

More Than Borders Separate Us

Subtitle or overttitle needed

by Linda Thom

On Tuesday, March 4th my federal jury duty began. I had traveled from my home, 100 miles north and stayed overnight in Los Angeles. Up until a year ago, when I retired, I had worked for Santa Barbara County as a budget analyst. Although called numerous times for Superior and Municipal Courts, I had never served — which was just fine with me. This time I was retired and was looking forward to serving.

My jury panel was called and names were picked at random to determine who would sit in the jury box for *voir dire* wherein the attorneys and the judge ask questions of potential jurors. My name was selected. The jurors were not told what legal issue was involved, just a few facts and that the case would last about eight days. At the prospect of spending eight nights in a downtown LA hotel, I was feeling less enthusiastic about jury duty. This case involved a San Bernardino County Deputy Sheriff who shot the plaintiffs' son. The plaintiffs were obviously Latino immigrants.

As the attorneys began questioning the potential jurors, I relaxed. The judge asked if any of us knew or had relatives who were peace officers. "Great, I'm outta here," I thought as I truthfully answered that I probably know 100 peace officers on a first name basis and that includes the Santa Barbara County Sheriff. The plaintiff's attorney asked my opinion of deputy sheriffs. I told him that they were like husbands, some good and some bad. Silly questions deserve silly answers but that probably persuaded him that I would try to be fair and I ended up on the jury. To my relief, the case only lasted four days.

In the Rodney King and O.J. Simpson cases, the media have made much of the racial divide between **Linda Thom** was a budget analyst with Santa Barbara County in California. Now retired, she is a frequent contributor to THE SOCIAL CONTRACT

blacks and whites. I have thought about these issues but, frankly, I had not given much thought to the great divide between Third World immigrants and native-born Americans living in an industrialized society. This case opened my eyes.

The facts were tragic. Jaime was 23 years old when he died on Sunday, April 11, 1995 at 12:31p.m. Jaime was spotted by a resident who called 911 as he attempted to burglarize a house in Lake Arrowhead, a mountainous, weekend getaway for congestion-weary Angelenos. Jaime's autopsy showed that he had three times the amount of methamphetamines in his system required for a determination of "under the influence." An expert witness told the jury that "speed" creates the feeling of omnipotence. Jaime must have felt omnipotent that day because when the uniformed deputy drew his service weapon, approached from behind and ordered him to stop and raise his hands, Jaime turned to face the deputy, made eye contact and then turned back around. With his back to the deputy, he reached into his belt area. He then whirled around with a black metallic object in his hand. The deputy, believing Jaime had a gun, shot him. The bullet entered just below Jaime's armpit and traveled across his chest. The black metallic object was a cassette player. A friend of Jaime's later remarked that Jaime was probably trying to "play mind games with the deputy."

The deputy sheriff heroically attempted CPR. It was heroic because blood was flowing from Jaime's mouth and the deputy's prophylactic mouth piece wasn't working. With each contact with Jaime's mouth, the officer had to spit Jaime's blood out of his mouth and begin again. Blood covered his face and his clothing. After some minutes, backup arrived on the scene. The deputy, upon being relieved of CPR, stood to the side and cried. Jaime died.

All parties to these events seemed overwhelmed by sorrow, Jaime's family, Deputy Ricky W. and his

family, employers of the plaintiffs and witnesses to the burglary. From start to finish, Jaime's parents were completely overwhelmed. From their lack of understanding about the proceedings, they might as well have been from Mars. The jury members were also unable to understand some of the emotions and facts represented by Jaime's parents. The jury panel consisted of eight people; seven were white and one black.

Jaime was the youngest of six children and he and his brother, Raul, Jr., lived with their parents, Odelia and Raul, Sr., in one room — the employees' lounge of Santa's Village in Lake Arrowhead. Santa's Village is a theme park built by a gentleman who does, in fact, look like Santa Claus. Raul, Sr., Jaime and Raul, Jr. worked in season at Santa's Village doing unskilled labor such as picking up trash, operating the rides and raking leaves.

