

— Aldape: Speeches  
(10/94-5/02)  
—



# I. Overview

## A. 7/13/82 (10 p.m.)

1. car stalls / HPD arrives
2. cop shot / Arrijo shot
3. issue: which one?  
1 innocent

## B. 1-1/2 hr later

- a. RC emerges - shot
- b. 9mm & 357
- c. no phys. evid. → RAG
- d. looks open & shut - RC

## C. HPD Ofc

- a. 16 wits kept all nite - kids
- b. orig. confusion
- c. 6 a.m.: some ID RAG

## D. Trial

- a. 8 main wits for D.A. (from neighborhood)
- b. 4 for RAG
- c. conviction & death penalty

## II. '93 Habeas Hrg.

### A. Testimony from

FA, PD, HG, EH, GB = ⑤

VF, HG, ~~FA~~ 1.

1. 5 of 8 neighborhood wife + 1 more + our 3
2. other 3: State would've used if helpful
3. Hadn't discussed > 10 yrs.

### B. Crime Scene

1. mostly kids

PD, TM, EH, FA, ~~RO~~  
RO, ~~JT~~, ET = ⑦  
7

2. HPD:

handcuffed  
pointed gun  
threatened arrest

{ yelled  
cursed  
accused of lying  
threatened revoc. of spouse parent  
take baby

- insisted with ID someone

## C. HPD Hallway

GB

1. 1 anglo segregated (1:16)

FP, EH

2. Galvan, Flores, Jose Jr. didn't see shooting

FP, HG, TM, ET, Weber = ⑤

FP, TM

3. RAG (handcuffed) - 2 walk-thrus

a. Jose Jr.: "not him"

b. Galvan: "mojado"

4. HPD knew RC lead

Webb, Mont.

Bax

a. thought RAG culpable, shooter was

b. D.A. knew better

## D. Statements

HG, PD, JH, TM

1. 4 wits: RC, not RAG

FP

2. 1 wit: saw 9mm w/ RC

3. HPD

JH

a. "liar"

HG, PD, JH, TM, FP = ⑤

b. doctor statements

" " " " , EH = ⑤

c. forced wits to sign



E. Lineup (6 a.m.)

Px 24

FA, HG, EH, JH, PD,  
TM, ET = ⑦FA, HG, EH, JH,  
PD, TM, ET = ⑦

PD, TM, JH, FP = ④

PD

HG, TM

HG

1. only 1 w/ long hair/beard
2. group: learn others ID
3. Jose Jr.: not RAG
4. Galvan pressures.
  - a. to Jose Jr., Vera et al: "mojado"
5. 4 write to HPD: "not RAG"
6. HPD forces false statements (or none)
7. HPD: don't talk to RAG's attys
8. Flores unsure

## F. Reenactmt (7/22/82)

HG, Moen

1. selected wits meet to pick consensus story

FP, HG

2. wits w/ exculp. evid. not invited

HG, FP

3. wits -- "not RAG" -- argue or ignore

4. Galvan & Flores  $\Delta$  alot

## G. Pretrial M+g. (DA's ofc.)

FP, PD, TM, JH,  
Moen = ⑤

1. RC mannequin: holes/blood  
- obviously dead

HG, PD, TM = ③

2. pics.: "RAG shot cop"

HG, PD, TM, FP = ④

3. wits: "RC, not RAG"  
- DA's ignore, yell or threaten

## H. Trial

1. mannequins - entire time

2. Galvan, Jose Jr. & Flores

a. 1st statements - vague

b. overheard - unsure

c. become more certain

FA, HG, PD = ③

3. DA pressure → with lie or not whole truth

4. false evid:

a. Diag on directn of hands

b. HG forced to lie

c. JH: "<sup>Moen</sup>on drugs" - no of.

d. JH & <sup>Moen</sup>Vega: told Moen privately

e. cemetery murder <sup>Moen</sup>

f. ethnic prejudice <sup>Moen</sup>

x. n

Moen

maen

mren

moen

Moen

I. Innocence - but for misconduct

A. RC

1. violent
2. prior murder + armed robberies
3. hated cops
4. aliases
5. came out shooting
6. had 9mm + 357
7. owned 9mm
8. TMDT

B. RAG

1. easygoing
2. no record
3. cowering
4. no TMDT
5. no evid. touched 9mm or 357

C. Jose, Jr.

1. strongest wit.
2. to HPD: shot w/ left
  - a. RC lefty
  - b. RC's left hand - TMDT for 9mm
  - c. FP saw RC w/ 9mm

D. locatn of shooter

1. Floyd
2. wife
3. TV

## J. Fed. Habeas Ruling

1. intimidation
2. ID procedures
3. Brady
4. innocent: quote - Memo in Spt of M/4  
Suppress p. 13 & 14 n. 4  
M/Dismiss (Tab 4) at 4
5. deliberate misconduct
6. with. credible - HG, PD, FP, JH

## III: Timing of Ruling

A. After Jury Selected - like J. Onion  
common at govt's request

B. Why

1. attys know inspect
2. 14 yrs
  - a. innocent
  - b. cops/DA's: deliberate, outrageous misconduct
3. appeal
  - a. 2-3 yrs
  - b. with disappear

4. new attempts to intimidate wife.  
a. surprise at home or work.

JH

b. tape w/o permission

HG

c. refuse to leave (foot in door)  
- repeat visits

HG, TM

d. threaten subpoena

HG

e. yell - "why'd u say HPO made u say this?"

HG

f. accuse RAG of other crimes

PD

g. "RAG could kill again"

HG

h. "u want someone guilty to get out?"

JH

i. accuse wit. of # for testimony

FP

j. discouraged wife from contacting me



They argue fed ct is unfair  
b/c it wouldn't let them amend wit list.

1. State decided not to offer stipulation
2. state didn't raise on appeal
3. even if fed ct wrong, once final it is valid
4. evid. of std. cop practice cumulative, so ct ruling correct

1. hab pet showed our claims
2. wit. list showed who
3. it gave them chance to stip.
4. never raised it again
5. never raised in 5th Cir.

= waiver

We need time to show this.

Let's go pick jury, so time  
to respond + so ct can review record

---

They say fed ct ruling not binding.

But coll. estopl doesn't depend on which ct,  
just which parties + issues.

fed Ct said new trial, but not w/ tainted evid.

under their rationale, fed ct says new trial,  
they ignore + execute

#3

## M/ Suppress

fed J. ordered new trial  
- but w/o tainted evid.  
- fair trial - R52 lets set aside if not

### A. Suppress

1. '82 test. re RAG as shooter/painter
2. test. at retrial re
  - a. same
  - b. at lineup etc. re same
3. wit. statements

### B. Importance

1. no physical evid.
2. ID crucial

### C. Fed Ct. Findings

1. scene: threats / handcuffs
2. HPD Roll
  - a. RAG walk-thru
  - b. Galvan - "mojado"

3. statements

- a. gd info omitted
- b. bad info added

4. lineup

- a. 1 long-hair
- b. wife talked
- c. Galvan - "mojado"
- d. statements
  - (i) omit gd info
  - (ii) Δ'd to → RAG

5. reenactmt

- a. consensus
- b. ignore gd. info

6. pretrial mtg.

- a. mannequins - bloody shirt
- b. pics of 2 men
- c. Garcia can't Δ story

7. trial: mannequins8. rulings: intimidatn, ID, Brady, other

## D. Reliability Test (Manson)

### 1. for in-ct. ID

- a. was out-of-ct ID proc. "unnec. sugg."
- b. if so, was it so corrupting →  
"subst. likelihood of irreg. mis-ID"
- c. State must show by "clear & convincing evid."  
in-ct. ID wasn't fruit of out-of-ct proc.
- d. State must show "beyond reas. doubt"  
no harm from in-ct ID

### 2. fed ct. found

- a. State insisted on perjured testimony  
re ID of RAG as killer
- b. ID procedures → perjured & erroneous  
but sincere belief RAG = killer
- c. State offered no evid. of non-harm

### E. Coll. Estoppel

1. U.S. & TX rule: can't retry necessarily determined fact issues b/w same parties
2. fed ct. found: ID of RAG tainted & unreliable
3. if unreliable in '82, still is
- [4. new testimony = fruit of tainted procedures]

### [F. RAG Innocent]

F/6

F. Old #15

**Atlas, Scott**

**From:** Stallings, Paul E.  
**Sent:** Thursday, May 30, 2002 7:40 PM  
**To:** All Attorneys - Domestic; All Attorneys - International  
International

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**Subject:** Article by Scott Atlas

I commend to you the excellent article by Scott Atlas, "Free Aldape: The Saga of an Extraordinary Death Case," in the current issue of LITIGATION, The Journal of the Section of Litigation of the ABA. It will make you proud of our firm.

5/31/2002



from the desk of

SCOTT J. ATLAS

May 31, 2002

CC: Sarah Cooper  
Rick Morris  
Mannuel Lopez  
Anne Clayton  
Michael Mucchetti  
Scott Breedlove - Firm  
Eric Stahl - Firm  
Bill Sims - Firm  
Stephanie Orain  
Robert Summerlin  
Susan Brown - Firm  
Cavanaugh O'Leary  
m - 314

I hope I communicated  
this in a way that does  
justice to this case. I enjoyed  
telling the story.

V I N S N & E L K I N S

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Regards,  
Scott

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American Bar Association

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## War Stories

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Web site: [wbpark.com](http://wbpark.com)  
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# Free Aldape: The Saga of an Extraordinary Death Case

by Scott J. Atlas

I never wanted to take a death penalty habeas case. Although I have handled my share of pro bono work, I litigate business lawsuits and did not feel equipped to tackle a capital habeas case. Besides, I always thought that anybody whose conviction for capital murder was affirmed on appeal almost certainly committed the crime and deserved the consequences. Then, in mid-1992, the Consul General of Mexico called. He wanted to discuss the case of a Mexican national imprisoned on Texas's death row for the murder of a Houston police officer. Not wanting to appear rude, I agreed to a meeting.

So began a five-year legal struggle that would be waged by a team of more than 20 lawyers, uncover incontrovertible evidence of innocence that the jury never heard, and expose a pattern of official intimidation, misconduct, and abuse. The case would shuttle through 16 judges in five state and federal courts. Our client would come within hours of execution. The uproar over his impending date with death would create a diplomatic incident and endanger Texans imprisoned in Mexico. Eventually, our client became the first Mexican citizen released from death row in the United States. He received a hero's welcome in Mexico, only to die tragically three months later.

In the process, I learned disturbing things about the criminal justice system. I also came to appreciate the vital role that civil litigators can play in helping the criminally accused receive a fair trial and minimizing the possibility that innocent people will be executed.

This learning process began for me a few weeks after the Consul General's call when I met with his legal advisor and Texas Resource Center lawyer Sandra Babcock. Congress funded the Center to represent death row inmates challenging their convictions. I heard quite a story.

Sandra explained that in 1982, Ricardo Aldape Guerra, a 20-year-old from Monterrey, Mexico, crossed illegally into

Texas and came to Houston. Around 10:00 p.m. on July 13, 1982, Houston Police Officer James D. Harris parked behind a stalled car in a dangerous neighborhood. Harris instructed two men standing next to the stranded vehicle to put their hands on his patrol car. One man complied. The other, without warning, shot a nine-millimeter pistol from point-blank range at the officer's head. He died instantly. As the two men ran away, the killer fired the same gun at the windshield of a passing car. The bullet struck the driver, Jose Armijo, Sr., who eventually died. A few hours later, one of the two fleeing men died in a shootout with police. The other, Ricardo, was arrested, charged, convicted, and sentenced to die.

The consular officer and Sandra insisted that Ricardo was merely the murderer's unwitting companion. On the dead body of Ricardo's acquaintance, the police had found both the murder weapon and the murdered officer's revolver. In addition, the State had argued during voir dire that Ricardo's status as an "illegal alien" could be considered by the jury in determining his sentence. Prejudice against undocumented workers explained the death sentence. Ricardo had been railroaded after the police killed the real murderer. Sandra had already filed a state habeas corpus petition, but she was urging Mexico to hire a large law firm that could better afford to investigate the case.

I remained skeptical about getting involved. I was not a criminal lawyer. And I knew that many prisoners claim innocence. Still, I was disturbed by the fact that the man killed in the police shootout had both guns, and I was enraged by the prosecutor's comment about Ricardo's immigration status. At the end of the meeting, I promised to review the record and consider their request. Sandra sent me the 4,700-page trial transcript, her 150-page habeas petition, offense reports and witness statements, and dozens of memoranda describing her factual investigation and legal research. The documents told a disturbing tale.

Ricardo grew up in Monterrey. He worked in a factory

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*Scott J. Atlas is chair-elect of the Section of Litigation and a partner with Vinson & Elkins, L.L.P., in Houston, Texas.*

earning \$35 per week. He coached a children's soccer team. He had never been in legal trouble. He felt constant pressure to earn more money for his family. So, after turning 20 in April 1982, he crossed the Mexican border illegally. In Houston he found a job earning \$3 an hour. He shared an apartment with several other young, undocumented Mexican workers.

In June 1982, someone new began visiting the apartment. Ricardo and his roommates never knew the man's real name. His driver's license listed him as "Roberto Carrasco." Acquaintances claimed that Carrasco boasted of several killings and professed to hate all police. He always carried a nine-millimeter pistol, which he never allowed anyone to touch.

According to police records and trial testimony, around 9:00 p.m. on July 13, 1982, Ricardo asked to borrow a friend's car to buy a soda at a nearby store. Carrasco, who was visiting, said he was coming along. After buying the sodas, Ricardo drove around the neighborhood, speeding. At about 10:00, Officer Harris parked near the car, which had stalled. Ricardo and Carrasco were standing nearby. One of the two men shot Harris and Armijo with the same pistol. Both men ran away.

At about 11:30, several police approached a dark garage looking for the two men. Carrasco came out shooting. The police returned fire, killing him. The police found the murder weapon on the ground near his body and the dead police officer's weapon tucked under his belt.

They also discovered Ricardo hiding nearby and arrested him. They found his .45 caliber pistol wrapped in a handkerchief on the ground nearby.

Around midnight, the police took 16 neighborhood witnesses to police headquarters downtown and kept them there all night. Many signed confusing statements. After a 6:00 a.m.

lineup, several gave a second statement identifying Ricardo as the shooter. In October, Ricardo was tried, convicted, and sentenced to death. The state appeals court eventually affirmed.

The more I read, the more troubled I became about many aspects of the case. First, the gun issue seemed backward. At trial the prosecutors had attempted to explain why they were trying Ricardo as the shooter even though Carrasco ended up with the murder weapon. They argued that the two men left their guns on the front seat of the car while joyriding in the neighborhood and that Ricardo grabbed the wrong gun as he left the car. But why would Carrasco let Ricardo switch guns if he had seen Ricardo use Carrasco's gun to shoot and kill an officer, grab the officer's gun, and then shoot a second man? It made no sense.

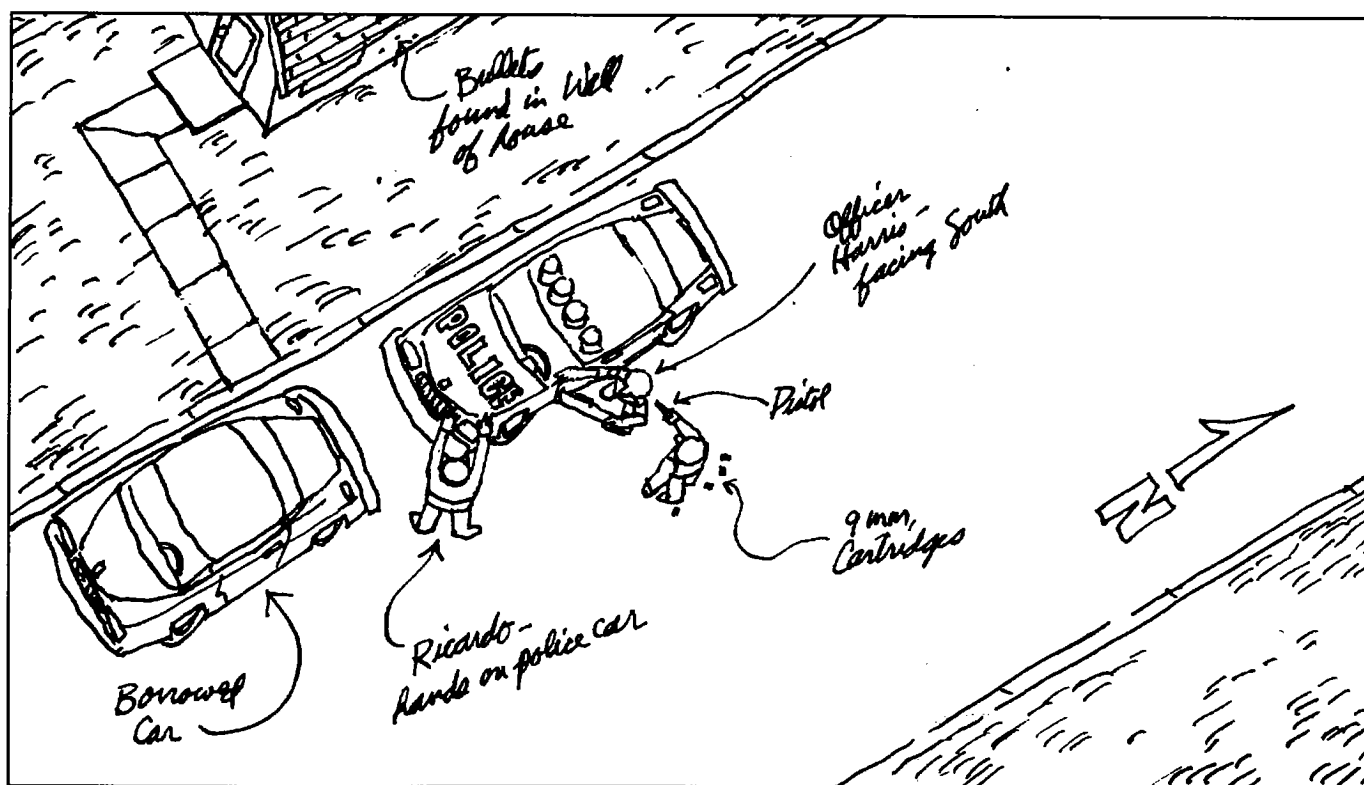
Second, the earliest witness statements seemed confused about which man had been the shooter. Later statements pointed to Ricardo. That also seemed suspicious.

Third, I found offensive the prosecutors' comments during jury selection about the relevance of Ricardo's "illegal alien" status.

Fourth, prosecutors argued that they represented the two murder victims' families and presented testimony during the guilt phase of the trial about the loving relationship the murdered police officer's widow shared with her late husband and the impact of the Harris and Armijo deaths on their families. These arguments seemed like improper appeals to sympathy.

Fifth, one prosecutor, citing no proof, accused one of Ricardo's best witnesses of testifying under the influence of liquor or drugs.

Sixth, one prosecutor cross-examined Ricardo with questions suggesting that he and Carrasco had killed someone else earlier the same evening. I later found a previously undisclosed offense report reflecting that this accusation



was completely bogus and the prosecution knew that before trial began.

Finally, I compared the eyewitnesses' testimony to police diagrams of the murder scene and found a fundamental flaw in the State's case. Every witness placed Ricardo at the front of the police car at the time of the shooting and the police officer behind his own car's open driver's-side door. This meant that Ricardo was about six feet due south of Harris. But police had testified at trial that when shot, Officer Harris was facing south and was shot three times on the left side of his head by someone standing about two feet due east of Harris. The evidence supporting these conclusions was clear: Gun powder residue surrounded Harris's wounds; blood spatters traveled east to west across his car; police found nine-millimeter shell casings a few feet east of Harris's body and three nine-millimeter bullets in a house wall almost due west of his car. No one standing six feet south of Harris could have shot him at point-blank range from east to west. This seemed elementary, but no one explained it to the jury.

I decided to take the case. I solicited volunteers throughout our firm. Eventually, more than 25 lawyers and legal assistants from our Dallas, Houston, and Washington, D.C., offices responded. Many were transactional lawyers. I considered the number of volunteers remarkable, especially because the firm

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## Several witnesses candidly conceded that they had committed perjury at the original trial.

