.

On 01/03/02, the State decided to drop the charges after one witness, John Barrien, recanted much of his testimony and another witness, David Falcon, had died in the late 1980's.

#### **Law Enforcement/Prosecution Statements:**

The following statement was taken from Hardy Pickard, Assistant State Attorney for the Tenth Judicial Circuit:

According to Mr. Pickard, Juan Melendez was released from death row due to the fact that "given the current state of the facts, the State did not believe that it could prove its case beyond a reasonable doubt." Further, Mr. Pickard stated that if the State went to trial against Melendez, he would be found not guilty.

Mr. Pickard noted that both the recanted testimony of Barrien and the death of Falcon, the only witnesses against Melendez, led to the decision of the State to not continue the prosecution against Melendez, thus leading to his release from death row.

#### **Defense Statement:**

The following statement was taken from Martin McClain, collateral defense counsel for Juan Melendez:

Mr. McClain noted two prominent problems that led to the release of Juan Melendez from death row: serious Brady violations coupled with ineffective assistance of counsel.

The Brady violations came from the State withholding evidence of another person's confession to the crime, and after indictment, taking sworn statements from both state and defense witnesses without the defense counsel being present and not disclosing this evidence to the defense. Mr. McClain noted that this practice was contrary to Florida case law, and he also expressed a concern that this practice of taking post-indictment statements was perhaps a systemic problem, indicating that the same state attorney had done this in the past, or that other state attorneys had also participated in this behavior.

McClain indicated that the ineffective assistance of counsel was an issue due to the failure of the original trial defense counsel to present the tape-recorded confession of Vernon James as evidence in the original trial. James confessed to a number of state agents, although the trial jury never heard any of the testimony.

Another issue in the Melendez case that Mr. McClain mentioned as problematic was the fact that the jury foreman lied during voir dire, hiding the fact that both he and his wife knew the victim of the crime. Also, Mr. McClain noted that in an interview with a local newspaper, the foreman admitted to convincing the last holdout to convict by using a picture of Melendez and saying that "someone with that haircut [afro] had to have committed the crime." What was most troublesome to McClain about the behavior of the jury foreman was that Florida Bar Rules prevent the defense counsel from interviewing jurors about improprieties that occurred during deliberations unless given court permission. The only way this information was exposed was through the admission of the jury foreman.

**Current Status:**

Melendez was released from Union Correctional Institution on 01/03/02.

**Alternate Suspect:**

Vernon James was murdered in 1986.

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Report Date:	06/19/02	JFL
Approved:	08/14/02	WS
Updated:	08/14/02	JFL