

Court overturns conviction in '97 murder

Several key witnesses not called to testify

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Nearly a decade after an alleged street gang member was convicted of murdering a rival in a pizza restaurant on the city's Southwest Side, a federal appeals court has ordered a new trial, citing numerous alibi witnesses never called to testify.

The U.S. Court of Appeals for the 7th Circuit ruled that Christopher Raygoza received an unfair trial because his lawyer did not call several witnesses who could have testified that he was more than 30 miles away at the time of the shooting.

"Raygoza's alibi witnesses included both family members and unrelated people; their stories were corroborated by telephone records and train tickets," according to the ruling issued in January.

Among the witnesses was an attorney, who has since testified that she called the home of Raygoza's mother in Highland Park 30 minutes before the shooting and spoke to him, according to the ruling.

The failure of attorney Thomas Brandstrader to call the witnesses at Raygoza's trial "undermines our confidence in the [conviction] so seriously that we conclude that there is a reasonable probability that the result would have been different," the court ruled.

Brandstrader said he "respectfully" disagreed with the appellate court's conclusion but declined to comment further because he may have to testify about the case in the future.

Lawyers for the Illinois attorney general's office, who defended against the appeal, have filed a motion that requests a rehearing of the case.

Attorney Leonard Goodman, who now represents Raygoza, has filed a motion that requests authorities re-examine five fingerprints found on the front door of the restaurant to see if they can be linked to another man who other witnesses now say was the gunman. Raygoza was excluded as the source of the prints before his trial.

John Gorman, a spokesman for the Cook County state's attorney's office, said it would not oppose the motion.

The man, whose prints were not on file at the time of the shooting, "bears a striking

resemblance" to Raygoza, Goodman said.

"I'm absolutely positive Christopher is innocent," he said.

The shooting occurred shortly before 10 p.m. June 4, 1997, when a man flashing gang signs and declaring that he was a member of the Latin Souls street gang burst into De Arco's Pizzeria, 2819 W. 63rd St.

The man fatally shot Miguel Macias, 19, and wounded another youth--both members of the United Latino Organization street gang, according to the appellate court's opinion.

Within days of the shooting, police arrested Raygoza, then 19. At first, he told police that he had been at the home of his mother, Maria, in Highland Park celebrating her birthday at the time of the shooting.

When police continued to question him, Raygoza requested an attorney, but they refused, according to the court ruling. After 13 hours of interrogation, Raygoza signed a statement saying he had been the gunman, according to the ruling.

But before trial, the confession was thrown out after a judge ruled that police had wrongly denied Raygoza's request to see an attorney. At the trial, Cook County prosecutors called several witnesses who said they identified Raygoza as the gunman.

In Raygoza's defense, Brandstrader called only one alibi witness--Raygoza's mother--but never asked her about the birthday party on the night of the shooting and did not present any other alibi witnesses, according to the ruling.

Circuit Judge Stanley Sacks convicted Raygoza after a bench trial and sentenced him to 45 years in prison.

After the conviction, Goodman filed a motion for a new trial to present the testimony of the other alibi witnesses and argued at the hearing that Raygoza's defense lawyer had done an inadequate job.

Brandstrader testified at the hearing that he found a variety of problems that prompted him not to believe the alibi witnesses' testimony and decided to base his case on challenging the eyewitness identifications, according to the ruling.

Had the other alibi witnesses been called, however, a "consistent story from all of them would have forced the [judge] to confront the possibility that Raygoza had been mistaken for another young Hispanic male with a blond ponytail," the appeals court said.