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did not begin giving full billable credit for pro bono time until several years later.

At the first team meeting, I delegated responsibilities to each team member. I asked the lawyers either to do legal research or to help with the factual investigation. I asked legal assistants to summarize the trial transcript, the witness statements, and the police reports. We held regular team meetings late in the day and connected everyone in Dallas and D.C. to a Houston conference room by speakerphone. We hired a first-rate local private investigator. A Resource Center investigator also agreed to help.

Shortly after taking the case, I drove to the prison unit that housed Texas's death row to meet our new client. Ricardo expressed pleasure that the firm had agreed to represent him but could not hide his skepticism. We were, after all, his fourth set of attorneys.

And there was good reason to be skeptical. Even finding witnesses proved daunting. Most of the 16 eyewitnesses had been teenagers in 1982. Several were undocumented Mexican laborers. Some had moved away. Many had no telephone.

The lawyer heading our investigative effort, Rick Morris, and the Resource Center investigator hunted for witnesses nightly. Often they found no one, many would not speak to them or did not want to help, and others expressed fear of police reprisal or deportation.

It took months to find many of the witnesses. After inter-

viewing several, Rick described their stories as so incredible that he urged me to hear them first hand. So daily for several weeks, around 6:00 p.m., we replaced our gray suits and silk ties with boots, jeans, and T-shirts and drove to different parts of Houston to interview witnesses. Even though many of them had not discussed this case in more than 10 years, their stories were remarkably similar. The eight or nine who had been at the murder scene had seen Carrasco shoot the policeman or had seen Ricardo standing at the front of the police car with his hands empty and spread out on top of the police car at the time of the shooting.

When we reminded witnesses that their stories contradicted either the signed statement they gave the police or their trial testimony or both, their responses were shocking. They described being threatened by the police, who insisted they sign statements either without reading them, without translating them into Spanish for non-English-speaking witnesses, or without correcting falsehoods describing Ricardo as the shooter. They claimed that police forced witnesses to sign by threatening to arrest them or their family members and even intimidated one woman into signing by threatening to take away her infant child.

Most witnesses said that while waiting in the police station to be questioned on the night of the murders, before the lineup was conducted, they saw Ricardo walk by wearing handcuffs, his hands covered in paper bags. They described one witness, a Mrs. Galvan, calling him a *mojado* (Spanish for "wetback"), saying that *mojados* come to this country to steal jobs and commit crimes and urging everyone to identify him as the shooter.

According to witnesses, Mrs. Galvan spent most of the evening with Jose Armijo, Jr., the 10-year-old son of the second murder victim. He had been in the car when his father was shot. Several witnesses said they overheard him that night telling Mrs. Galvan that he could not identify the shooter, but she insisted that he pick Ricardo. Later, during the lineup, most said that she again identified the *mojado* as the shooter.

Several witnesses described a meeting at the murder scene on July 22 where the police and prosecutors reenacted the events of July 13 and helped everyone conform their stories to those of everyone else and to the crime scene. Those continuing to insist on Ricardo's innocence were not invited to this meeting.

Most witnesses described another meeting the weekend before trial in the prosecutors' office. They said that the prosecutors repeatedly showed them pictures of Carrasco and Ricardo and identified Carrasco as the dead man and Ricardo as "the man who shot the cop." Several witnesses candidly conceded that they had committed perjury at the original trial as a result of threats and pressure from the police and the prosecutors.

We also found the original official court translator, who had been replaced during the trial at the prosecution's request after a witness complained that she was not giving a literal, word-for-word translation. She told us that she remained in the courtroom and translated for Ricardo, who at the time spoke no English. She heard her successor make repeated translation errors, some of them changing the meaning of both the questions and the answers. Incredibly, she had made notes of every translation error and still had her original notes.

An investigator tracked Mrs. Galvan to a small California town. I visited her. She admitted most of the accusations against her, thinking she had done nothing wrong. She signed a written statement. Weeks later, I began to worry that she might someday falsely claim she had signed the statement





under duress. So, with her permission, I audiotaped a long-distance telephone conversation in which she and I reviewed each sentence in the statement.

As part of our preparation, we took steps to understand better the criminal law and the peculiarities of habeas corpus law. First, I ordered an extensive collection of articles and videotapes from the ABA Death Penalty Representation Project. We transcribed the tapes to reduce attorney viewing time. These materials described many legal theories and suggested avenues of factual investigation.

Second, we spoke extensively by telephone with former ABA Litigation Section chair and federal constitutional law expert Mike Tigar and local law professor and state constitution law expert Neil McCabe. This helped focus our research efforts on worthwhile topics.

Third, I persuaded an experienced capital trial and habeas lawyer, Stan Schneider, to join the team. At first we consulted him sporadically on criminal law and procedure. But he became fascinated with the case and eventually joined our team as a full-fledged member.

We assigned every legal issue that we identified to a team member for research. Slowly we began to build a case for Ricardo's release or retrial.

I asked two legal assistants to review newspaper archives for Houston's two daily newspapers during the year preceding Ricardo's trial to determine whether a "hostile environment" toward illegal immigrants prevailed in Houston at that time, potentially poisoning the jury's deliberations. What we found provided background for an ethnic prejudice argument based on the prosecution's "illegal alien" comment. During that time Congress had been focusing the country on illegal immigration by debating a new bill to create an amnesty program offering permanent resident status for millions of undocumented U.S. residents. As a result, nativist sentiment filled the Houston newspapers.

A legal assistant reviewed each television news report about the case and obtained either a videotape or audiotape copy of each one that was potentially useful. She made a major find—a clip showing an interview with Jose Armijo, Jr., on the night after his father was shot. The videotape confirmed that Jose Jr., like most 10-year-old children, was immature, unobservant, and impressionable. More important,

the end of the news clip showed an artist's sketch depicting a man who looked like Carrasco shooting into the Armijo car and a man who looked like Ricardo running away.

The Mexican government also provided considerable help. If government officials ever offer to place at your disposal the law enforcement resources of their country, I suggest you accept gratefully. My every request was fulfilled. Within days Mexican officials found potential witnesses who lived anywhere in Mexico. Within a week, they provided documents proving that Ricardo had never been convicted or even arrested for a crime anywhere in Mexico. At their request, Interpol checked its files looking for a match to Carrasco's fingerprints. I had always considered Interpol a fictional world crime-fighting organization, but it is real.

Mexico's then-President Salinas took a keen interest in the case. At his invitation, I flew to Dallas to meet him. He asked detailed questions about the case.

I was spending so much time on the case that I became a stranger at home. My younger son, then six years old, complained one Saturday morning as I headed to work, "Dad, this makes six or 20 weekends in a row when all you do is go to the office and work on Ricardo's case. Why don't you just tell everyone that he's innocent and be done with it?" I remember wishing the courts would accept my word as easily as he did.

Ricardo's execution was scheduled for September 24, 1992. I targeted September 16 as the deadline for completing our work on an amended state habeas petition. I picked that date in part because September 16—known as *el Diez y Seis de Septiembre*—is Mexico's Independence Day.

## The Non-hearing

We missed our September 16 target date by hours, filing our petition about 4:00 a.m. on September 17. When I had first seen Sandra's 150-page petition, I commented that we would show her how to write more succinctly. I had to eat my words. Our petition covered 296 pages. As I became more familiar with capital habeas law and strategy, I realized that the petition must contain every conceivable legitimate argument to avoid waiver.

The court scheduled a hearing on our petition for September 21. On Friday, September 18, the assigned prosecutor called to say that she would be requesting a four-month stay of execution to give her time to finish reading our brief and prepare a reply. I relaxed because I was certain that the court would grant this request.

Although normally careful not to guarantee success in any court proceeding, I confidently—and, as it turned out, foolishly—assured Ricardo the morning of the hearing that the judge was sure to grant the State's stay request. To everyone's surprise, the judge announced that our brief contained nothing new and that he would not grant a stay or a full hearing to air our misconduct allegations. He told us that he had received letters and petitions containing more than 1,000 signatures from the United States, South America, and Europe demanding Ricardo's release. He complained that we were litigating the case to death. Even the prosecutor urged the state judge to reconsider. But the judge wanted nothing more to do with the case. The hearing lasted 10 minutes.

This ruling shook my confidence. I could not imagine the State's losing an uncontested stay request. This experience taught me a lesson. I concluded that political pressures on elected state judges militate against a fair hearing for someone

already convicted of a capital crime. Except in the rare case of indisputable scientific evidence of innocence, I suspect many elected judges fear that members of the public will label as soft on crime any judge who either releases or grants a new trial to a convicted killer, even if the proof of reversible error is overwhelming.

The leader of a local group of Ricardo's supporters calling itself the "Free Aldape" committee had attended the hearing and, as soon as the judge rejected our request for relief, ran into the hallway to address the waiting television cameras, condemning the ruling as the act of a racist court system. In the background, others were shouting "white racist justice" and "genocide." The major statewide media reported these comments the next day. In response, the Assistant Attorney General assigned to handle the federal habeas proceeding publicly accused me of trying to turn the case into a "media circus."

We filed an emergency request for stay in the highest state criminal appeals court. The court granted our request within hours.

Several weeks later, I met with the Attorney General of Texas at his request. After assuring me that his office would oppose our position vigorously, he wanted to know how to improve relations between the two sides. I suggested two steps.

First, I requested an indefinite stay of execution so long as our briefs were filed in a timely fashion. He readily agreed. One absurd aspect of the capital habeas process is the repeated cycle of deadline/last-minute emergency stay/next deadline/next stay/etc. This agreement meant that we would work fewer all-nighters, Ricardo could leave his cell 10 to 14 hours (instead of one hour) each day, and prison officials would stop strip searching him each time he left his cell.

Second, I explained the unfairness of being criticized for the conduct of people I could not control. I asked him to suggest that next time his colleague seek my side of the story before criticizing me. The problem disappeared, and I ended up working well with my adversary.

### *Cause Célèbre*

While waiting for an appeals court decision, I asked Mexican consular officials to provide us with a copy of any articles about the case from newspapers outside of Houston. I was not prepared for what I discovered. Ricardo had become a folk hero in Mexico and in other countries. I found articles in Mexican newspapers describing at least four songs, several books, and a possible movie about him. Supporters had formed "Free Aldape" organizations in several U.S. and European cities. More ominously, a few days before the September 21 hearing, Mexican prisoners in a northern Mexico jail had threatened to kill several Texans imprisoned there if Ricardo were executed.

To help calm the passions generated in Mexico by this case, I decided to speak frequently to the Spanish-speaking press and assure everyone that we had "every hope" for Ricardo's eventual vindication. Several times I flew to Monterrey, Ricardo's hometown, and conducted press conferences in Spanish. The press, especially in Mexico, responded sympathetically to my limited Spanish. Mexican journalists expressed gratitude for our pro bono efforts. Television reporters seemed to broadcast only my most coherent comments in Spanish. Print journalists went one better: When they quoted me in the newspaper, they invariably improved my grammar and occasionally attributed to me words I did not even know.

My appearances on Spanish-speaking television triggered one unexpected benefit. Several previously undiscovered eyewitnesses saw me being interviewed about the case and called my office to tell what they had seen. They spoke little English, and several were undocumented. When I asked what had given them the courage to call a stranger, each one said that I "did not sound like a lawyer" on television. I interpreted this as a comment on my limited proficiency in Spanish. It reminded me that speaking legalese in any language is probably not the best way to instill confidence in witnesses (or clients, for that matter).

I had naively interpreted the state appeals court's immediate granting of our stay request as a sign that the court might "see the light" and order the trial court to conduct a hearing. I was wrong. In January 1993, the appellate court denied our habeas petition in a one-page, unpublished, per curiam opinion. It seemed incredible that no court was willing even to hear our recently discovered evidence.

Although deeply disappointed, Ricardo was thankful for our efforts. To show his appreciation, he gave me a gift he had made—an inlaid clock, constructed mostly from prison-issued toothpicks. It sits prominently in my office today.

As we turned our attention to preparing a federal habeas petition, I ran into my former mentor, Thomas Gibbs Gee. After graduating from law school, I had clerked for him on the U.S. Court of Appeals for the Fifth Circuit. In 1991, Tom had left the bench and joined another Houston law firm, heading its appellate section. After we briefly discussed the case, he asked for a copy of our most recent petition. A few days after receiving it, he called to say that our arguments had convinced him of Ricardo's innocence, and he volunteered to join our team.

Tom's involvement sent a public message that someone of his stature believed in Ricardo's innocence. He gave me the most important advice I received in this case: "If you can convince the judges of your client's innocence, they will find a way to help him."

In September 1993, U.S. District Judge Kenneth Hoyt ordered an evidentiary hearing on the issue of police and prosecutorial misconduct. The hearing began in November before a large crowd in a spacious ceremonial courtroom. State prison officials escorted Ricardo into court. He was wearing handcuffs and civilian clothes supplied by prison officials. His shoes were tight, and his jacket was too small. I lent him shoes and a jacket that I brought from home.

For our first witness, we chose Floyd McDonald. Floyd had set up the criminal evidence laboratory for the Houston Police Department and served as its director for 30 years before leaving to set up a crime lab in a Houston suburb. Now retired, he performed consulting work in forensic chemistry. He explained how the physical evidence demonstrated where Officer Harris was standing when he was shot and where the shooter must have been. He described the trajectory of the bullets based on the position of the powder burns, spent shells, shell casings, blood pool, blood spatter, and bullet holes. He prepared a diagram placing the shooter to the east of the officer. He then reviewed all the testimony from the original trial that consistently placed Ricardo about six feet south of the officer. Based on Ricardo's location, he concluded that the likelihood of Ricardo's being the shooter was zero. Someone standing that far south of the officer could not shoot him aiming east to west.

We then called several eyewitnesses to describe the intimi-

dation by police and prosecutors and the resulting false statements signed and false testimony given in the original trial. They also explained how the police, before the lineup, escorted a handcuffed Ricardo past the witnesses in the police station hallway so that it was clear the police suspected him of the murder. And they described how Mrs. Galvan, 10-year-old Jose Jr., and a third witness in the police station hallway, early in the evening, seemed unsure of who the shooter was until they saw Ricardo walk past them; how Mrs. Galvan encouraged Jose Jr. to identify Ricardo as the shooter; and how she accused Ricardo during the lineup.

### The Court's Compassion

On the second morning, Ricardo arrived in court after spending the night at the local county jail. He accused the guards of depriving him of food the night before and leaving him all night in a holding cell without bed or toilet, forcing him to sleep on the cold floor. He also described being beaten in his cell by a guard, and he showed me extensive bruises on his back. Concerned that some court spectators might react violently to word of this mistreatment, I quietly informed the judge and opposing counsel. In chambers, the judge telephoned the local sheriff and relayed Ricardo's story. The sheriff later confirmed Ricardo's complaint about lack of food and a proper cell, which he blamed on "bureaucratic oversight." The judge hinted that if anyone mistreated Ricardo again, the judge might allow the sheriff to assess firsthand his own jail's hospitality.

The day before, my wife had learned that Ricardo's mother desperately wanted to hug her son after 11 years without a contact visit. I forwarded this request to Judge Hoyt. At the end of the second day of the hearing, the judge allowed her to embrace her son in open court. Few people in the courtroom could avoid getting misty-eyed at this scene. It may be the most considerate act I have ever seen a judge permit in court. As we left the courtroom that day, a young lawyer on our team told me, "This case reminds me of why I wanted to be a lawyer."

Over the next few days, more witnesses confirmed that Mrs. Galvan had urged everyone in the hall to blame Ricardo because Carrasco had died. They said she kept calling him a *mojado*. Most of these witnesses testified that they had told the prosecutors the weekend before trial that Carrasco, not Ricardo, was the shooter, but the prosecutors warned them against contradicting their sworn statements. Several witnesses testified that, as they were being discharged the morning after the shooting, the police warned them not to discuss the case with the defense. All said that they had been intimidated by the authorities in 1982, when they were teenagers, but they were no longer so easily frightened.

Ricardo's trial translator testified about the many errors made by her successor.

We proved that the prosecutor who had cross-examined Ricardo in 1982 had relied on a falsehood in his questions suggesting that Ricardo and Carrasco had murdered a woman that night. We uncovered a police report, not disclosed in 1982, describing a police officer's visit to the alleged victim's home the next day. He found her alive and unharmed.

We also played a few minutes of the videotape of Jose Armijo, Jr., being interviewed by a reporter on the night after the shooting. It brought home that Jose Jr. was just a child at the time, reinforcing our argument that Mrs. Galvan could easily have influenced him. We also showed the portion of the news report with the sketch that seemed to show Carrasco shooting

Armijo and Ricardo running away. The reporter who had interviewed the boy testified that the child was the artist's likely source of information for the scene portrayed in the sketch.

We presented one of the country's foremost experts on how false memories can be created by suggestion following unexpected, stressful incidents. She explained how an authority figure like Mrs. Galvan could easily persuade a traumatized 10-year-old child to believe he had seen Ricardo shoot his father even if he had seen nothing or had seen Carrasco do it.

Several police officers testified for the State. Most conceded that the police had probably escorted Ricardo past the witnesses because of the police station's physical layout. The officer who headed the investigation thought police had found the murder weapon on Ricardo and the .45 on Carrasco, even though his own report reflected the opposite.

The State put one of the neighborhood residents on the stand. After seeing his name on the State's witness list, we had interviewed him the weekend before the hearing. We discovered that he corroborated vital testimony of other witnesses. After he testified for the State on a minor point, we brought out the useful facts. For example, he testified that the police, at first thinking Jose Armijo, Sr., was the killer, left him unattended for 45 minutes after the shooting, which may have hastened his death. This witness—the only one of the 16 neighborhood witnesses whose name is Anglo (although his mother is Hispanic)—testified that on the night of the shooting the police let him remain almost all night in the relative comfort of a private office while they left every other witness in the hallway. We wondered whether the police gave him favored treatment because they thought he was an Anglo. This testimony surprised and seemed to unnerve the prosecutors.

Tom Gee cross-examined one of the former prosecutors about his improper comments during trial. The witness conceded that if Ricardo was not the shooter, he was innocent of

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## The prosecutor who had cross-examined Ricardo in 1982 had relied on a falsehood.

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everything except, possibly, carrying a pistol. After facing pointed questions from the judge, this witness hurt his cause by complaining that he resented what he interpreted as the judge's suggestion that he "had somehow conspired to get an innocent person the death penalty."

I had previously contacted one of the investigating police officers who believed that Ricardo was guilty. He revealed that to most of the police, the non-shooter was as guilty as the shooter and deserved the same punishment. He essentially confirmed this comment on the witness stand. This helped explain why officers focused on Ricardo after Carrasco's death. They never knew that the prosecutors blamed the murders on the shooter alone.

Some of the most memorable testimony occurred during my cross-examination of the other former trial prosecutor. I asked him to explain the relevance of Ricardo's undocu-

mented status to the jury's sentencing decision. He gave an answer that I considered non-responsive. I repeated the question: "Why is the fact that Aldape came to Houston from Mexico without proper documentation relevant to the issue of whether he deserves to die?"

"Well," he said, "I think I just answered that."

"No, [sir]," I responded, "I don't think you did."

He answered, "Well, I think I did. *If you want to quarrel with me, we can take it out in the hallway.*"

I had to turn my back and bite my tongue to keep from smiling at this answer. We wanted to prove that he had intimidated witnesses. This outburst in open court inviting a fellow attorney outside to fight proved more, in my view, than answers to dozens of questions.

At the end of the hearing, the judge asked both sides to submit findings of fact and conclusions of law by December 31, 1993. I spent the holiday in New York City with my family. I remember sitting on the steps of the Museum of Natural History editing our last filing while inside my family examined stuffed animals and dinosaur bones.

Judge Hoyt issued his opinion in November 1994. He did not mince words:

The police officers' and the prosecutors' actions described in these findings were intentional, were done in bad faith, and are outrageous. These men and women, sworn to uphold the law, abandoned their charge and became merchants of chaos .... Their misconduct was designed and calculated to obtain a conviction and another "notch in their guns" despite the overwhelming evidence that Carrasco was the killer and the lack of evidence pointing to Ricardo Aldape Guerra.