Jaime's parents were difficult witnesses, not because they were uncooperative but because they were confused, rambled on and didn't answer the questions. Odelia and Papa Raul could not speak English. Before they testified, they were given the oath and were told by the interpreter to state their names and then spell them; they could not spell their names. They were illiterate. Odelia rambled on that she knit the hat and vest Jaime was wearing when he was shot. She had given Jaime money to go to McDonald's the morning of his death and arranged to pick him up after she and Papa went to church. She frequently paused and teared up or sobbed but then suddenly seemed to show no emotion. Odelia testified that Jaime contributed to the family earnings but she was unsure how much because their employer, "Santa," paid in cash. She said Jaime, age 23, never left home and the family was always together. Jaime had no car, no girl friends, and gave all his money to her to manage.

We later learned from Santa's son, who was the general manager of Santa's Village, that both Raul, Jr. and Jaime had been fired in November prior to Jaime's death in April because "they were acting weird and scaring the tourists." Jaime walked around with his head completely wrapped in towels with only his eyes showing. After Jaime's death in April, when the park opened again in the summer, Raul, Jr. was rehired. When asked why Raul had been rehired, Santa's son replied that Raul, Jr. was now clean and sober.

No one asked how much the plaintiffs earned but

court documents showed that Raul, Sr. estimated that they earned \$12,000 that prior year. That is well below poverty level for a family of four. As it was paid in cash, that figure might be correct and might not. Certainly, that the men were paid in cash suggests that Santa did not withhold taxes nor social security.

At times during the trial, the proceedings became emotional. During testimony about the coroner's findings, Odelia saw the drawing of a body which showed where the bullet struck. She loudly sobbed and fell to the floor. The jury was immediately escorted out of the courtroom. Earlier, a witness, Mrs. S., testified that she had spotted the attempted burglary from her home across the street and called 911. She looked at Jaime's parents and told them how sorry she was about their son's death but "What could I do," she sobbed, "he was trying to break into Connie's house?" Odelia frowned at her. Again, the jury was escorted out of the courtroom. When the jury returned to the courtroom, Mrs. S. had been dismissed.

Jaime's father was a bit more in control of his emotions than Odelia or Mrs. S., but he was also confused. He said that Jaime's coffin cost \$19,000. He said that Jaime's body was flown to Michoacan in Mexico for burial. The family also traveled there and stayed nine days. Jaime's father had kept no receipts for his expenses. Papa Raul didn't know how old Jaime was when he died nor did he know in what month his son was born. Jaime's parents waited until a day and a half after Jaime's disappearance before they went to the sheriff's substation at Lake Arrowhead. They were furious that the station was locked when they arrived even though they had waited a day and a half to report Jaime missing. Apparently they didn't know either that only three officers worked out of the substation and they covered 360 square miles of territory. Odelia told us earlier that she lost consciousness when she learned of Jaime's death. Throughout the trial, Jaime's brother Raul, Jr. watched the proceedings. He openly cried many times.

When Deputy Ricky W. testified, Odelia crossed her arms and legs and glared at him with hate-filled eyes. Papa Raul mostly stared at the floor and Raul, Jr. quietly cried. The deputy's voice and body language expressed overwhelming sadness. He, unlike the plaintiffs, kept emotional control on the stand. He recounted the facts but he also said that he feared for his life when Jaime turned his back on

him, reached into his waist area where weapons are usually held and then suddenly swirled around with something black and metallic in his hand.

During closing arguments, the plaintiff's attorney described the deputy's action as that of a cowboy. The defendant's attorney said the jury should finally stop "playing with the deputy's mind." The jury received instructions from the judge. The legal question was, did the deputy use excessive force when attempting to apprehend Jaime. If we decided that the deputy violated Jaime's Fourth Amendment rights, we were to determine damages. The eight jury members were instructed that our findings must be unanimous and we retired to another room for deliberations.