He agreed with all our major arguments. He found that the police and prosecution intimidated witnesses to dissuade them from testifying or to persuade them to change their testimony. He attributed young Jose Armijo's belief that Ricardo

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## **Judge Hoyt issued his opinion in November 1994. He did not mince words.**

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was the shooter to Mrs. Galvan's aggressive reaction as Ricardo walked through the hall and later appeared in the lineup. He faulted the police and prosecutors for failing to disclose evidence that would have demonstrated Ricardo's innocence. He also faulted them for using the offense of unlawful entry into the United States to argue that the death penalty was appropriate. His conclusion was unmistakable: "There is no doubt in this Court's mind that the verdict would have been different had the trial been properly conducted." He remanded the case to the original state trial court with instructions either to retry Ricardo within 30 days or to release him.

Although Ricardo remained on death row, our team was elated. Sadly, only weeks before the judge issued his opinion, Tom Gee died.

By now, we had spent about \$2 million in attorney pro bono

hours and an indeterminate amount in investigator and expert fees and other expenses. In contrast, Ricardo's trial counsel had struggled to get \$700 from the trial court in 1982 to hire an investigator.

In late 1995, the Attorney General appealed to the Fifth Circuit, challenging each of Judge Hoyt's findings as either clearly erroneous or legally irrelevant. The Fifth Circuit scheduled oral argument for May 1, 1996, in New Orleans. Tom Gee's widow gave her husband's briefcase to my older son, who had been Tom's godson, saying, "Tom would have wanted him to have it." With my son's permission, I carried the briefcase to New Orleans for the appeal.

During argument, my opponent conceded that if Ricardo were not the trigger man, he could not have been charged with any crime. His use of the "double gun switch theory" to explain how Carrasco ended up with the murder weapon left the judges openly skeptical.

The first question I received was, "What is the single most salient fact that exonerates your client?" My response focused on our expert's testimony that, based on the physical evidence, Ricardo could not have been the shooter. I hoped Tom Gee's advice would work: If you can convince the judges that your client is innocent, they will find a way to help him.

Less than two months later, the Fifth Circuit unanimously affirmed. Coincidentally, Ricardo's mother and father were visiting him in prison when he received the news.

The Texas Attorney General decided not to challenge the Fifth Circuit opinion, and the case returned to the original state trial court for retrial. In a private meeting, Stan and I tried to persuade the local district attorney to drop all charges. We got nowhere.

In August 1996, Ricardo once again pleaded not guilty in state court. No longer on death row, he was now just another pretrial detainee in the local jail.

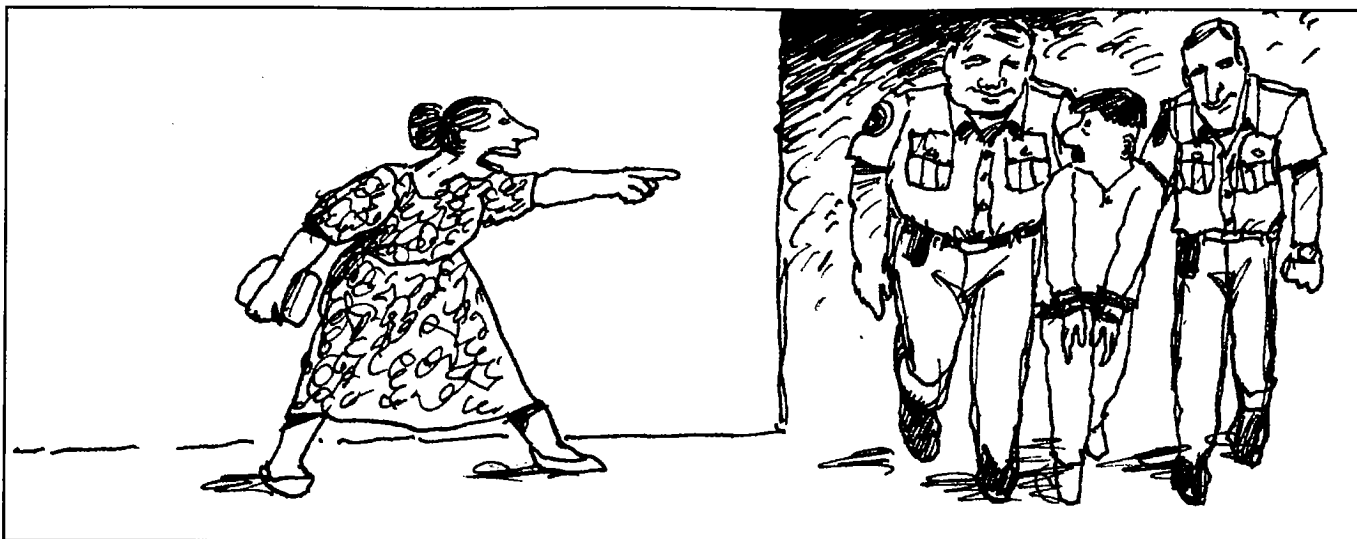
While he was waiting to appear at a court hearing, a uniformed officer took him to a secluded area and, according to Ricardo, attempted to elicit a confession. I complained to the state trial judge, who enjoined every law enforcement officer in the county from discussing the case with our client.

We filed a motion asking the judge to suppress testimony from the original trial given by witnesses whose testimony was tainted by the misconduct described in Judge Hoyt's opinion. We wanted to prevent reuse of admittedly perjured testimony.

We also began contacting witnesses to confirm they would be available for the retrial. Several reported that Houston police officers had contacted them and again attempted to intimidate them to make their testimony "fit" the State's case. A well-respected local criminal attorney agreed to represent them. After he demanded an end to this conduct, it stopped.

Concerned about the impact of a lengthy capital trial on his docket, the trial judge recruited a retired appeals court judge to take over the case. In November 1996, the prosecutor asked the new judge for an evidentiary hearing to disprove Judge Hoyt's misconduct findings. To our dismay, the judge agreed. But he also agreed to hear evidence on our motion to suppress and to admit into evidence the testimony from the federal evidentiary hearing. As a result, I decided to offer no live witnesses at the new hearing.

At the new hearing in February 1997, the State first presented two of the only three remaining eyewitnesses who continued to insist on Ricardo's guilt. But the first gave such contradictory testimony that after she finished, the judge asked



the prosecutors, "Are there any real witnesses in this case ... who can point to the defendant as the shooter?" This witness also supported our police intimidation theory by conceding that the police had handcuffed her mother at the crime scene. After observing my cross-examination of her, my older son, then 12, asked, "Dad, you were close to destroying her as a witness. Why didn't you finish the job?" I explained that I had undermined or neutralized her damaging testimony and that "destroying her" would have been gratuitously cruel. I wanted to help him understand that the object of good lawyering is to make the necessary points effectively, not to devastate a witness psychologically.

The next witness was Mrs. Galvan. During my cross-examination, her testimony so clearly contradicted the signed statement she gave police in 1982 that the judge felt compelled to warn her against perjury. After insisting that she had seen Ricardo shoot Officer Harris, she recanted when I pointed out inconsistencies between her testimony and the written statement she had given me several years earlier. She also admitted calling Ricardo a *mojado*.

I asked the court translator to define the term *mojado*. "*Mojado* means 'wetback,'" she explained. I asked the court to take judicial notice that the term "wetback" is generally considered a pejorative term. I expected no objection. But the second-chair prosecutor, a Latina, surprised us by jumping to her feet and disagreeing. I was appalled by her argument: "I am from south Texas. You can say somebody's a 'wetback.' That just means that they came over illegally. That doesn't mean that they are bad, good, evil, nice. It is just a term. That's all that it means." The judge challenged her: "I know ... if I called you a wetback, you'd be offended." "Only because I am not one," she responded. I did not challenge her statement, calculating that her comments said more than anything I could add about our ethnic prejudice claim.

After the first day of the hearing, the team ordered take-out Chinese food for dinner. I cracked open a fortune cookie and read my fortune aloud: "All your hard work will soon pay off." That fortune now sits prominently in a glass cabinet in my office.

For four days, the State paraded a dozen police officers onto the witness stand. Most claimed to recall clearly what witnesses had told them more than 14 years earlier. Curiously, their rec-

ollections tracked almost verbatim each signed witness statement. One, however, admitted the possibility that Mrs. Galvan had been able to communicate in the presence of others during the lineup that she thought Ricardo was the shooter.

A few months earlier, we had obtained a court order forbidding the prosecution from interviewing witnesses in a group. Several police witnesses admitted, however, that the prosecutor had held such a group meeting the previous week. This did not please the judge.

The State's final witness was the widow of Jose Armijo, Sr. Although the State had promised that Jose Jr. would testify, she revealed that he had disappeared the day before.

The widow and two daughters of slain Officer James Harris were surprise visitors in the courtroom during the hearing. Mrs. Harris and I spoke several times. She told me partway through the hearing—and repeated to a reporter later—that she was no longer certain whether Ricardo had shot her husband.

At a hearing two months later, the judge read his decision. He reaffirmed each of Judge Hoyt's findings of fact, including the findings of extensive official misconduct despite overwhelming evidence of Ricardo's innocence. But he rejected our argument that the state and federal double jeopardy and due process clauses barred a new trial. He agreed, however, to suppress the tainted testimony from the original trial and scheduled the trial for mid-May.

The next day, April 15, 1997, the unimaginable happened. Without calling us, the district attorney filed papers seeking dismissal of all charges. The state trial judge quickly granted the motion. At a press conference later that day, the district attorney explained: "Since the court suppressed the identification of six witnesses of [Ricardo] as the shooter, we do not think we should go forward with the remaining evidence. It's a waste of time."

Ricardo heard the news on television just before his parents arrived for a visit. But he refused to believe it until several team members and I arrived later and confirmed it. I told him in Spanish that this time there would be no more waiting, no more appeals, and no new trial. The nightmare was nearly over. Remarkably calm, he suggested that I speak in English because he knew that some of the team members spoke no Spanish. Then, his voice cracking, he thanked the whole team for our work and apologized that he could never repay us. "I just wanted

a chance to prove my innocence. You gave me that chance.”

We learned later that day that because Ricardo had entered the country illegally, the sheriff would not simply release him but would instead transfer custody to the INS. Mexican officials offered to send an airplane to fly Ricardo home. But the INS insisted on driving him, handcuffed, to the border at Brownsville the next day and releasing him into the custody of Mexican officials. A crowd of hundreds, bearing signs welcoming his return as a hero, greeted him at the border. Mexican officials took Ricardo, his family, and consular officials to the Matamoros airport and flew them to Monterrey.

## Local Hero

Flying directly from Houston to Monterrey, I arrived before Ricardo did. Awaiting him at the airport were more journalists, photographers, and supporters than I had seen at some U.S. presidential campaign stops. At first, Ricardo did not want to leave the safety of the airplane. The hordes of chanting people, although friendly, frightened him. I boarded the aircraft and coaxed him out. As he left the plane, he broke into a broad smile and waved to the crowd. At a press conference, he told reporters that he would not sue the United States over his mistreatment. “I would rather be poor here than rich anywhere else in the world,” he said exultantly.

After the press conference, Ricardo, his family, and I boarded a bus for a ride to his old neighborhood. People with signs lined the route. Local police estimated that 1,000 people waited for hours outside his sister’s house in a light rain, just to welcome him home.

Ricardo was not ready for the emotional reaction he received from his countrymen. He knew of the songs and books, but he was unprepared for the mass of humanity reaching out to touch him as if he could heal them.

Monterrey police cleared a path for Ricardo, his family, and me to enter the house. Just before I walked inside, I heard someone shouting in Spanish, “Look, there’s his attorney!” People in the crowd lunged toward me, grabbing my arms and legs, lifting me aloft. They carried me on their shoulders through the streets lined with jubilant spectators. My pleas of “please put me down!” were ignored while people chanted jubilantly in Spanish, “the lawyer, the lawyer.” A friend later told me that a Houston television station aired this crazy scene. A reporter asked what I thought of my reception. Dazed by the experience, I apparently responded: “They don’t treat lawyers like this where I come from.”

I received similar celebrity treatment throughout my brief stay in Monterrey. After seeing my face in the Monterrey press for years, people recognized me wherever I went. The next day, the taxi driver who drove me to the airport refused to accept payment for the ride. “This is my way,” he explained, “of showing my gratitude for what you have done.” I persuaded him to take my money only by pointing out that his family could not live off his gratitude. At the airport, when I ordered a snack, three waiters served me a glass of orange juice and a doughnut.

Not everyone was pleased. The evening the charges were dropped, a Houston police union official appeared on Houston television and criticized the “slick” downtown lawyer who helped release a vicious murderer. I offered to attend a union meeting to summarize the facts of the case and answer questions, but union officials never accepted my offer.

Shortly after Ricardo returned home, one of the Mexican television networks hired him to act in a soap opera. He portrayed himself, acting out the story of his Texas ordeal. His thespian skills were limited, but the show’s ratings skyrocketed every time he appeared on screen. He bought a car with a small bonus he received. He filmed each week in Mexico City and drove 10 hours home each weekend to Monterrey. Near the end of the filming, he proposed marriage to a television station employee, and she accepted. On August 21, 1997, after completing the last segment of the series and collecting his paycheck, he was driving back to Monterrey for the last time when he apparently fell asleep at the wheel, crashed into a tractor trailer, and died.

I returned to Monterrey for his funeral. For eight hours, the crowds that only recently had celebrated his freedom now joined his family in mourning his loss. I later told our team members that despite Ricardo’s death, our efforts were not in vain. At least he got to spend time with his family and died a free man in his own country.

More than one detractor in the Houston press sarcastically labeled the auto accident “divine justice.” “God accomplished,” they asserted, “what the Texas justice system could not.”

We might well question the Texas justice system for different reasons. Ricardo twice came within hours of being executed. The first time the Texas Resource Center saved him. The second time he needed the multimillion-dollar effort of our law firm and decisions from several courageous judges.

I have rarely met or heard of anyone receiving the death penalty who could afford to pay for a lawyer. As in too many other states, Texas counties not only inadequately compensate court-appointed counsel but also provide too little money for investigators and experts. As a result, the people willing to accept these appointments too often are incompetent, inexperienced, or so poorly paid that they cannot do an adequate job.

I am convinced that most death row inmates are guilty; but some are not. Until our elected officials authorize payment of sufficient funds to attract competent, adequately funded trial counsel, we can never be sure which few inmates are the innocent.

As long as persons accused of capital crimes receive only the justice they can afford, the entire death penalty process is subject to attack. If we choose to inflict death, we should feel morally obligated to devote sufficient resources to ensure fairness. Ricardo’s case does not tell us how often mistakes are made; it only cautions us that they have happened and can happen again.

I had approached this case thinking it unlikely that a commercial litigator could provide adequate representation in a capital habeas case. I was wrong, partly because often there is no one else, partly because the ABA and others provide resources and assistance, and partly because I now believe that any competent litigator, with some guidance on criminal procedure, can handle any case in front of any judge.

In closing argument during Ricardo’s sentencing in 1982, the prosecution paraphrased a famous quote by an English statesman. “Edmund Burke,” the prosecutor argued, “said that the only thing necessary for the triumph of evil is that good people do nothing.” In this regard, at least, the prosecution was right. □



## Atlas, Scott

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**From:** Esemel@aol.com  
**Sent:** Tuesday, November 23, 1999 2:21 PM  
**To:** Atlas, Scott  
**Subject:** Re: Speech to Univ. of Houston Law Faculty, 11/29

Scott:

The reasons why law professors should do these cases are the same as for firms:

1. The need, which you know well, and certainly, in Texas, use Steve's article to illustrate. If you want Steve to Fed Ex reprints, e-mail him at sbright@schr.org and they will do so. Until Texas responds to the need for adequate lawyers at the trial stage, the need at post-conviction remains. The statutory changes vis-a-vis appointments in post-conviction have done NOTHING to improve the quality of lawyers handling these cases at that level. Indeed, the CCA still seems intent upon appointment of lawyers who are not qualified. For more information on this issue, e-mail Jim and/or Maurie. Another reminder is the moratorium resolution, found at : <http://www.abanet.org/irr/ABAACT2web.html#intro> it, and the supporting report are relevant because they highlight the fact that the ABA made this decision based upon the failure of the capital punishment system to deliver equal justice. Whether or not one supports the moratorium resolution, the years of study and recommendations that led up to it, are highly relevant to the need for law professors to offer assistance.
2. Their expertise in areas of constitutional law, criminal law and procedure and habeas law and procedure, or in civil procedure, can be of particular benefit to pro bono firms. If a law professor feels that he/she cannot take on a case alone for financial reasons, their participation can be a draw to recruiting a firm. Certainly, they can do appellate work -- direct appeal or federal habeas appeals in the 5th Circuit. They can also work on clemency.
3. Another reason that is these cases give students an exceptional learning experience, not just in terms of legal writing, but investigation and case preparation.
4. They are also role models for students. Firms do pro bono work to both make a contribution and impress associates with the importance of doing work for individuals and entities that are in need of free, competent legal assistance. As you know, I teach the capital punishment seminar at G'town by having students work on cases. Many tell me its the highlight of their law school experience. The jurisprudence ceases to become abstract and the key issues that surround the death penalty -- poverty, race, quality of counsel, lack of resources -- become real. I think -- excuse me for saying so -- that students have a greater respect for professors who have at least one foot in the real world of lawyering where most of those they teach will spend their careers.

Hope this helps,

Lis

UH Law Faculty ~~Area 5 Democrats~~  
(1/29/99, Noon) (6/15/98, 7:30pm)

ald#  
A15

A. Intro

1. Hilites
2. Some Lessons
3. why Law Profs shld do

B. 7/82 Harris Murder

1. Describe - 2 men
2. Q - who shot?
3. DA: non-shooter uninvolved

C. RC Killed

1. Describe
2. 2 guns

D. HQ

1. all nite
2. stories get clearer
3. by a.m., a few pick

E. 10/82 Trial

1. conviction (mostly Joe Jr.)
2. death
3. appeals [8-9 yrs]

## E. Taking Case (5/92)

1. Mex. asks ~~McAllen, McAllen~~

2. Meet, read all

3. Troubled

a. guns on RC

b. statements: confused → clearer

c. "illegal alien"

d. cemetery murder

e. other

## F. physical evid

~~McAllen, McAllen~~ h. punishment evid. (Mom)

4. Take / Form team

h. KKK demo

## F. dnr.

1. teenage wits. hard to find

2. ~~man help~~

3. same story

~~gate~~

~~sample story~~  
~~transmission de Jackson~~

(8)

J. 1/47 Ct. Ruling

1. Read
2. New trial

(9)

K. 2/47 Retrial

1. M/suppress '82 lies
2. DA re-proves no misconduct
3. Hilma: pick "mojado" [tape]
4. Ct. rules: suppress
5. D.A. Drops charges

L. 4/47 RAG Freed

1. receives hero's welcome
2. soap opera
3. message - kids stay in Mexico

M. 7/47 RAG Dies

1. ends soap
2. engagemt
3. accident
4. 8 hrs of mourners

The petitioner's claim of denial of "due process" did not end with the police and the prosecutor, it continued into the Court process. It is asserted that the inaccurate \*637 translations of the witnesses' testimony from Spanish to English by the court interpreters prevented a fair trial. The first interpreter, Linda Hernandez, was removed after one of the jurors complained that she was interpreting inaccurately. The second court interpreter, Rolf Lentz, acted inappropriately by making jokes and adopting an improper casual manner, while communicating with several defense witnesses in Spanish. Much of this went unchecked by the court.

[22] The petitioner also questions the propriety of an experienced prosecutor questioning a witness about the witness' participation in a crime that the witness was not under investigation for and had not been criminally charged. One of Guerra's roommates, who testified in Guerra's defense, was questioned about his "participation" in a robbery that the prosecutors well knew had not resulted in a charge. Yet, it was done, in all likelihood, to affect the judgment of the jury in determining the witnesses' credibility. This knowing false accusation by the prosecutors violated Guerra's "due process" rights because the question was not a proper question, even on character.

This type of deliberate violation of oath as a prosecutor and violation of the rules of evidence is incompatible with the rudimentary demands of justice and fair play. This principle remains true even when the state, though not soliciting false evidence, allows it to go uncorrected. *Giglio v. United States*, 405 U.S. 150, 153-54, 92 S.Ct. 763, 765-66, 31 L.Ed.2d 104 (1972).

## VII.

### Cumulative Effect of Prosecutorial Error

[23] Finally, the petitioner contends that the cumulative effect of the errors made by the trial court and the prosecutors resulted in an unfair trial. Because the state court, in considering the petitioner's petition for writ of habeas corpus, found no waiver of error, there is no bar to considering the errors found in a cumulative error analysis. *Derden v. McNeel*, 978 F.2d 1453, 1458 (5th Cir.1992) (en banc), cert denied, 508 U.S. 960, 113 S.Ct. 2928, 124 L.Ed.2d 679 (1993). When the errors of the

state infuse a trial with such prejudice and unfairness as to deny a defendant a fair trial, due process has not been enjoyed. *Id.*

[24] Here, the extent of the prosecutorial misconduct is legion. The number of instances of misconduct as well as the type and degree compel the conclusion that the cumulative effect of the prosecutors' misconduct rendered the trial fundamentally unfair. There is no doubt in this Court's mind that the verdict would have been different had the trial been properly conducted. *Kirkpatrick v. Blackburn*, 777 F.2d 272, 278-79 (5th Cir.1985), cert. denied, 476 U.S. 1178, 106 S.Ct. 2907, 90 L.Ed.2d 993 (1986).

## CONCLUSION

The police officers' and the prosecutors' actions described in these findings were intentional, were done in bad faith, and are outrageous. These men and women, sworn to uphold the law, abandoned their charge and became merchants of chaos. It is these type flag-festooned police and law-and-order prosecutors who bring cases of this nature, giving the public the unwarranted notion that the justice system has failed when a conviction is not obtained or a conviction is reversed. Their misconduct was designed and calculated to obtain a conviction and another "notch in their guns" despite the overwhelming evidence that Carrasco was the killer and the lack of evidence pointing to Guerra.

The police officers and prosecutors were successful in intimidating and manipulating a number of unsophisticated witnesses, many mere children, into testifying contrary to what the witnesses and prosecutors knew to be the true fact, solely to vindicate the death of officer Harris and for personal aggrandizement. The cumulative effect of the police officers' and prosecutors' misconduct violated Guerra's federal constitutional right to a fair and impartial process and trial.

Therefore, the petitioner's Writ of Habeas Corpus is GRANTED, the conviction and judgment are set aside.

It is ORDERED that the Writ of Habeas Corpus is conditionally granted unless the state begins retrial proceedings by arraigning the petitioner within thirty days from the \*638 date this order becomes

1. RAG - remain silent

2. help get atty

a. w/ resources

b. to analyze evid.

c. to make objectives

3. help w/ evid.

a. fact with

(i) all H'sp.

(ii) scared, esp. undocs.

(iii) warned - keep quiet

(iv) some anxious to talk

(v) some disappeared

(vi) who is Carrasco

(vii) fingerprints, etc.

b. punishment note

- (i) help find
- (ii) gd char. (kid soccer, old ladies)
- (iii) non-viol. (psychol.)
- (iv) saved 1/1 lives
- (v) no crim record

4. Lesson - Amer. elsewhere

~~Area 5 Democrats~~

~~(4/15/98, 7:30 p.m.)~~  
10/16/99, 3:45 pm

ald#  
A15

A. Intro

1. Hilites

2. ~~Some Lessons~~ Impact of No Consul

- select atty
- keep good
- help avoid

B. 7/82 Harris Murder

1. Describe - 2 men

2. Q - who shot?

3. DA: non-shooter involved

C. AC Killed

1. Describe

2. 2 guns on him

D. HQ

1. all nite

- RAG gives video statement

2. stories get clearer

3. by a.m., a few pick

E. 10/82 Trial

1. conviction (mostly Joe Jr.)

2. death

3. appeals (8-9 yrs)



Area 5 Democrats  
(6/15/98, 7:30 p.m.)

f ald#  
A15

A. Intro

1. Hilites
2. Some Lessons

B. 7/82 Harris Murder

1. Describe - 2 men
2. Q - who shot?
3. DA: non-shooter uninvolved

C. RC Killed

1. Describe
2. 2 guns

D. HQ

1. all nite
2. stories get clearer
3. by a.m., a few pick

E. 10/82 Trial

1. convictn (mostly Joe Jr.)
2. death
3. appeals (8-9 yrs)

South TX Law School  
- Neil McCabe class (11/20/94)  
noon

F-ald#  
A15

A. Intro

1. Hilites
2. Some Lessons

B. 7/82 Harris Murder

1. Describe - 2 men
2. Q - who shot?
3. DA: non-shooter involved

C. RC Killed

1. Describe
2. 2 guns

D. HQ

1. all nite
2. stories get clearer
3. by a.m., a few picks

E. 10/82 Trial

1. conviction (mostly Jose Jr.)
2. death
3. appeals (8-9 yrs)

All Students and Faculty  
are invited to attend a

**Lecture**

by Guest Speaker

**Scott Atlas**  
**Attorney**

(noted for his 1997 exoneration of  
Death Row in-mate Ricardo Aldape Guerra)

**Topic: "Are We Executing Innocent People?"**

**When: Tuesday, Nov. 11**

**Where: White Oak Bayou Room**  
(in NEW Building, 3rd Floor, close to Cafeteria)

**Time: 11:00 A.M.**

F. Aid  
#A15

## NOVEMBER BIRTHDAYS

11/09/25	Joe Atlas
11/12/70	Leticia Guzman
11/13/48	Sara Moss
11/19/54	<u>Laurie Atlas</u>
11/24/42	Dr. C. Richard Stasney
11/29/12	Pearl Cohen

## DECEMBER BIRTHDAYS

12/03/5	<u>Guadalupe Friedman</u>
12/09/25	Judge Tom Gee
12/10/16	Ann Reisfeld
12/12/82	Alan & Gail Schwartz anniversary
12/20/15	Rose Lerman
12/21/	Irene Jefferson
12/25/26	<u>Morris Atlas</u>

Scott J. Atlas

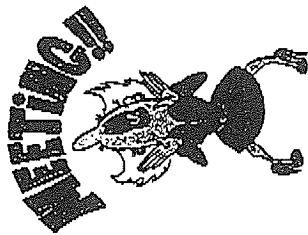
# DAILY CALENDAR

Tuesday, November 11, 1997

Tues., 11/11/97	8:00 a.m.	Meeting w/ HMR, WBS and SJA, probably HMR's conference room, shouldn't be more than 2 hours. (Per Dee).
Tues., 11/11/97	8:15 a.m.	Weekly conference call w/ Greg Joseph and Lynda Chott. Lynda to initiate call.
Tues., 11/11/97	11:00 a.m.	Speech to UofH student body (Honor Society hosting). Beverly Church (Ext. 2307) is coordinating. Directions: Take Travis towards the University of Houston Downtown Campus. Before Travis goes into I-45 there will be a sign on the right hand side of the street saying Visitor Parking for UHD. Turn into this parking area. If you park on the first or second floor of the parking area, you will walk into the school and take the elevator to the third floor. After getting off the elevator, you will proceed past the new elevators on the right and turn right and the end of the hallway. The room you will be speaking in is called the White Oak Bayou Room. It is the first room on the right. The Alpha Phi Sigma National Criminal Justice Honor Society will pay your parking for you.
Tues., 11/11/97	1:00 or so	Roberta Ramo to call to catch you up on conference call you missed at 11:00 a.m.
Tues., 11/11/97	2:00-5:30 p.m.	Labor and Employment Section's Seminar: Tough Issues in Employment Law. If you are not a presenter but would like to be there to welcome our guests and/or mingle during the cocktail reception that follows, contact Leslie Walter, ext. 4600. Four Season Hotel.
Tues., 11/11/97	7:30 p.m.	St. John's Spain Trip meeting (at our house).

[Trip to Mexico]

1. Does DP deter?
2. gd idea to have  
D.P. in Mex
3. is the US ~~so~~ so  
advanced that  
it doesn't need DP
4. ~~Is it which~~  
what type of crimes  
deserve DP?
5. is DP inhuman  
in the manner in  
which it is applied



All Students and Faculty  
are invited to attend a

## Lecture

by Guest Speaker

**Scott Atlas**  
Attorney

from the legal firm of Vinson & Elkins LLP

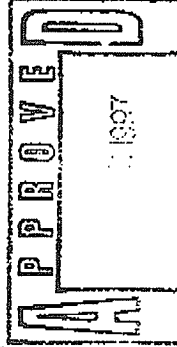
(noted for his 1997 exoneration of Death Row in-mate Ricardo Aldape Guerra)

Topic: "Are We Executing Innocent People?"

When: Tuesday, Nov. 11

Where: White Oak Bayou Room  
in NEW Building, 3rd Floor, next to Cafeteria

Time: 11:00 A.M.



CC: Field  
(asided)  
D-F-AID  
AIS

# Texas Criminal Defense Lawyers Association



November 4, 1997

Scott Atlas  
1001 Fannin St., Ste. 2300  
Houston, Texas 77002-6760

Dear Mr. Atlas,

Attached is copy of the Forensics and Habeas Skills Course Evaluations from our October seminar. The earlier version you received contained inaccurate data regarding the speaker's ratings. In an attempt to improve our method of reporting seminar results by utilizing the computer spreadsheet a calculation error was made. In my own attempt to get the results to you all as soon as possible I overlooked the error.

The attached evaluation has been corrected and should portray a more accurate picture of the speaker's overall ratings. Please disregard the earlier evaluation.

Thank you,  
  
Jannie Chiat  
Programs Coordinator

Enclosure

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DAVID L. BOTSFORD, Austin (1996-1997)

## CRIMINAL DEFENSE LAWYERS PROJECT

### Forensics and Habeas Skills Course

October 16 – 18, 1997

San Antonio, Texas

Scale: 5-Outstanding 4-Excellent 3-Above Average  
2-Average 1-Below Average

### COURSE EVALUATION

#### ***INVESTIGATING THE INVESTIGATION***

Larry Ragle, Laguna Beach, CA

Speaker: 3.89                      Topic: 4.24  
(37 responses/144 points)        (37 responses/157 points)

#### ***MEDICAL EXAMINER***

Cyril Wecht, Pittsburgh, PA

Speaker: 4.45                      Topic: 4.51  
(37 responses/165 points)        (37 responses/167 points)

#### ***THE ETHICS OF HABEAS MATTERS: DEFENSE THEORIES, DISCOVERY & DISCOVERY ABUSE***

##### ***PANEL DISCUSSION***

This panel was evaluated overall and not individually.

Kurt Sauer, Austin

George McCall Segrest, Jr.

Stanley Schneider

Katherine Scardino

Speakers: 4.17                      Topic: 4.27  
(29 responses/121 points)        (29 responses/124 points)

#### ***ETHICS/HABEAS***

##### ***PANEL DISCUSSION***

Judge Fred Biery, Austin

Speaker: 4.00                      Topic: 4.00  
(35 responses/140 points)        (35 responses/140 points)

Judge Nancy Stein Nowak, San Antonio

Speaker: 3.97                      Topic: 3.97  
(34 responses/135 points)        (35 responses/139 points)

Yogi McKelvey, San Antonio

Speaker: 3.88                      Topic: 3.94  
(34 responses/132 points)        (34 responses/134 points)

#### ***DIRECT EXAMINATION OF AN EXPERT WITNESS***

Scott Atlas

Followed by panel on ***ADMISSIBILITY AFTER DAUBERT***

This panel was evaluated overall and not individually.

Scott Atlas, Houston

Jeralyn Merritt, Denver, CO

Kent Schaffer, Houston

Dennis M. Kleper, Skokie, IL

Speakers: 4.35                      Topic: 4.38  
(34 responses/148 points)        (34 responses/149 points)



***THE WEB, A WEAPON AGAINST EXPERT WITNESSES***

Dennis M Kleper, Skokie, IL

Speaker: 3.69      Topic: 3.91  
(36 responses/133 points)      (36 responses/141 points)

***FORENSIC PSYCHIATRIC EVIDENCE***

Dr. Michael Arambula, San Antonio

Speaker: 3.50      Topic: 3.89  
(38 responses/133 points)      (38 responses/148 points)

***DNA AND GENETICS SUMMARY***

Dr. Moses Schanfield

Speaker: 3.88      Topic: 4.08  
(35 responses/136 points)      (35 responses/143 points)

***EVIDENCE SHAPING***

Dr. Kevin Ballard, Houston

Speaker: 4.30      Topic: 4.42  
(33 responses/142 points)      (33 responses/146 points)

***DNA***

Dr. Elizabeth Johnson, Houston

Speaker: 4.39      Topic: 4.44  
(38 responses/167 points)      (38 responses/169 points)

***TAPE AND VIDEO ANALYSIS***

Sam Guiberson, Houston

Speaker: 4.39      Topic: 4.15  
(33 responses/145 points)      (33 responses/137 points)

***FORENSICS LAW AND PROCEDURE APPLICABLE TO 11.071 AND BEYOND***

***Panel Discussion***

David Schulman, Austin

Speaker: 4.12      Topic: 4.15  
(31 responses/128 points)      (32 responses/133 points)

Cynthia Hujar Orr, San Antonio

Speaker: 3.95      Topic: 3.95  
(20 responses/79 points)      (22 responses/87 points)

Roy Greenwood, Austin

Speaker: 4.00      Topic: 4.08  
(34 responses/136 points)      (34 responses/139 points)

Jim Marcus, Houston

Speaker: 4.00      Topic: 4.11  
(26 responses/104 points)      (26 responses/107 points)

***FINANCING 11-071***

Judge Charlie Baird, CCA, Austin

Speaker: 4.41      Topic: 4.41  
(34 responses/150 points)      (34 responses/150 points)

***ISSUE, SPOTTING AND HABEAS***

David Botsford, Austin

Speaker: 4.60      Topic: 4.60  
(38 responses/175 points)      (38 responses/175 points)

**PREPARATION TO CROSS-EXAMINE THE EXPERT WITNESS**

Fred Leatherman, Seattle, WA

Speaker: 4.05      Topic: 4.36  
(19 responses/77 points)      (19 responses/83 points)

**CROSS-EXAMINATION OF EXPERT WITNESS**

Gerald Goldstein, San Antonio

Speaker: 4.88      Topic: 4.80  
(26 responses/127 points)      (26 responses/125 points)

Course Materials: 4.33

Physical Arrangements: 4.06

Program: 4.47

Overall Evaluation: 4.38

**COURSE MATERIALS**

1. Can you consider adding a listing of good experts by subject area?
2. Some written materials lacking.

**PHYSICAL ARRANGEMENTS**

1. Fine
2. Need snacks.
3. Never hold it here again!
4. Nice hotel; inadequate use of air conditioning.
5. Cold!

**PROGRAM**

1. Great!
2. Too much seminar – not enough breaks.

**OVERALL**

1. I'd change the placement of the material a little.

**SUGGESTIONS FOR IMPROVING THE EDUCATION VALUE OF THE PROGRAM**

1. This was a uniformly excellent program with no apparent dead weight. Focus more on how we get access to lab reports, case notes, etc. The lousy discovery rules make trial by ambush the norm.
2. Place more emphasis on how to locate good expert witnesses in varying ways.
3. Make second day a few hours shorter. It's hard on us old folks.
4. Put some outlines together for those without papers, this will make it easier to reference.
5. Have the seminar at a less expensive hotel – have it in Houston where they kill the most people.
6. This program compresses into too few days. Sessions too long to assimilate such important information.
7. Please have more of the same – an excellent program with a nice mix of law and science.
8. Consolidate DNA presentations or at least put DNA presentations on separate days.
9. Some speakers used slides effectively, however it would have been more helpful to have a printed copy of the slides in our notebooks.
10. Excellent course – it would have been more effective to present the technical, substantive topics in the morning and the panels in the afternoon.

**GENERAL COMMENTS**

1. A reception would have been nice on either Thursday or Friday giving us a chance to meet one another as well as the speakers.
2. 8.5 hours in one day (especially highly technical material) is too much to absorb.

## Page 4: Forensics and Habeas Skills Course Evaluations

3. Excellent program, practical and valuable.
4. This was one of the best sessions I have seen in years.
5. I rate this seminar the best that TCDLA has presented in 1997. The quality of the experts was the best I have ever seen.

### FUTURE TOPICS

1. ALR Hearings.
2. Civil remedies for police/1983 violations.
3. A course somewhat like this but each section would be a specific forensic area; serology, fingerprints, ballistics, psychiatry, etc.
4. Can TCDLA lobby for a law that requires "x" amount of runs on DNA evidence to be presented to cut down on errors/appeal writs and that courts pay for testing requested by court appointed lawyers at independent labs?
5. What to do with direct appeal and DP writs at same time and advice on what needs to happen, i.e. "skeleton HC's until appeal done?"
6. Arson experts.
7. Topics related to handling of criminal appeals.
8. We have to do seminars specifically on capital murder, trial appeal and habeas.

### SPEAKER COMMENTS

Larry Ragle

1. Could have been presented better; seemed to be reading more than actual knowledge.
2. Very knowledgeable but flippant with questions

Cyril Wecht

1. Give him more time; this guy is brilliant and I could listen to his expertise all day.
2. Enjoyed his advice.
3. Excellent topic – could be a whole seminar itself for those who see a lot of forensic cases.
4. He was one of the best speakers!
5. Outstanding speaker

The Ethics of Habeas Matters Panel

Kurt Sauer

George McCall Segrest, Jr.

Stanley Schneider

Katherine Scardino

1. Thought it was very good – they answered all the questions that I had.
2. Totally useful information – this was great.
3. Segrest was pretty good, ask him back.
4. Katherine Scardino is an inspiration.

Judge Fred Biery

1. Good!
2. Page 8, paragraph 5, 1.6 "principles" not "principals" – don't rely on spell check, proof it yourself.
3. Very helpful discussion of Federal Habeas.

Magistrate Judge Nancy Stein Nowak

1. Good!
2. Good topic, I got some valuable tips from Judge Nowak.

Yogi McKelvey

1. Excellent!
2. Yogi was great!

## Page 5: Forensics and Habeas Skills Course Evaluations

### Admissibility after Daubert Panel

1. Very well done – need more examples.
2. Great discussion of issues – Jeralyn Merritt was an excellent speaker!
3. Good paper.
4. Effective Daubert discussion by all 3 panel members.
5. When you have a 3-member panel you need more time for dialogue.

### Dennis Kleper

1. Too complicated for time allotted – should be a whole seminar.
2. Needs more time to go into specifics of how to locate good experts. Focus more on how we can link up to share resources and help one another.
3. Cutting edge!
4. Great program on “the net”.
5. Too basic, even for people who are totally unfamiliar with the net, need more, not enough.

### Dr. Michael Arambula

1. More on mitigation, please...
2. Need more focus on how this information can help us.
3. Information limited, especially the slides.
4. Excellent.
5. Thought provoking

### Dr. Moses Schanfield

1. Good follow-up to Dr. Johnson.
2. Over my head.
3. What?? Needed to provide paperwork, materials insufficient, confusing topic, copies of the slides would have been nice..
4. Excellent speaker.
5. I didn't understand what he was talking about.

### Dr. Kevin Ballard

1. Truly great!
2. Really interesting presentation.
3. He was one of the best speakers.
4. Good speaker, easy to understand.
5. Most valuable topic and speaker – get him back!

### Dr. Elizabeth Johnson

1. Got a bit too technical, but made up for it.
2. At last; semi-understandable information on DNA.
3. Confusing topic – good speaker.
4. Excellent speaker.
5. Probably need a day on the mechanics of DNA.

### Sam Guiberson

1. Did a great job with a bad time slot.
2. Simply great!
3. Excellent
4. Exuberant speaker for a limited topic.
5. Dynamic speaker. As always good talk and good paper.

### David Schulman

1. Good nuts and bolts stuff.
2. Excellent information – should be first day.
3. Good!
4. Great speaker.

## Page 6: Forensics and Habeas Skills Course Evaluations

5. Mostly "war" stories, but helpful nonetheless.

Cynthia Orr

1. She wasn't given much to say – but that wasn't her fault.
2. Thanks for so much effort and time to help us.
3. Great as always.
4. Good moderator.
5. Good job as moderator.