During deliberations, some of the jurors' comments told about the wide gulf between those from a developed nation and those from the Third World. Several jurors were sure that brother Raul and Mama Odelia were faking their grief. After all, it had been almost two years since Jaime got shot so why were they crying? Odelia was over dramatic they thought. She fell to the floor and seemed to turn her emotions off and on they observed. How could she assert that she managed all Jaime's money and he never left home without his parents. How did he get the methamphetamines? Others couldn't imagine that Raul, Sr. didn't know Jaime's age and were amazed that he hadn't kept receipts. Surely, he had canceled checks they thought, but how would an illiterate person keep a checking account? Raul, Sr. said that the coffin cost \$19,000 but the family was asking for only \$15,000 in payment for their expenses. Probably Raul meant \$1,900 the jury decided. Some jurors were confused about why the family buried Jaime in Michigan. I explained that it was Michoacan, not Michigan.

We decided within half an hour that Deputy Ricky W. did not use excessive force but decided to go to lunch to make it appear that we had not hurried the decision. We were assigned a "baby sitter" at lunch who made sure we did not talk to anyone or wander astray. After lunch, one of the jurors asked rhetorically, "how in the world did this case come to court? The plaintiff's attorney must be an ambulance chaser." I had been upset that the attorney characterized the defendant as a cowboy, but he seemed to me to be extremely caring and considerate of his clients' feelings. Moreover, Jaime's parents were clearly angry about their son's death. Even well educated people in the United

States become very angry, blame others and then sue. I didn't express my thoughts but I felt that both the attorney and Jaime's parents brought this case to trial. The verdict the jury reached seemed correct. Deputy Ricky W. was doing his job.

Following the announcement of the verdict, the jurors were told that we did not have to talk to anyone but we could if we wished. We chose not to talk to either the plaintiffs or to the defendant. As we walked out of the jury room, the plaintiffs were in the hall. Mama Odelia glowered at us. The jury foreman, Linda B. said, "If looks could kill..." The deputy caught my eye before he went down the elevator. He was crying and mouthed the words, thank you.

What has come of this? For Raul, Jr. perhaps some good came of Jaime's death because Raul became clean and sober. For Jaime's parents, how could any good ever come of losing their son? Would Jaime have been alive and drug-free if his family had remained in Mexico? Santa got cheap labor but at what cost? A friend who is a sheriff's commander told me that officers who shoot people typically leave policing and perhaps this will be the case for Ricky W. A great gulf exists between Jaime's family and Deputy Ricky W.'s. The jurors were entirely non-Hispanic. Would middle-class, Hispanic-American jurors have a different view?

Currently, our nation's politicians support a variety of immigration myths such as the one which states that Third World peasants enrich us. During debate on Lamar Smith's immigration bill last Spring, Representative La Tourette said in part, "Throughout history, legal immigrants have enriched our economy and the goodness of our country." Immigrants are good and hard-working people, they say, and we should not deny them the opportunities our country has to offer. Jaime and his family are typical of the majority of immigrants currently coming to our country through family reunification. Fortunately, most stories do not end with the prince getting shot and killed. The facts in this case suggest that unskilled, uneducated immigrants lead economically bleak lives. No one appears to have been enriched, economically or socially.

Lest some suggest that one immigrant family does not make the case, those who live in communities which are heavily impacted see countless difficulties associated with immigration from cultures very different from our own. Some cultural collisions border on the amusing. For

example, twenty-five years ago, Santa Barbara County passed an ordinance banning the killing of domestic animals. Southeast Asian refugees, it seems, had been dining on their neighbors' pets. The pet owners probably did not feel enriched.

Rodney King and O.J. Simpson make the news but California's racial and cultural divide is not just about blacks and whites but also about Third World peasants and ordinary Americans. It's about Korean immigrant shopkeepers shooting Mexican immigrant youths they believe are shoplifting. It's gang violence between blacks and Latinos. Robert Frost was correct: good fences make good neighbors because more than borders separate us from our Third World neighbors.