Roy Greenwood

1. Adorable!
2. Better nuts and bolts stuff.
3. Excellent! Thanks for motion – I will use it next week.
4. Paper was good – helpful.
5. Very knowledgeable with useful checklist and motions.

Jim Marcus

1. I would have appreciated a paper from this speaker.
2. Good conclusion and follow-up to other panel speakers.
3. Good talk.
4. Good tie in of 11.071 with federal anti-terrorism EDP act. Should have had more time.

Judge Charlie Baird

1. Good nuts and bolts stuff.
2. Good to know.
3. Very helpful to have detailed explanation from CCA.
4. Great speaker as always.
5. Among the most helpful and practical talks of the whole course.

David Botsford

1. Very passionate.
2. Excellent paper.
3. Inspirational!
4. He was one of the best speakers.
5. As always among the top lawyer/speakers – very helpful.

Fred Leatherman

1. Very good stand in – written materials lacking.
2. Leatherman was great!
3. Excellent substitute for Barry Scheck.
4. Why no paper?

Gerald Goldstein

1. THE KING!!
2. The best by far!
3. Best of show!
4. What's there to say – Gerry is Golden!
5. Excellent; what can one say!

1/3 (clipped pg) - F-118 #A/15

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TO : Scott ATLAS  
FROM : MARK CONRAD  
SUBJECT: U of H - D //

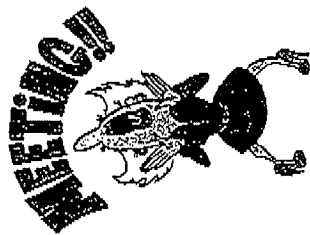
REMARKS:

I plan to be there.  
Will see you then.

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Number of Pages 3 (including this sheet)

Acknowledgment Requested yes X no



**All Students and Faculty**  
are invited to attend a

## **Lecture**

by Guest Speaker

**Scott Atlas**  
Attorney

from the legal firm of **Vinson & Elkins LLP**

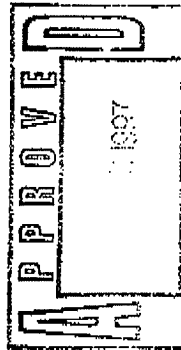
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**Topic: "Are We Executing Innocent People?"**

**When: Tuesday, Nov. 11**

**Where: White Oak Bayou Room**  
in NEW Building, 3rd Floor, next to Cafeteria

**Time: 11:00 A.M.**



All Criminal Justice Majors  
are invited to attend  
a meeting of the *Alpha Phi Sigma Society*

with Guest Speaker

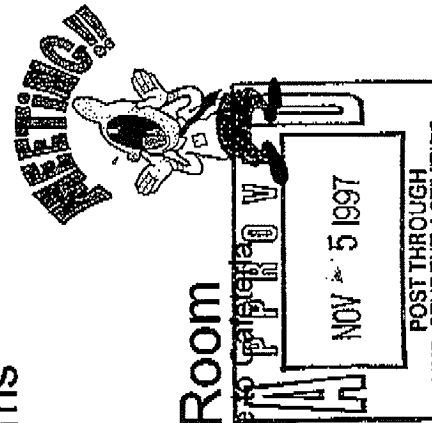
Prof. **MARK CONRAD**  
Supervisor, Internal Affairs of the U.S. Customs

speaking on Career Opportunities  
with the Dept. of U.S. Customs

When: Tuesday, Nov. 4

Where: White Oak Bayou Room  
in NEW Building, 3rd Floor, close to campus

Time: 12:00 Noon





S- AIL # A15

# ROTARY CLUB OF UNIVERSITY AREA

*Meets every Wednesday noon at "R" Room,  
Above South End Zone of Rice Stadium*

*Corresponding Secretary: Marilyn M. Davis  
Mailing Address: 1648 Colquitt, Houston, Texas 77006  
Phone: 713/529-8353*

October 29, 1997

*"Service Above Self"*

RECEIVED

NOV 3 1997

SJA

Scott Atlas, Partner  
Vinson & Elkins, LLP  
1001 Fannin, Suite 2300  
Houston, Texas 77002-6768

Dear Scott:

On behalf of the members of the Rotary Club of University Area I want to thank you for appearing before our club and bringing us such an interesting, timely and informative program.

It was generous of you to take time to be with us and we appreciate it very much.

Sincerely,



Florida Booth  
Past President

FB/md

cc: Rob Field

0-5-A18 A15

Texas Criminal  
Defense Lawyers  
#41 Association

SJA



RECEIVED

NOV 3 1997

SJA

October 27, 1997

Scott J. Atlas  
1001 Fannin Street, Suite 2300  
Houston, Texas 77002-6760

Dear Mr. Atlas,

It was a pleasure to have had you speak at CDLP's Forensics and Habeas Skills Course held October 16-18, 1997 in San Antonio, Texas.

I would like to take this opportunity to express our sincere appreciation for your valued participation and the time you devoted, in both preparation and actual presence at the seminar. Thanks to you and the other speakers our seminar was a success.

I am enclosing a copy of the compiled course evaluation. As you can see we received an abundance of positive comments toward the speakers and the seminar.

We are proud to have had such knowledgeable and talented speakers for this seminar and hope to continue to give quality seminars, such as this, in the future.

Sincerely,

Jannie Chiat  
Programs Coordinator

Enclosure

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DAVID L. BOTSFORD, Austin (1996-1997)

## CRIMINAL DEFENSE LAWYERS PROJECT

### Forensics and Habeas Skills Course

October 16 – 18, 1997

San Antonio, Texas

Scale: 5-Outstanding 4-Excellent 3-Above Average  
2-Average 1-Below Average

### COURSE EVALUATION

#### ***INVESTIGATING THE INVESTIGATION***

Larry Ragle, Laguna Beach, CA

Speaker: 5.33    Topic: 5.81

(37 responses)    (37 responses)

#### ***MEDICAL EXAMINER***

Cyril Wecht, Pittsburgh, PA

Speaker: 6.10    Topic: 6.18

(37 responses)    (37 responses)

#### ***THE ETHICS OF HABEAS MATTERS: DEFENSE THEORIES, DISCOVERY & DISCOVERY ABUSE***

##### ***PANEL DISCUSSION***

This panel was evaluated overall and not individually.

Kurt Sauer, Austin

George McCall Segrest, Jr.

Stanley Schneider

Katherine Scardino

Speakers: 3.51    Topic: 3.60

(29 responses)    (29 responses)

#### ***ETHICS/HABEAS***

##### ***PANEL DISCUSSION***

Judge Fred Biery, Austin

Speaker: 5.0    Topic: 5.0

(35 responses)    (35 responses)

Judge Nancy Stein Nowak, San Antonio

Speaker: 5.0    Topic: 4.87

(34 responses)    (35 responses)

Yogi McKelvey, San Antonio

Speaker: 4.49    Topic: 4.56

(34 responses)    (34 responses)

#### ***DIRECT EXAMINATION OF AN EXPERT WITNESS***

Scott Atlas

*Followed by panel on ADMISSIBILITY AFTER DAUBERT*

This panel was evaluated overall and not individually.

Scott Atlas, Houston

Jeralyn Merritt, Denver, CO

Kent Schaffer, Houston

Dennis M. Kleper, Skokie, IL

Speakers: 5.03    Topic: 5.06

(34 responses)    (34 responses)

## Page 2: Forensics and Habeas Skills Course Evaluations

### ***THE WEB, A WEAPON AGAINST EXPERT WITNESSES***

Dennis M Kleper, Skokie, IL  
Speaker: 4.79      Topic: 5.08  
(36 responses)      (36 responses)

### ***FORENSIC PSYCHIATRIC EVIDENCE***

Dr. Michael Arambula, San Antonio  
Speaker: 5.05      Topic: 5.62  
(38 responses)      (38 responses)

### ***DNA AND GENETICS SUMMARY***

Dr. Moses Schanfield  
Speaker: 4.76      Topic: 5.00  
(35 responses)      (35 responses)

### ***EVIDENCE SHAPING***

Dr. Kevin Ballard, Houston  
Speaker: 4.69      Topic: 4.82  
(33 responses)      (33 responses)

### ***DNA***

Dr. Elizabeth Johnson, Houston  
Speaker: 6.35      Topic: 6.42  
(38 responses)      (38 responses)

### ***TAPE AND VIDEO ANALYSIS***

Sam Guiberson, Houston  
Speaker: 4.79      Topic: 4.52  
(33 responses)      (33 responses)

### ***FORENSICS LAW AND PROCEDURE APPLICABLE TO 11.071 AND BEYOND***

#### ***Panel Discussion***

David Schulman, Austin  
Speaker: 4.00      Topic: 4.26  
(31 responses)      (32 responses)  
Cynthia Hujar Orr, San Antonio  
Speaker: 1.59      Topic: 1.91  
(20 responses)      (22 responses)  
Roy Greenwood, Austin  
Speaker: 4.62      Topic: 4.73  
(34 responses)      (34 responses)  
Jim Marcus, Houston  
Speaker: 2.70      Topic: 2.78  
(26 responses)      (26 responses)

### ***FINANCING 11-071***

Judge Charlie Baird, CCA, Austin  
Speaker: 5.10      Topic: 5.10  
(34 responses)      (34 responses)

### ***ISSUE, SPOTTING AND HABEAS***

David Botsford, Austin  
Speaker: 6.65      Topic: 6.65  
(38 responses)      (38 responses)

**PREPARATION TO CROSS-EXAMINE THE EXPERT WITNESS**

Fred Leatherman, Seattle, WA

Speaker: 1.46      Topic: 1.57  
(19 responses)      (19 responses)

**CROSS-EXAMINATION OF EXPERT WITNESS**

Gerald Goldstein, San Antonio

Speaker: 3.30      Topic: 3.25  
(26 responses)      (26 responses)

Course Materials: 4.72

Physical Arrangements: 4.42

Program: 5.17

Overall Evaluation: 5.07

**COURSE MATERIALS**

1. Can you consider adding a listing of good experts by subject area?
2. Some written materials lacking.

**PHYSICAL ARRANGEMENTS**

1. Fine
2. Need snacks.
3. Never hold it here again!
4. Nice hotel; inadequate use of air conditioning.
5. Cold!

**PROGRAM**

1. Great!
2. Too much seminar – not enough breaks.

**OVERALL**

1. I'd change the placement of the material a little.

**SUGGESTIONS FOR IMPROVING THE EDUCATION VALUE OF THE PROGRAM**

1. This was a uniformly excellent program with no apparent dead weight. Focus more on how we get access to lab reports, case notes, etc. The lousy discovery rules make trial by ambush the norm.
2. Place more emphasis on how to locate good expert witnesses in varying ways.
3. Make second day a few hours shorter. It's hard on us old folks.
4. Put some outlines together for those without papers, this will make it easier to reference.
5. Have the seminar at a less expensive hotel – have it in Houston where they kill the most people.
6. This program compresses into too few days. Sessions too long to assimilate such important information.
7. Please have more of the same – an excellent program with a nice mix of law and science.
8. Consolidate DNA presentations or at least put DNA presentations on separate days.
9. Some speakers used slides effectively, however it would have been more helpful to have a printed copy of the slides in our notebooks.
10. Excellent course – it would have been more effective to present the technical, substantive topics in the morning and the panels in the afternoon.

**GENERAL COMMENTS**

1. A reception would have been nice on either Thursday or Friday giving us a chance to meet one another as well as the speakers.
2. 8.5 hours in one day (especially highly technical material) is too much to absorb.

## Page 4: Forensics and Habeas Skills Course Evaluations

3. Excellent program, practical and valuable.
4. This was one of the best sessions I have seen in years.
5. I rate this seminar the best that TCDLA has presented in 1997. The quality of the experts was the best I have ever seen.

### FUTURE TOPICS

1. ALR Hearings.
2. Civil remedies for police/1983 violations.
3. A course somewhat like this but each section would be a specific forensic area; serology, fingerprints, ballistics, psychiatry, etc.
4. Can TCDLA lobby for a law that requires "x" amount of runs on DNA evidence to be presented to cut down on errors/appeal writs and that courts pay for testing requested by court appointed lawyers at independent labs?
5. What to do with direct appeal and DP writs at same time and advice on what needs to happen, i.e. "skeleton HC's until appeal done?"
6. Arson experts.
7. Topics related to handling of criminal appeals.
8. We have to do seminars specifically on capital murder, trial appeal and habeas.

### SPEAKER COMMENTS

Larry Ragle

1. Could have been presented better; seemed to be reading more than actual knowledge.
2. Very knowledgeable but flippant with questions

Cyril Wecht

1. Give him more time; this guy is brilliant and I could listen to his expertise all day.
2. Enjoyed his advice.
3. Excellent topic – could be a whole seminar itself for those who see a lot of forensic cases.
4. He was one of the best speakers!
5. Outstanding speaker

The Ethics of Habeas Matters Panel

Kurt Sauer

George McCall Segrest, Jr.

Stanley Schneider

Katherine Scardino

1. Thought it was very good – they answered all the questions that I had.
2. Totally useful information – this was great.
3. Segrest was pretty good, ask him back.
4. Katherine Scardino is an inspiration.

Judge Fred Biery

1. Good!
2. Page 8, paragraph 5, 1.6 "principles" not "principals" – don't rely on spell check, proof it yourself.
3. Very helpful discussion of Federal Habeas.

Magistrate Judge Nancy Stein Nowak

1. Good!
2. Good topic, I got some valuable tips from Judge Nowak.

Yogi McKelvey

1. Excellent!
2. Yogi was great!

## Page 5: Forensics and Habeas Skills Course Evaluations

### Admissibility after Daubert Panel

1. Very well done – need more examples.
2. Great discussion of issues – Jeralyn Merritt was an excellent speaker!
3. Good paper.
4. Effective Daubert discussion by all 3 panel members.
5. When you have a 3-member panel you need more time for dialogue.

### Dennis Kleper

1. Too complicated for time allotted – should be a whole seminar.
2. Needs more time to go into specifics of how to locate good experts. Focus more on how we can link up to share resources and help one another.
3. Cutting edge!
4. Great program on “the net”.
5. Too basic, even for people who are totally unfamiliar with the net, need more, not enough.

### Dr. Michael Arambua

1. More on mitigation, please...
2. Need more focus on how this information can help us.
3. Information limited, especially the slides.
4. Excellent.
5. Thought provoking

### Dr. Moses Schanfield

1. Good follow-up to Dr. Johnson.
2. Over my head.
3. What?? Needed to provide paperwork, materials insufficient, confusing topic, copies of the slides would have been nice..
4. Excellent speaker.
5. I didn't understand what he was talking about.

### Dr. Kevin Ballard

1. Truly great!
2. Really interesting presentation.
3. He was one of the best speakers.
4. Good speaker, easy to understand.
5. Most valuable topic and speaker – get him back!

### Dr. Elizabeth Johnson

1. Got a bit too technical, but made up for it.
2. At last; semi-understandable information on DNA.
3. Confusing topic – good speaker.
4. Excellent speaker.
5. Probably need a day on the mechanics of DNA.

### Sam Guiberson

1. Did a great job with a bad time slot.
2. Simply great!
3. Excellent
4. Exuberant speaker for a limited topic.
5. Dynamic speaker. As always good talk and good paper.

### David Schulman

1. Good nuts and bolts stuff.
2. Excellent information – should be first day.
3. Good!
4. Great speaker.

## Page 6: Forensics and Habeas Skills Course Evaluations

5. Mostly "war" stories, but helpful nonetheless.

Cynthia Orr

1. She wasn't given much to say – but that wasn't her fault.
2. Thanks for so much effort and time to help us.
3. Great as always.
4. Good moderator.
5. Good job as moderator.

Roy Greenwood

1. Adorable!
2. Better nuts and bolts stuff.
3. Excellent! Thanks for motion – I will use it next week.
4. Paper was good – helpful.
5. Very knowledgeable with useful checklist and motions.

Jim Marcus

1. I would have appreciated a paper from this speaker.
2. Good conclusion and follow-up to other panel speakers.
3. Good talk.
4. Good tie in of 11.071 with federal anti-terrorism EDP act. Should have had more time.

Judge Charlie Baird

1. Good nuts and bolts stuff.
2. Good to know.
3. Very helpful to have detailed explanation from CCA.
4. Great speaker as always.
5. Among the most helpful and practical talks of the whole course.

David Botsford

1. Very passionate.
2. Excellent paper.
3. Inspirational!
4. He was one of the best speakers.
5. As always among the top lawyer/speakers – very helpful.

Fred Leatherman

1. Very good stand in – written materials lacking.
2. Leatherman was great!
3. Excellent substitute for Barry Scheck.
4. Why no paper?

Gerald Goldstein

1. THE KING!!
2. The best by far!
3. Best of show!
4. What's there to say – Gerry is Golden!
5. Excellent; what can one say!



F. old  
#A15

MAYOR, DAY, CALDWELL & KEETON, L.L.P.

100 CONGRESS AVENUE, SUITE 1500

AUSTIN, TEXAS 78701-4042

(512) 320-9200

TELECOPIER (512) 320-9292

ROLIFF H. PURRINGTON, JR.

PARTNER

(512) 320-9234

(713) 225-7034

purrr@mcimail.com

700 LOUISIANA

SUITE 1900

HOUSTON, TEXAS 77002-2778

(713) 225-7000

TELECOPIER (713) 225-7047

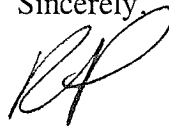
October 16, 1997

Scott J. Atlas  
Vinson & Elkins L.L.P.  
1001 Fannin Street  
2300 First City Tower  
Houston, Texas 77002-6760

Dear Scott:

I enjoyed your talk last week and it was good to see you.

Sincerely,



Roliff Purrington

RP/ko

CHAMBERLAIN, HRDLICKA, WHITE, WILLIAMS & MARTIN

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1200 SMITH STREET, SUITE 1400

HOUSTON, TEXAS 77002-4310

(713) 658-1818 (800) 342-5829

(713) 658-2553 (FAX)

chwwm@sam.neosoft.com

HOUSTON  
ATLANTA  
SAVANNAH

DIRECT DIAL NO. (713) 658-2504

E. ALLAN TILLER  
SHAREHOLDER

October 13, 1997

Scott J. Atlas, Esq.  
2300 First City Tower, 1001 Fannin  
Houston, Texas 77002-6760

Re: Monterrey Conference

Dear Scott:

I want to personally thank you for your contribution in making the Monterrey Conference the success that it was, with easily the largest attendance of the three conferences that I have attended. I hope that your experience with the conference was as enjoyable as my own and that it justified the considerable time and effort that you put into preparing and making your presentation.

Yours sincerely,

CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & MARTIN, P.C.

By: 

E. Allan Tiller, Chairman  
Monterrey Conference Subcommittee

EAT/km

cc: Ms. Stephanie Harrison  
Ms. Kay Sim

10/7/97 F- AFE # A15

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**ATTORNEYS AT LAW**

1200 SMITH STREET, SUITE 1400  
**HOUSTON, TEXAS 77002-4310**

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(713) 658-2553 (FAX)

chwww@sam.netsoft.com

HOUSTON  
ATLANTA  
SAVANNAH

**TELECOMMUNICATION (FACSIMILE) TRANSMITTAL SHEET**

**TO:** Attendees of the October 10, 1997 Monterrey Conference

To:	Fax No.	To:	Fax No.
Sofia Adroque	713/654-3340	James Prappas	713/626-3019
Scot Atlas	713/615-5399	Roliff Purrington	713/225-7047
Rhett Buck	713/861-2568	Jessica Rossman	713/221-1212
Merrida Coxwell	601/948-7097	Scott Rozzell	713/229-1522
George Gonzalez	713/225-7047	Carlos Ryerson	713/652-5152
Ken Harder	713/782-5544		
T. Allan Harris	713/223-3717	cc: Stephanie Harrison	713/552-1758
David Levy	713/651-5246	Jorge de la Garza	011-528-378-5267
Paul Morico	713/789-2679	Kay Sim	713/759-1710

**FROM:** E. Allan Tiller

**RE:** Final Itinerary for the Monterrey Conference

**MESSAGE:** Here is the final itinerary for the conference in Monterrey:

**Thursday, October 9:**

**5:00pm** Attendees picked up at the hotel for a guided tour of the new Museum of Regional History in downtown Monterrey

**7:30-8:00pm** Return to the hotel for a brief cocktail, followed by a trip to the Brewery for dinner

**CASUAL DRESS** for all events on Thursday ("casual" for all conference events should be considered "snappy" or "dressy" casual)

**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX, PLEASE CALL AS SOON AS POSSIBLE TO 658-2552.**

Monterrey Committee  
October 7, 1997  
Page 2

**Friday, October 10:**

8:00am-2:00pm      The Conference (business suits are the norm)

2:00pm              Lunch at Vitro (the glass company)

4:00pm-8:00pm      Return to the hotel, no planned event (there is a shopping mall across the street from the hotel for those who would like to browse)

8:00pm              Pickup at the hotel to go to the home of Fernando Margain, the mayor of Garza Garcia, for dinner.  
DRESS IS CASUAL (again, snappy or dressy casual)

All visitors from Houston, including those who are not speakers or committee members, as well as all spouses are invited to all events. An ANADE member will be at the airport to pick up all of those coming from Houston; check the attached spreadsheet to make sure that we have the correct information for you. Everyone will be responsible for his or her transportation back to the airport when leaving for Houston.

80 to 100 attendees from Monterrey are expected at the Conference, and so this will be an excellent opportunity to meet your counterparts in Monterrey. I look forward to seeing you all at the airport or in Monterrey.



---

**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX, PLEASE CALL AS SOON AS POSSIBLE TO 658-2552.**

HBA/ANAHE MONTEREY CONFERENCE - OCTOBER 10, 1997  
ATTENDANCE LIST

NAME	COMPANY	ROLE	SPOUSE	AIRLINE	FLIGHT #	ARRIVAL TIME (Oct. 9)
Sofia Adroque	Susnan Godfrey	Speaker	Sten Gustafson	Continental	593	3:45 p.m.
Scott J. Atlas	Vinson & Elkins	Speaker	No	Continental	599	9:22 p.m.
E. Rhett Buck	Attorney at Law	Speaker	No	Continental	593	3:45 p.m.
Merrida Coxwell	Keyes, Danks & Coxwell	Other Attendee	No	Continental	597	10:55 a.m.
George Y. Gonzalez	Mayor Day Caldwell	Member	No	AeroMexico	445	5:10 p.m.
Kenneth J. Harder	Dunbar, Harder & Benson	Committee	No	Continental	597	10:55 a.m.
T. Alan Harris	Liddell, Sapp, Zivley	Committee	No	Continental	595	5:10 p.m.
Stephanie Harrison	Boyar Simon & Miller	Committee	No	Continental	597	10:55 a.m.
David J. Levy	Fulbright & Jaworski	Speaker	No	Continental	597	10:55 a.m.
Paul R. Morico	Arnold White & Durkee	Speaker	Rita Mathew	Continental	597	10:55 a.m.
James D. Prappas	Attorney at Law	Committee	No	AeroMexico	445	Oct 8th, 5:10p.m.
Roliff Purrington	Mayor, Day, Caldwell	Speaker	No	Continental	597	10:55 a.m.
Jessica Rossman	Bracewell & Patterson	Committee	No	Continental	599	9:22 p.m.
Scott E. Rozzell	Baker Bolts, LLP	HBA Past President	No	Continental	597	10:55 a.m.
Carlos A. Ryerson	Adams and Reese	Speaker	No	Continental	595	5:10 p.m.
E. Allan Tiller	Chamberlain Hrdlicka White, et al	Committee	AnnMarie	Continental	597	10:55 a.m.

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1200 SMITH STREET, SUITE 1400  
**HOUSTON, TEXAS 77002-4310**  
(713) 658-1818 (800) 342-5829  
(713) 658-2553 (FAX)  
chwww@sam.haosoft.com

HOUSTON  
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**TELECOMMUNICATION (FACSIMILE) TRANSMITTAL SHEET**

**TO:** Attendees of the October 10, 1997 Monterrey Conference

To:	Fax No.	To:	Fax No.
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T. Allan Harris	713/223-3717	cc: Stephanie Harrison	713/552-1758
David Levy	713/651-5246	Jorge de la Garza	011-528-378-5267
Paul Morico	713/789-2679	Kay Sim	713/759-1710

**FROM:** E. Allan Tiller

**RE:** Conference in Monterrey

**MESSAGE:** As you all know, the Monterrey leg of our HBA-ANADE Lawyers Exchange Program will take place this Thursday and Friday (October 9 and 10). I have just received a copy of the program, which I translate as follows:

8:00 Introduction and Welcome by Lic. Carlos de la Garza, President of ANADE, Nuevo Leon Chapter

Lic. Jorge de la Garza, President of the ANADE Conference Organizing Committee

Stephanie Harrison, Chairman of the HBA Lawyers Exchange Committee

**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX, PLEASE CALL AS SOON AS POSSIBLE TO 658-2552.**

**Monterrey Committee**  
**October 6, 1997**  
**Page 2**

- 8:30 Address by Lic. Jose S. Gonzales, attorney general of the state of Nuevo Leon
- 8:40 "Legal Liability of Shareholders in Affiliated Companies" ("Piecing the Corporate Veil") by David Levy
- 9:25 "Litigation of the Death Penalty" by Scott Atlas
- 10:10 Break
- 10:25 "The Process of Selecting Mexican Lawyers for U.S. Companies" by Sofia Adroque and Roliff Purrington
- 11:10 "Taxation of 'Offshore' Entities" by Rhett Buck
- 11:55 Break
- 12:10 "The Authority of the IRS to Solicit Information from Banks" by Carlos Ryerson
- 12:55 "Legal Liability on the Internet" by Paul Morico
- 1:40 Closing Remarks by Lic. Fernando Margain, the Mayor of San Pedro Garza Garcia.

It is my understanding that, following the conference, ANADE will sponsor a lunch for the HBA speakers, delegation members, and attendees. The conference has been approved for 4.5 hours of CLE credit (no ethics).

I attach a copy of the "spreadsheet" that I sent to ANADE showing the arrival time of all HBA members going to Monterrey. It is my understanding that ANADE will be arranging for someone to meet each HBA member as he or she arrives, at least for those members who have provided their flight information, but I am still awaiting confirmation that this will be the case. I will let you know as soon as I have received such confirmation.

See you in Monterrey!

---

**IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX, PLEASE CALL AS SOON AS POSSIBLE TO 658-2552.**

HBA/ANADE MONTEREY CONFERENCE - OCTOBER 10, 1997  
ATTENDANCE LIST

NAME	COMPANY	ROLE	SPOUSE	AIRLINE	FLIGHT #	ARRIVAL TIME (Oct. 9)
Sofia Adroque	Susman Godfrey	Speaker	Sten Gustafson	Continental	593	3:45 p.m.
Scott J. Atlas	Vinson & Elkins	Speaker		(not available)		
E. Rhett Buck	Attorney at Law	Speaker	No	Continental	593	3:45 p.m.
Merrida Coxwell	Keyes, Danks & Coxwell	Other Attendee	No	Continental	597	10:55 a.m.
George Y. Gonzalez	Mayor Day Caldwell	Member	No	AeroMexico	445	5:10 p.m.
Kenneth J. Harder	Dunbar, Harder & Benson	Committee	No	Continental	597	10:55 a.m.
T. Alan Harris	Liddell, Sapp, Zivley	Committee	No	Continental	595	5:10 p.m.
Stephanie Harrison	Boyar Simon & Miller	Committee	No	Continental	597	10:55 a.m.
David J. Levy	Fulbright & Jaworski	Speaker	No	Continental	597	10:55 a.m.
Paul R. Morico	Arnold White & Durkee	Speaker	Rita Mathew	Continental	597	10:55 a.m.
James D. Prappas	Attorney at Law	Committee	No	AeroMexico	445	Oct 8th, 5:10p.m.
Roliff Purington	Mayor, Day, Caldwell	Speaker	No	Continental	597	10:55 a.m.
Jessica Rossman	Bracewell & Patterson	Committee	No	Continental	599	9:22 p.m.
Scott E. Rozzell	Baker Botts, LLP	HBA Past President	No	Continental	597	10:55 a.m.
Carlos A. Ryerson	Adams and Reese	Speaker	No	Continental	597	10:55 a.m.
E. Allan Tiller	Chamberlain Hrdlicka White, et al	Committee	AnaMarie	Continental	597	10:55 a.m.





# Houston Bar Association

1300 First City Tower

1001 Fannin Street

Houston, Texas 77002-6708

(713)759-1133

FAX (713)759-1710

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Haynes and Boone, L.L.P.  
HYLA President

October 2, 1997

Mr. Scott Atlas  
Vinson & Elkins LLP  
1001 Fannin, Suite 2500  
Houston, Texas 77002

Dear Scott:

On behalf of the Board of Directors of the Houston Bar Association, let me extend my congratulations on your receiving the Texas-Mexico Bar Association's highest award for your work on the case of Ricardo Adalpe Guerra.

Very truly yours,

Richard Trevathan  
President,  
Houston Bar Association

RT/ts

The Houston Bar Association sponsors the following public service projects serving the Greater Houston area:

Houston Volunteer Lawyers Program • Dispute Resolution Center • Juvenile Justice Program • LegalLine • Lawyer Referral Service • Elder Law • LIPS • Speakers Bureau • Campaign for the Homeless • Special Olympics Committee • Adopt-A-School • Lawyers for Literacy • IDEA

27

F: *all*  
#15

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET

HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

## MEMORANDUM

September 26, 1997

TO: Santiago Roel

~~Via~~ Telecopy - 011.525.280.3669

FROM: Scott J. Atlas

RE: Trip to Monterey, October 9-13, 1997

I will arrive in Monterey on Thursday evening, October 9. I will be met by representatives of ANADE. You already know where I will be staying.

Nancy and the children will arrive on Friday evening, October 10, at 9:22 p.m. on Continental flight 599.

Nancy will leave on Sunday, October 12, at 5:55 p.m.

The children and I will leave on Monday, October 13, at 4:25 p.m.

Let me know if you need any additional information.

SJA



VEHOU07:51170.1

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
1001 FANNIN STREET  
SUITE 2300

**HOUSTON, TEXAS 77002-6760**

TELEPHONE (713) 758-2222

VOICE MAIL (713) 758-4300

FAX (713) 615-5399

www.vinson-elkins.com

## CONFIDENTIALITY NOTICE:

*The information contained in this FAX may be confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named below. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.*

## FACSIMILE TRANSMITTAL PAGE

DATE: **September 26, 1997**

RECIPIENT'S CONFIRMATION #: **011-525-280-3544**

TO: **Mr. Santiago Roel**

COMPANY:

TYPE OF  
DOCUMENT:

PAGES: *(including this transmittal page)*

FROM: **Scott J. Atlas**

SENDER'S PHONE #: **(713) 758-2024**

MESSAGE:

We are sending from a machine that is Group I, II, III compatible. Please check transmission after the last page. If this FAX transmission is illegible or you do not receive all pages, please call the sender at the number listed above. If you wish to respond, use FAX #: (713) 615-5399.

OPERATOR:

RECIPIENT'S FAX #: **011-525-280-3669**

HARD COPY FOLLOWS: ☐ YES ☒ NO

f. ald #A15

cc: MA  
m

HAYNES AND BOONE, LLP

September 22, 1997

Mr. Scott Allas  
Vinson & Elkins  
2300 First City Tower  
1001 Fannin  
Houston, TX 77002-6760

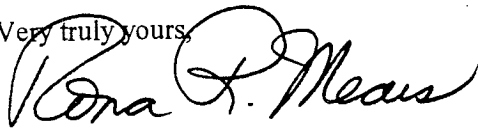
Dear Scott:

Thank you so very much for agreeing to make a presentation to the Fourth Annual Conference on the occasion of receiving the Texas-Mexico Bar's Special Recognition Award. Your words were, as Miguel Rosillo put it so well, "spellbinding", and inspired all of us to raise our level of commitment to the cause of furthering cross-border relations.

When asked by the media, my reactions concerning the award to you, I said "Scott is one of the real heroes of our time in furthering cross-border relations between Mexico and the U.S. The Association feels privileged to have had the opportunity to present him with this award." That sums up my feelings, to which I add my gratitude for your excellent presentation.

Thank you and congratulations on your extraordinary efforts.

Very truly yours,



Rona R. Mears, Co-Chair  
Texas-Mexico Bar Association

cc: Executive Committee

d-450967.1

Attorneys

901 Main Street Suite 3100 Dallas, Texas 75202-3789

Telephone [214] 651.5000 Fax [214] 651.5940 <http://www.hayboo.com>

AUSTIN DALLAS FORT WORTH HOUSTON SAN ANTONIO WASHINGTON, D.C. MEXICO CITY

*fax to*

THE UNIVERSITY OF TEXAS AT AUSTIN  
HOUSTON DEVELOPMENT OFFICE

*F. AFD  
A 15*

Betsy Chadderdon Frantz  
Major Gifts - Houston  
P.O. Box 981007 Houston, TX 77098-1007

Voice: (713) 349-0013

FAX: (713) 663-7242

Internet: bfrantz@mail.utexas.edu

## FAX TRANSMISSION

Date: September 19, 1997

To: Scott Atlas

Company: Vinson Elkins

Voice: 713/758-2024

FAX: 713/758-3338

Number of pages INCLUDING THIS COVER SHEET: 1

## Message

*Betsy I'd love to do it, but I may be in a mediation that day. Is any other month possible? Scott*

Scott: Would you be the guest speaker at the University Area Rotary Club on Wednesday, October 29. I am responsible for the October speakers. Therefore, I can select people I would like to hear!

I would very much like for you to tell the story of the Aldape Guerra case--esp. in terms of the "big" issues, the frustrations, and the team you assembled for this pro bono work--or craft the presentation any way you prefer.

You have approx. 15 minutes plus 10 minutes for questions.

The Club meets in the Owl Club at the south end of Rice Stadium (2nd floor). Usually about 60 in attendance. Buffet lunch (you will be our guest) at 12:00 noon, short business meeting, and then the speaker. Park at SEast Gate of the stadium.

I look forward to hearing from you. I think what you did is historic, in many ways, and hearing you tell the story is very compelling for anyone interested in seeing that justice is served.

*Betsy*

**CHAMBERLAIN, HRDLICKA, WHITE, WILLIAMS & MARTIN**  
A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

Attorneys at Law

FAX: (713) 658-2553  
(713) 658-2550

1200 SMITH STREET, SUITE 1400  
HOUSTON, TEXAS 77002-4310  
(713) 658-1818 (800) 342-5829

1400 HARRIS TOWER  
233 PEACHTREE STREET, N.E.  
ATLANTA, GEORGIA 30303-1507  
TELEPHONE (404) 659-1410

**FACSIMILE TRANSMITTAL SHEET**

Please deliver the following pages to:

NAME	FACSIMILE #	CONTACT #	TIME SENT	SENT BY
1. Michelle Brainerd	(713) 615-5399	( )		
2.	( )	( )		
3.	( )	( )		
4.	( )	( )		

FROM: Allan Tiller Direct Dial #: C 713) 658-2504

DATE: 9/18/97 CHWWM CLIENT NO.: 0000001-300006

Total Pages Including This Page: 4

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<input checked="" type="checkbox"/> Original Will <u>Not</u> Follow	Original Will Follow VIA: <input type="checkbox"/> Regular Mail <input type="checkbox"/> Overnight Delivery	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Messenger
<b>MESSAGE:</b> <u>Scott/Michelle -</u> <u>The conference will be from 8:00 am - 2:00 pm on Friday at the Quinta Real Hotel, followed by lunch somewhere (usually the brewery). There will also be an event Thursday night before the conference and a dinner at a private home Friday night. We'll provide more specifics as they come to us. Regards,</u>		

IF YOU HAVE ANY PROBLEMS RECEIVING THIS FAX,  
PLEASE CALL FAX OPERATOR, (713) 658-2552, AS SOON AS POSSIBLE.

P.S. There is also usually a late lunch reception on Thursday as well.

**CHAMBERLAIN, HRDLICKA, WHITE, WILLIAMS & MARTIN**

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

**ATTORNEYS AT LAW**

1200 SMITH STREET, SUITE 1400  
HOUSTON, TEXAS 77002-4310

HOUSTON  
ATLANTA  
SAVANNAH

DIRECT DIAL NO. (713) 658-2504

E. ALLAN TILLER  
SHAREHOLDER

(713) 658-1818 (800) 342-5829

(713) 658-2553 (FAX)

chwwm@sam.neosoft.com

August 13, 1997

Scott J. Atlas, Esq.  
2300 First City Tower, 1001 Fannin  
Houston, Texas 77002-6760

Re: Speaker Delegation to Monterrey on October 10

Dear Mr. Atlas:

I am pleased to advise you that you have been selected to be one of seven speakers at the HBA/ANADE Lawyer Exchange Conference in Monterrey, Mexico on October 10, 1997. The complete speaker slate is as follows:

1. Death Row Litigation - Scott T. Atlas of Vinson & Elkins
2. Internet Liability - Paul Morico of Arnold, White & Durkee
3. Selecting Mexican Counsel by U.S. Firms - joint presentation by Sofia Adroque of Susman Godfrey L.L.P. and Roliff Purrington of Mayor, Day, Caldwell & Keeton, L.L.P.
4. Tax Treatment of Offshore Entities - Rhett Buck, attorney at law
5. IRS Authority to Subpoena Bank Records - Carlos Ryerson of Adams and Reese
6. Piercing the Corporate Veil - David Levy of Fulbright & Jaworski, L.L.P.

Please let me know immediately if your circumstances have changed so that you will not be able to participate in the conference.

You will be allotted forty minutes for your presentation, which might include five to ten minutes at the end for questions. Although Spanish is preferred, you may give your presentation in either English or Spanish; if you cannot speak freely in Spanish without

August 13, 1997

Page 2

reading your speech, you should use English. We are arranging for simultaneous translation from either language to the other.

As a speaker, you are asked to prepare an outline as a handout at the conference. There are no strict rules as to the length of the outline, although I suggest anywhere between 7 to 20 pages. It is preferable, but not required, that the outline be in Spanish. If you have any problems or questions in this regard, please contact Stephanie Harrison at (713) 850-7766, who will be available to assist you with regard to this and other logistical matters involving the conference. Of course, you can also contact me if you have any questions or problems. In order to have the outlines ready for the conference, please send to me (or your mentor) a completed outline by September 15.

You should plan to arrive in Monterrey by midday October 9 and remain through the evening of October 10. Special events are planned by ANADE for the HBA Delegation for lunch on Thursday and on Friday evening after the conference. In addition, ANADE has invited all members of the HBA Delegation and all conference attendees to an event on the evening of October 9th and a late lunch following the conference on October 10th. Spouses of HBA Delegation members are invited to all Delegation and conference events.

Each Delegation member is responsible for making his own travel and hotel arrangements and is responsible for his or her own costs. You should contact the hotel in Monterrey, La Quinta Real, at 011-52-8-368-1000 (located at Diego Rivera, #500, Garza Garcia, Mexico 66260). To reserve your room as soon as possible, ask for the Sales Department and explain that you are reserving under the HBA/ANADE block; if there are any problems, ask for Ms. Gaby Cardenas.

You should also book your airline flights as soon as possible. I understand that Continental has a flight (#597) to Monterrey on October 9 leaving at 9:35 a.m. and arriving at 10:55 a.m., and a flight leaving Monterrey the following Saturday at 11:40 a.m. and arriving in Houston at 1:00 p.m. (#594). AeroMexico also has some direct flights that are considerably less expensive, but on prop planes. If you do not have your own travel agent, I have been speaking to Andre at SuperTravel (713/974-3491), and he is familiar with the choices. Bring your U.S. passport with you, but it is not necessary to obtain a Mexican visa.

You will find this to be a most rewarding and enjoyable experience, and I look forward to traveling to Monterrey with you and the other Delegation members. Please feel free to bring your spouse as well, but let me know as soon as possible if your spouse will be attending.



August 13, 1997

Page 3

Again, thank you for your interest in the conference and for the work that you will be doing on behalf of the conference.

Yours sincerely,

CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & MARTIN, P.C.

By: 

E. Allan Tiller, Chairman  
Monterrey Conference Subcommittee

EAT/km

cc: Ms. Stephanie Harrison  
Ms. Kay Sim  
Ms. Sherrie Harrison  
Mr. Jorge de la Garza

# TEXAS-MEXICO BAR ASSOCIATION BARRA DE ABOGADOS MEXICO-TEXAS

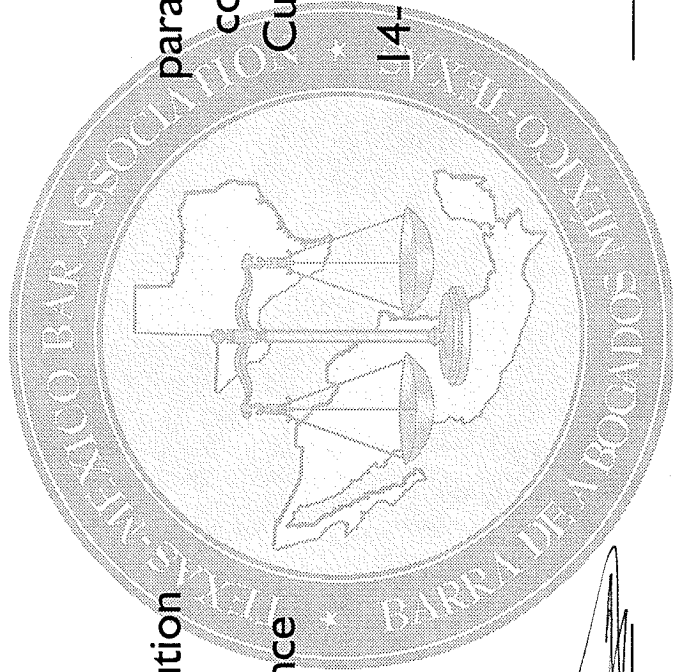
Recognizes

*Scott Atlas*

Reconoce

for outstanding contribution  
as a speaker at the  
Fourth Annual Conference  
Dallas, Texas  
September 14-16, 1997

para su variosa participación  
como conferencista en la  
Cuarta Conferencia Anual  
Dallas, Texas  
14-16 de Septiembre 1997



Napoleon Cantú Cerna  
Co-Presidente

Rona Mears  
Co-Chair

TX-Mexico Bar Assn.  
Dallas (9/15/97)

F-ATG #15  
by - m

A. Intro

1. Hilites
2. Some Lessons

B. 7/82 Harris Murder

1. Describe
2. Q - who shot?
3. DA: non-shooter involved

C. RC Killed

1. Describe
2. 2 guns

D. HQ

1. all nite
2. stories get clearer
3. by a.m., a few picks

E. 10/82 Trial

1. conviction (mostly Jose Jr.)
2. death
3. appeals (8-9 yrs)

### E. Taking Case (5/92)

1. Mex. asks

2. Meet, read all

3. Troubled

a. guns on RC

b. statements: confused → clearer

c. "illegal alien"

d. cemetery murder

e. other

f. physical evid

4. Take / Form team

### F. Inv.

1. teenage wits. hard to find

2. Mex. help

3. same story

## G. Story

1. RC shooter / RAG hands
2. cops + DA's
  - a. threats
  - b. RAG-handcuffed
  - c. Galvan: "mojado"
  - d. false statements
  - e. perjury

## H. 9/92 Threats to U.S. Kids

1. Describe
2. Realize emotion: - protests  
- songs
3. & talk to Mex. press  
- wits appear

## I. "93 Fed Ct. Hrg.

1. Floyd - 0%
2. 9 wits: intimidation, perjury etc
3. cop: non-shooter guilty
4. DA: "illegal alien"
5. RAG beat up

J. 1/94 C+. Ruling

1. Read
2. New trial

K. 2/97 Retrial

1. M/ suppress '82 lies
2. DA re-proves no misconduct
3. Hilma: pick "mojados"
4. C+. rules: suppress
5. D.A. Drops charges

L. 4/97 RAG Freed

1. receives Kero's welcome
2. soap opera
3. message

M. 3/97 RAG Dies

1. ends soap
2. engagement
3. accident
4. 8 hrs of mourners

The petitioner's claim of denial of "due process" did not end with the police and the prosecutor, it continued into the Court process. It is asserted that the inaccurate \*637 translations of the witnesses' testimony from Spanish to English by the court interpreters prevented a fair trial. The first interpreter, Linda Hernandez, was removed after one of the jurors complained that she was interpreting inaccurately. The second court interpreter, Rolf Lentz, acted inappropriately by making jokes and adopting an improper casual manner, while communicating with several defense witnesses in Spanish. Much of this went unchecked by the court.

[22] The petitioner also questions the propriety of an experienced prosecutor questioning a witness about the witness' participation in a crime that the witness was not under investigation for and had not been criminally charged. One of Guerra's roommates, who testified in Guerra's defense, was questioned about his "participation" in a robbery that the prosecutors well knew had not resulted in a charge. Yet, it was done, in all likelihood, to affect the judgment of the jury in determining the witnesses' credibility. This knowing false accusation by the prosecutors violated Guerra's "due process" rights because the question was not a proper question, even on character.

This type of deliberate violation of oath as a prosecutor and violation of the rules of evidence is incompatible with the rudimentary demands of justice and fair play. This principle remains true even when the state, though not soliciting false evidence, allows it to go uncorrected. *Giglio v. United States*, 405 U.S. 150, 153-54, 92 S.Ct. 763, 765-66, 31 L.Ed.2d 104 (1972).

## VII.

### Cumulative Effect of Prosecutorial Error

[23] Finally, the petitioner contends that the cumulative effect of the errors made by the trial court and the prosecutors resulted in an unfair trial. Because the state court, in considering the petitioner's petition for writ of habeas corpus, found no waiver of error, there is no bar to considering the errors found in a cumulative error analysis. *Derden v. McNeel*, 978 F.2d 1453, 1458 (5th Cir.1992) (en banc), cert denied, 508 U.S. 960, 113 S.Ct. 2928, 124 L.Ed.2d 679 (1993). When the errors of the

state infuse a trial with such prejudice and unfairness as to deny a defendant a fair trial, due process has not been enjoyed. *Id.*

[24] Here, the extent of the prosecutorial misconduct is legion. The number of instances of misconduct as well as the type and degree compel the conclusion that the cumulative effect of the prosecutors' misconduct rendered the trial fundamentally unfair. There is no doubt in this Court's mind that the verdict would have been different had the trial been properly conducted. *Kirkpatrick v. Blackburn*, 777 F.2d 272, 278-79 (5th Cir.1985), cert. denied, 476 U.S. 1178, 106 S.Ct. 2907, 90 L.Ed.2d 993 (1986).

## CONCLUSION

The police officers' and the prosecutors' actions described in these findings were intentional, were done in bad faith, and are outrageous. These men and women, sworn to uphold the law, abandoned their charge and became merchants of chaos. It is these type flag-festooned police and law-and-order prosecutors who bring cases of this nature, giving the public the unwarranted notion that the justice system has failed when a conviction is not obtained or a conviction is reversed. Their misconduct was designed and calculated to obtain a conviction and another "notch in their guns" despite the overwhelming evidence that Carrasco was the killer and the lack of evidence pointing to Guerra.

The police officers and prosecutors were successful in intimidating and manipulating a number of unsophisticated witnesses, many mere children, into testifying contrary to what the witnesses and prosecutors knew to be the true fact, solely to vindicate the death of officer Harris and for personal aggrandizement. The cumulative effect of the police officers' and prosecutors' misconduct violated Guerra's federal constitutional right to a fair and impartial process and trial.

Therefore, the petitioner's Writ of Habeas Corpus is GRANTED, the conviction and judgment are set aside.

It is ORDERED that the Writ of Habeas Corpus is conditionally granted unless the state begins retrial proceedings by arraigning the petitioner within thirty days from the \*638 date this order becomes

## N. Lessons

### 1. Problem w/ Death Row

a. too little \$

b. can't tell if guilty or not

### 2. Need volunteers

a. unpop. / hi ideals

b. U.S. attys: us or \$

c. Mex. attys: ask clients

### 3. Cops & DA's: duty to truth, not win

~~4. all~~

ALL LAWYERS

### 4. U.S. - Mex.: Neighbors

a. learn re each other

b. fair trial in resp. of country

## O. Privilege

1. Save life

2. Team effort: \$2.5M  
VE p.b.

3. No regrets  
- died free



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b. U.S. attys: us or \$

c. Mex. attys: ask clients

### 3. Cops & DA's: duty to truth, not win

~~4. Cops~~

ALL LAWYERS

### 4. U.S. - Mex.: Neighbors

a. learn re each other

b. fair trial irreg. of country

## O. Privilege

1. Save life

2. Team effort: \$2.5M  
VE p.b.

3. No regrets

- died free

9/15/97  
(Dallas)

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on clipped pgs

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AUG 26 1997

SJA

# Fourth Annual Conference Cuarta Conferencia Anual

**"Venturing Across Borders: A Comparative View of Legal  
and Practical Issues" / "Negocios Mas Allá de las Fronteras:  
Un Analisis Comparativo de los Aspectos Practicos y Legales"**

**The Texas-Mexico Bar Association  
Barra de Abogados México-Texas**



**September 14 - 16, 1997  
Cityplace Conference Center  
Dallas, Texas, U.S.A.**

*TMBA - 4th Annual Conference (Dallas)*

*File + this pg  
to Lisa  
Genevieve*

**Texas - Mexico Bar Association  
Barra de Abogados México-Texas  
Fourth Annual Conference/Cuarta Conferencia Anual  
Dallas, Texas, U.S.A.  
September 14-16, 1997/Septiembre 14-16, 1997**

*Application has been made to the State Bar of Texas for MCLE credit./Se ha hecho la solicitud a la State Bar of Texas para credito MCLE.*

*If there is sufficient interest among the participants, simultaneous translation will be provided./Si existe suficiente interes entre las participantes, se proveerá traduccion simultanea.*

**Schedule of Events  
Programa de Eventos**

**Sunday, September 14, 1997  
Domingo 14 de Septiembre de 1997**

- 3:00-5:00 p.m. Early registration at Le Meridien Dallas Hotel  
Inscripción anticipada en el Le Meridien Hotel
- 6:00-8:00 p.m. Welcoming reception  
Recepción de Bienvenida

**Monday, September 15, 1997  
Lunes 15 de Septiembre de 1997**

- 7:30-8:20 a.m. Registration and Continental Breakfast at Cityplace Conference Center  
Inscripción y desayuno continental en el Cityplace Conference Center

- 8:20-8:30 a.m. Welcoming Remarks  
Bienvenida

Rona R. Mears, TMBA Co-Chair  
Haynes and Boone, L.L.P.  
Napoleon Cantú Cerna, TMBA Co-Chair  
Santos-Elizondo-Cantú-Rivera-Garcia-Gonzalez-De La Garza, S.C.

- 8:30-8:50 a.m. Justice Delayed: The Case of Ricardo Aldape Guerra  
Justicia Demorada: El Caso de Ricardo Aldape Guerra

Scott Atlas  
Vinson & Elkins, L.L.P.

- 8:50-9:00 a.m. Presentation to Scott Atlas of TMBA Special Recognition Award for Outstanding Contributions to Cross-Border Relationships  
Entrega a Scott Atlas de la Presea de Reconocimiento Especial que le otorga la BAMT por sus contribuciones sobresalientes a las Relaciones Fronterizas

Co-Chairs/Co-Presidentes Napoleon Cantú Cerna and Rona Mears

- 9:00-10:30 a.m. Joint Ventures: Practical Ways of Bridging Differences and Complementing Virtues  
Coinversiones: Formas Practicas de Salvar Diferencias y Complementar Virtudes

Panelists will discuss the reasons companies seek joint venture partners, protocol and problems in the courtship, negotiation manners, documentation hurdles, and the realities of doing business together./Los conferencistas discutirán las razones por las que se buscan coinversiones, acercamiento y problemas iniciales, formas de negociacion, obstaculos en la documentacion y las realidades de hacer negocios conjuntamente.

Moderators/Moderadores:  
Robert Kimball  
Vinson & Elkins, L.L.P., Dallas  
Jorge Barrero Stahl  
Santamarina y Steta, Monterrey

Speakers/Conferencistas  
Tomás Cantú  
Vitro, S.A. de C.V., Monterrey  
E. Webb Spradley  
Vice-President, Consorcio International Hospital, S.A. de C.V.

10:30-10:45 a.m. Break/Receso

10:45-12:15 p.m. Cross Border Insolvency: The Bridge You Never Want to Cross  
Suspension de Pagos en México y los Estados Unidos: El Puente que Tu Nunca Querras Cruzar

This discussion will contrast and compare the insolvency and bankruptcy laws of the United States and Mexico, including their application to companies doing business on both sides of the Border./Esta discusion comparará y señalará los contrastes de las leyes de insolvencia y quiebra de los Estados Unidos y Mexico, incluyendo su aplicacion a las empresas que hacen negocios en ambos lados de la frontera.

Moderators/Moderadores:  
Leticia Clark, U.S. Bankruptcy Judge, Houston

Speakers/Conferencistas

Charles Beckham  
Kemp, Smith, Duncan & Hammond, P.C., El Paso  
Miguel Angel Hernandez Romo  
Mexico City  
Karaan Thomas  
Vinson & Elkins, Houston  
Roberto Fernandez  
Fernandez, Espino y Asociados, Cd. Juarez

12:30 - 1:45 p.m. Luncheon and Speaker/Comida y Presentación

Labor Issues and NAFTA / Cuestiones Laborales y el TLC

Speaker/ Conferencista:  
Roy Heenan  
Heenan Blaike, Montreal

2:00-3:30 p.m. Compliance Issues and Recent Developments in Environmental Law  
Problemas de Complimiento y Recientes Cambios en la Legislacion Ambiental

Discuss recent developments in Mexican environmental law; practical considerations in environmental compliance in Mexico; discuss status of U.S./Mexican border environmental issues; update on filings and actions under the Environmental Side Agreement of NAFTA and at the Trilateral Commission on Environmental Cooperation./ Discusion sobre recientes cambios en la Legislacion Ambiental Mexicana; consideraciones practicas sobre cumplimiento Ambiental en Mexico; discusion sobre la situacion ambiental en la frontera México y Estados Unidos; actualizacion sobre registros y acciones de acuerdo con el adjunto Convenio del Medio Ambiente del TLC y en la Comisión Trilateral de Cooperacion Ambiental

Moderators/Moderadores:  
Jill A. Kotvis  
Hughes & Luce, L.L.P., Dallas

Speakers/Conferencistas

Jorge Diep Rosas

Basham, Ringe & Correa, S.C., México City

Scott Koolik

Integrated Environmental Management Services, Monterrey

Timothy O'Leary

Editorial Board, Dallas Morning News

3:30 - 3:45 p.m. Break/Receso

3:45 - 5:45 p.m. Concurrent Workshops/Talleres Simultáneos

Workshop I - Contrasting Models of Equity Investment: Joint Ventures and the Financial Investor  
Diversos Modelos de Inversion: Coinversiones y Financiamientos

Two common sources from which companies may obtain capital are joint venture partners and financial investors. Inability to distinguish the differing needs of each is a common obstacle to successfully capitalizing companies. Panelists will discuss the different perspectives involved in forming a joint venture to obtain capital and obtaining capital from financial investors, including the various issues which arise in control and exit decisions. / Dos formas comunes por las que las compañías pueden obtener capital son con socios o con inversionistas financieros. La falta de comprensión para distinguir las diferentes necesidades de cada uno, es un obstáculo para lograr la debida capitalización de las compañías. Los conferencistas discutirán las diferentes perspectivas involucradas en una co-inversionistas financieros, incluyendo los problemas de relacionados con el control y forma de tomar decisiones

Moderators/Moderadores:

Jorge Barrero Stahl

Santamarina y Steta, Monterrey

Robert Kimball

Vinson & Elkins, L.L.P., Dallas

Panelists/Panelistas

José Antonio Rodríguez Márquez

Bufete Rodríguez Márquez, S.C., Corredor Público, México City

Tomás Cantú

Vitro, S.A. de C.V., Monterrey

E. Webb Spradley

Vice-President, Consorcio International Hospital, S.A. de C.V.

Miguel A. Noriega or Christina Weaver

Hics, Muse, Tate & Furst, Inc., Mexico City

Workshop II-Special Issues in Cross Border Litigation: Letters Rogatory and Powers of Attorney  
-Temas Especiales en Litigios Fronterizos: Carta Rogatoria y Otorgamiento de Poderes

Review and discuss the main aspects of letters rogatory and powers of attorney under U.S. and Mexican law and how those instruments are regulated by the International Conventions between the U.S. and México / Revision y discusion de los principales aspectos de las cartas rogatorias y poderes de acuerdo con las leyes de los Estados Unidos y México y como son regulados estos instrumentos por los Convenios Internacionales entre los Estados Unidos y México

Moderators/Moderadores:

Luis Santos

Von Vobeser y Sierra, S.C.

Panelists/Panelistas

Bill Wieland

Vinson & Elkins, L.L.P., Houston

Leonel Pereznieta Castro

Von Wobeser y Sierra, S.C.  
Additional panelist to be announced / Otra panelista se anuncia

7:30-10:30 p.m. Association Annual Dinner  
Cena Anual de la Asociación

**Tuesday, September 16, 1997**  
**Martes 16 de septiembre de 1997**

8:00-9:00 a.m. Committee Breakfast Meeting  
Junta Desayuno de Comites

9:30-10:00 a.m. Annual Meeting of the Association  
Junta Anual de la Asociación

10:00-12:00 p.m. TMBA Board of Directors Meeting (All members welcome to attend)  
Junta del Consejo Directivo de la TMBA (Todos los miembros están invitados a asistir)

**LOCATION OF EVENTS/LUGARES DE EVENTOS.**

The opening reception on Sunday evening, September 14, will be held at the home of: / El cocktail recepción se llevará a cabo en la noche del domingo, 14 de septiembre, en el domicilio particular de:

Mr. and Mrs. William L. Keller  
5371 Montrose Drive  
Dallas, Texas 75209  
(214) 357-8564

The luncheon on Monday, September 15, will be held at the following location: / La comida del lunes, 15 de septiembre, se llevará a cabo en:

Cityplace Conference Center  
2711 North Haskell (at N. Central Expressway)  
Dallas, Texas 75204  
(214) 828-7050

The dinner on Monday, September 15, will be held at the following location: / La cena del lunes, 15 de septiembre, se llevará a cabo en:

The City Club  
69<sup>th</sup> Floor, Nations Bank Plaza  
901 Main Street  
Dallas, Texas 75202  
(214) 748-9525

Both the Seminar (including Registration) on Monday, September 15, and the Annual and Committee Meetings on Tuesday, September 16, will be held at the following location: / El Seminario (incluyendo la inscripción) celebrado el lunes, 15 de septiembre, como la Junta Anual, la Junta del Consenso Directivo y la Junta de Comités a celebrarse el martes, 16 de septiembre, se llevarán a cabo en:

Cityplace Conference Center  
2711 North Haskell (at N. Central Expressway)  
Dallas, Texas 75204  
(214) 828-7050

Early registration on Sunday afternoon will be held at the following location: / La inscripción anticipada, el domingo en la tarde, se llevará a cabo en:

Le Meridien Dallas Hotel  
650 M. Pearl Street  
Dallas, Texas 75201-2877  
(214) 979-9000

F:- A1d #15

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET

HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

September 10, 1997

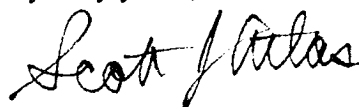
Mr. E. Allan Tiller  
CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & MARTIN  
1200 Smith Street, Suite 1400  
Houston, Texas 77002-4310

Dear Mr. Tiller:

Enclosed is the handout for the conference in Monterrey, Mexico. You should already have received my resume for introduction purposes.

Let me know if you need anything else.

Very truly yours,



Scott J. Atlas

VEHOU07:49302.1

Enclosure



F- A16 #78  
A15

# **The Case of Ricardo Aldape Guerra**

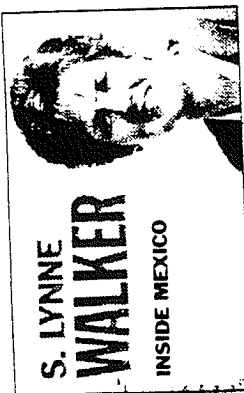
**Scott J. Atlas  
Vinson & Elkins L.L.P.**

**Texas-Mexico Bar Association  
Barra de Abogados México-Texas**

**Fourth Annual Conference  
Cityplace Conference Center  
Dallas, Texas  
September 16, 1997**

# **The Case of Ricardo Aldape Guerra**

1. Summary of Brief in Support of Petition for Writ of Habeas Corpus
2. *Guerra v. Collins*, 916 F. Supp 620 (S.D.Tex. 1995)
3. *Guerra v. Johnson*, 90 F.3d 1075 (5th Cir. 1996)



## Their 'hero' was stalked by tragedy

**R**icardo Aldape was destined to die. That's what everybody said.

But before his death, the former death row inmate had a story of fame and fortune, of desperation and despair to share with anyone who cared to listen.

This is the saga of how he died. And how, for a fleeting moment in his tragic life, Ricardo Aldape lived.

He crossed illegally into the United States in 1982 in search of work. He found work as a painter. He sent money home to his parents. And then he bought a gun. Two months after he got to Texas, the Mexican youth was jailed on charges he gunned down a Houston police officer during a routine traffic stop.

From the start, Aldape insisted he was innocent. He said a passenger in his car shot the cop. But Aldape, caught with a .45-caliber gun he said he bought from the man riding in his car, was convicted of murder by a Texas jury that believed the testimony of six witnesses to the crime.

At the age of 20, Ricardo Aldape was sentenced to die. As he awaited execution, he became a cause celebre south of the border. Six songs were written about his plight. He was the subject of a movie and at least one book.

Described by people who knew him as an optimistic man, Aldape "never had any doubt that he would some day earn his liberty," said Houston attorney Scott Atlas, who fought for five years to prove him innocent.

"All he wanted the entire 15 years he was in prison was to get out while his parents were still alive and live a normal life."

In April, after twice being hours away from execution, Aldape walked out of Texas' Death Row a free man.

A federal judge had overturned his conviction after finding that police infuriated by the shooting of a fellow officer had intimidated witnesses into blaming Aldape for the shooting and that prosecutors had manipulated evidence in the case.

"It was the first time I had seen him emotional," said Atlas. "He wept."

Aldape came home to a hero's welcome. A thunderous cheer rose from a crowd of total strangers as he stepped onto Mexican soil.

The governor of his native state of Nuevo León sent a plane to fly him back to Monterrey. Hundreds of people waited for hours in the rain on the streets of his working-class neighborhood to catch a glimpse of Aldape as he was reunited with his parents.

He was famous. An undocumented migrant who prevailed against the U.S. legal system, who cheated death and returned to his homeland unscathed.

Aldape became a soap opera star, recruited by Television Azteca to play himself in "*Al Norte del Corazon*," an immensely popular melodrama about migrants' encounters with U.S. officials at the border.

The homely, tattooed ex-convict fascinated viewers as he acted out his saga of tribulations and triumphs in the living rooms of hundreds of thousands of Mexican homes.

**"H**e called me three weeks ago to say that he was very happy, that he was working, that he had a fiancée," recalled Mexican Consul General Manuel Pérez Cárdenas in Houston, who often visited Aldape on death row.

"But his fate was to live a tragic life. It was as if he called me to say 'goodbye.'"

Ricardo Aldape was speeding home last week on an isolated stretch of highway between Mexico City and Monterrey. He had just picked up his last paycheck for his final episodes in the soap opera and he was headed home to stay.

His Volkswagen Jetta careened into a tractor-trailer. His skull was shattered. He died in a hospital nearby.

"It is a tragedy," said Atlas. "He fought for so long for his freedom and then only lived long enough to tell his story to the world."

**S. LYNNE WALKER** is the Mexico City bureau chief for Copley News Service.

## FEDERAL HABEAS BRIEF FOR RICARDO ALDAPE GUERRA

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### SUMMARY

The following summarizes the principal factual allegations made in the brief.

1. Innocence: Newly discovered evidence demonstrates that Guerra is innocent (p. 55). The evidence is described below in other sections.

2. Insufficient Evidence:

The evidence at trial was not sufficient to convict Guerra (p. 62).

a. The physical evidence pointed to Carrasco (p. 16);

(i) Carrasco had the murder weapon and the dead policeman's gun; there was no physical evidence tying Guerra to either gun, and

(ii) The testimony of the so-called eyewitnesses placed Guerra *south* of Harris, while the physical evidence (location of the cartridge casings, bullets, blood spatters, and gunpowder around the wounds) places the shooter close to and east of Harris, and

b. The only State witness who claimed to see the shooting was a 10-year-old boy who (i) was in shock after seeing his father shot, (ii) could not describe or identify the shooter on the night it happened, and (iii) claimed to have seen the same man shoot his father from a position that made it impossible to see, since the boy admitted that he had ducked under the car dash after supposedly seeing the police officer shot (p. 29).

3. Concealment of Evidence: The State concealed exculpatory evidence (p. 66).

a. Witnesses (p. 68):

(i) Witnesses who described seeing Guerra with his empty hands on the police car and *Carrasco east* of Harris at the time of the shooting, and the witnesses were given a statement to sign that *omitted* both facts, and one such witness was jailed.

- (ii) Witnesses had the police and prosecutors continually trying to twist the witness' words to create the impression that Guerra was the shooter, with the police threatening to deprive one such witness of custody of her child if she did not cooperate.
- (iii) Another witness told police about seeing Carrasco running on the north side of Walker (where the shooter had to have run, based on the location of shell casings from the murder weapon) and carrying a gun that looked like a 9-mm pistol (the murder weapon), but the police *omitted* these facts from the statement prepared for the witness's signature.
- (iv) A different witness saw Carrasco running west on Rusk, carrying a gun and coming from the direction of Lenox Street shortly after the shots that killed Harris, but that witness' tape recorded statement was never provided to Guerra's lawyers. The tape of the police interview of that witness and other witnesses on the night of the shooting, either at the crime scene or subsequently at the police station, has disappeared.

b. Trace Metal Test (p. 70):

The State never gave Guerra's lawyers a copy of the results of the trace metal test on Carrasco's hands and told them orally only that the test results for Guerra were "negative" and for Carrasco were "positive" as to the policeman's gun and "inconclusive" as to the murder weapon. Guerra's lawyers were not told before trial that the pattern on Carrasco's *right* hand matched Harris' gun and that the pattern on the *left* hand was inconclusive. If they had seen the test results, they would have known to conduct their own test on the murder weapon and compare the results to the pattern found on Carrasco's left hand. We will prove that the testimony of the State's expert was wrong, *i.e.*, that the pattern found on Carrasco's left hand was consistent with the pattern formed by the murder weapon. Demonstrating that Carrasco was left handed and that Guerra was right handed, would have seriously impeached the 10-year-old's statement to the police on the night of the shooting that Guerra pulled out a gun and shot with his left hand.

c. Suggestive Identification Procedures (p. 73):

Guerra will prove that (1) at the police station late on the night of the shootings, witnesses were allowed to discuss the events among themselves and compare stories; (2) before the lineup a number of witnesses were allowed to see Guerra in handcuffs, wearing bags on his hands; (3) during the lineup early the next morning, witnesses were allowed to view it together, discuss it amongst themselves, and identify Guerra in each other's presence, and one witness was permitted to attempt to pressure others into identifying Guerra as the shooter, all in the presence of police and a member of the prosecutor's office; and (4) just before trial the prosecutor showed several witnesses pictures of Carrasco and Guerra, identified Carrasco as dead and Guerra as "the man who shot the cop."

- (i) To conceal these violations of proper and fair lineup procedures, the police deliberately inserted into many of the witness statements an inaccurate description of the lineup to make it seem as if proper procedure had been used.
- (ii) Then, in closing argument, the prosecutors insisted that the witnesses gave statements to the police without conferring with each other and that proper lineup procedures had been followed.

4. Trial Misconduct by the Prosecutors: The prosecutors engaged in misconduct during trial (p. 75).

a. Appeal to Prejudice Against "Illegal Aliens" (p. 75):

The prosecutors appealed to prejudice by telling some jurors during *voir dire* that they could consider Guerra's undocumented status in evaluating his character at the punishment phase of his trial (see the attached pages of comments by the prosecutor), and then in closing argument told the jury that they should "send a message to *those people* at 4907 Rusk [all non-English-speaking Hispanics who had come up from Mexico, two of them with Guerra two months before the shooting] that *the citizens* of Harris County would not tolerate that type of conduct.

b. Claim that Police Deserve Greater Credibility than Others (p. 75):

During *voir dire* a prosecutor told one juror in essence that if a police officer testified in his capacity as a policeman, his testimony was entitled to more credibility than that of other witnesses. Most of the State's experts worked for the Police Department, and six other police officers testified about events at the scene, including one who essentially called Guerra's two roommates liars after they had testified that Carrasco came running into their house and confessed to having shot the policeman.

c. Improper Comments During Voir Dire (p. 75):

During *voir dire*, the prosecutors made numerous improper comments to one or more people selected for the jury:

- (i) that a police officer's testimony deserves greater credibility than testimony by others, and
- (ii) that any failure to testify on the most important day of Guerra's life would be "crazy" and that they could wonder why he did not testify.

d. Inferring that Guerra Had Committed a Murder that the State Knew Had Not Happened (p. 84):

After a defense witness had testified that he was walking back from a cemetery where "*they* had killed a woman," which he clarified to say that he was not referring to Guerra, the State then pursued a line of questions that portrayed the rumored murder as real and relevant, thus implying that Guerra was involved in that incident, even though at the time the State already knew that the rumor was totally false.

e. Arguing for Death Penalty Based on Association with a Supposed "Violent Criminal" Who the State Knew to Be Innocent (p. 91):

The State based its argument for the death penalty on Guerra's association with someone who the State accused of armed robbery, even though the accused was innocent and the prosecution knew it. During the punishment phase of the trial, two prosecution witnesses identified one of Guerra's former roommates, a spectator at the trial named Enrique, as a participant in a gun store robbery in which many weapons had been taken, even though

the State knew that one of the robbery witnesses who did not testify could not identify Enrique and that Enrique could not have participated in the robbery because he did not meet the suspect's description. (In a police report, witnesses to the robbery had described the suspect as having a tattoo of a Mexican caballero on his right arm bicep; Enrique had no tattoos.) The prosecutor then argued that Enrique was the brother of one of Guerra's most important witnesses, another roommate; implied that these friends and former roommates of Guerra's were crooks; and encouraged the jury to look at Guerra's friends "as a way of telling what kind of person he is," presumably referring to the special issue on future dangerousness during the punishment phase of trial. The State arrested Enrique during trial but dropped charges against him many months later after realizing that the absence of a tattoo made it impossible for the State to successfully prosecute.

f. Macabre Mannequins (p.94):

The prosecutors produced two life-like mannequins of Guerra and Carrasco and placed them on display directly in front of the jury during the entire trial. They were clothed in the same garments worn by the two men on the night of the crime, with the Carrasco mannequin wearing clothes "stained with blood and ripped with bullet holes," thus attempting constantly to persuade the jury that Carrasco and Guerra were two of a kind. One of the jurors said that the mannequins were "eerie" and affected her tremendously and that after being away from them for a time, she began to realize that Guerra was probably innocent.

g. Encouragement of Witnesses to Testify that They Were Afraid of Guerra or afraid to Testify (p. 97):

The State reinforced the notion that Guerra was dangerous by repeatedly encouraging witnesses to testify that they and others were afraid to testify. With as many as 20 or 30 police officers in the courtroom for part of the trial and five to ten police officers during the rest of the trial, this created a perception that Guerra was a violent and dangerous person and that the police thought he was guilty and deserved to die.



h. False Claim that Five Witnesses Identified Guerra as the Shooter (p. 101):

The prosecution insisted during closing argument that five of the State's witnesses had identified Guerra as the man they saw shoot and kill Harris and then shoot into Armijo's car and that all five, without any uncertainty, had identified Guerra in the lineup as the killer of both Harris and Armijo. But only the 10-year-old consistently testified that he saw Guerra shoot Harris, and he was the only one who claimed to have seen Guerra shoot at his father, although he finally admitted that he had ducked under the dash before his father was shot and did not come back up until after the man had already shot his father and run to the end of the block.

i. Reckless and Unsubstantiated Accusation that a Defense Witness was High on Drugs (p. 103):

Without evidence, the prosecutors accused a key defense witness of being high on drugs or alcohol. During cross examination, the prosecutor had asked this witness if he had been drinking alcohol or smoking anything. In closing argument the prosecutor referred to this witnesses as "Rip Van Winkle from Sleepy Hollow" and stated that "I think he was probably under the influence of some type of alcoholic beverage or narcotic drug."

j. Improper and Unfounded Accusation that Two Defense Witnesses Lied (p. 105):

During the cross-examination of two key defense witnesses, the prosecution gave false, unsworn testimony by asking if it was not true that at some time before trial each witness had told the prosecutor something that contradicted their trial testimony. In one instance the prosecutor claimed that the witness told police that Guerra was not even present at the time of the murder, even though the police reports say nothing about this.

k. Offering Knowingly False Testimony that Two Other Defense Witnesses Lied (p. 106):

The prosecutor accused two of Guerra's roommates of either lying in their trial testimony or lying to a police officer on the night of the shooting. The two witnesses had testified that they were at 4907 Rusk when Carrasco came into the house with two pistols and confessed that he had killed a policeman. A police officer later testified that both men had told him that they had been out of the house until he saw them, after Carrasco had been

killed in the shootout with police. But the prosecutor had in his file a statement from another police officer who had interviewed one of the men at the house *before* the shootout and been told that the men had remained at the house when others had left earlier in the evening.

l. Improper Invocation of Religion (p. 114):

The prosecutor told the jury during closing argument on punishment that the Bible commands the jury to impose the death penalty on Guerra.

m. Appeals to Emotion During Guilt-Innocence Phase (p. 110):

During the guilt-innocence phase, the prosecutors repeatedly attempted to divert the jury's attention from the facts to emotion. During *voir dire* the prosecutors repeatedly claimed that they represented not only the State, but also the family of Officer Harris. Near the end of their case in the guilt-innocence phase, the prosecutor introduced five grizzly autopsy photographs of Harris, the last three showing rods entering one side of his face and exiting the opposite side. Then they called Harris' widow to the stand and asked her to describe her life with her dead husband, his qualities as a father and husband and to tell the last words she ever heard him say, which were "I love you." In closing argument, the prosecutor again stated that he represented Officer Harris, Mr. Armijo, and their families, and described Harris as a good man and good member of the community. Earlier in the trial, the State had called Mrs. Armijo, who described how her 10-year-old son's behavior had changed since the death of her husband, and how he had become unhappy and no longer wanted to go out and play.

5. Hostile Environment: As shown by the attached pages (pp. 110-26), media stories reveal that the trial occurred in an unusually hostile environment (p. 117).

a. Record Number of Police Officers Died in 1982 (p. 119):

Harris was the fourth police officer to die in the line of duty that year, the highest number killed in the line of duty for any full year since 1917, and tying Chicago for the U.S. city with the highest number of officers slain in the line of duty. Harris' funeral received major attention in the news media.

b. Extensive Media Coverage of Shooting by "Illegal Alien" (p. 120):

Almost 100 TV reports about the Harris shooting were carried on the local stations. Numerous newspaper stories referred to Guerra as the "suspected illegal alien." A number of jurors had followed the investigation in the press.

- c. Blaming "Illegal Aliens" for Crime, Economic, and Social Problems (p. 121):

Generally speaking, many Houston residents, especially non-Hispanics, blamed undocumented immigrants for increases in crime, displacement of American workers, and excessive reliance on public welfare programs. There were only two Mexican-Americans among the 90 people questioned during *voir dire*, but the State struck both.

- d. Blaming "Illegal Aliens" for School Finance Problems (p. 123):

Many Texans blamed "illegal aliens" for placing an unprecedented financial strain on the U.S. school system. In June 1982, the U.S. Supreme Court held that children of illegal aliens were entitled to a free public school education. Several citizens selected for the jury expressed their reservations about Guerra's illegal status and the Supreme Court decision. They insisted they could give him a fair trial, but their comments raise serious doubt about their true objectivity. The trial court in that case had made extensive fact findings and concluded that these undocumented children were disadvantaged from, among other things, undeniable racial prejudice.

- e. Fear of Immigration Reform (p. 124):

During the months before the trial, the U.S. Congress was considering the Immigration Reform Control Act of 1982, which, according to Bill Clements, would "change the direction of this State" if it became law. (This was the bill that later passed and provided for penalties against employers who knowingly hire illegal aliens and an amnesty program.) Governor Clements reportedly said that if the bill passed, Texans could wake up some morning and find millions of additional Mexican nationals and other aliens living in their midst and a dramatically altered quality of life. Nationally syndicated columnist George Ann Geyer argued that massive, uncontrolled immigration from Mexico and Central America "weakens and may perhaps eventually destroy the fabric of a nationhood that holds the American people together."

f. Blatant Ethnic Prejudice (p. 126):

Houston newspapers published a magazine interview with Clare Booth Luce, who warned that "invading aliens posed a greater threat than the atom bomb" and that "soon there will probably be as many Mexicans in Texas . . . as there are natives." She said that they are "coming in with wives and sisters and nieces who get pregnant immediately because they can then become a American citizens and go on relief." She said that in the 1800's the U.S. had absorbed 40 million immigrants. "But the vast majority . . . were white. They were not black or brown or yellow."

g. Study on Economic Burden on U.S. Welfare System Caused by "Illegal Aliens" (p. 127):

Just before Guerra's trial began on October 4, an article published on October 3 (and a follow-up published on October 11) reported on a study (by a group opposed to immigration reform) warning that "illegal aliens" are a "growing burden on the welfare system." The study claimed to have evidence indicating that "illegal aliens pay less in taxes than they get in benefits" and "are applying for and receiving hundreds of millions of dollars worth of services -- at the same time these programs are being cut for disadvantaged Americans."

h. KKK Demonstration Against "Illegal Alien" Crimes (p. 128):

As an indication that the jurors were infected by the publicity surrounding the trial and the alleged consequences of having illegal aliens in the community, the KKK demonstrated outside the Harris County Courthouse building following Guerra's sentencing, carrying a number of signs saying "Houston will not tolerate illegal alien crimes," "Guerra got justice," and "no sympathy for cop killers."

i. Massive Police Presence Sent Message that Guerra was Dangerous and Deserved to Die (p. 130):

Throughout the trial up to 10 off-duty police officers, in full uniform, constantly attended the trial, assuming prominent positions on the front rows of the gallery. During the first and last days of the guilt phase and the last day of the punishment phase, 20 to 30 uniformed police officers attended, occupying 50% of the chairs in the gallery. Combined with the testimony by witnesses who said that they feared Guerra, this sent the jury

a message that Guerra was dangerous, and that the police took a special interest in the trial, believed Guerra guilty, and wanted him to be given the death penalty.

6. Appeal to Ethnic Prejudice (p. 133):

During jury selection, the State incorporated the negative connotations associated with the term "illegal alien" into its questioning of numerous members of the venire, including several who were selected for the jury. By saying that his status as an illegal alien could be used as some "indication of the type of person he is," the State inferred either that illegal aliens are more likely than others to commit acts of violence in the future, or that illegal aliens are more deserving than others to receive the death penalty. Then, in closing argument the prosecutor told the jury to "send a message to the *residents* of 4907 Rusk [who were all "illegal aliens"] that the *citizens* of Harris County will not tolerate the conduct of which Guerra was accused. We will show that the jurors discussed Guerra's undocumented status during deliberations in the guilt-innocence stage. This was a reprehensible and inexcusable attempt by the State to appeal to juror prejudice already heightened by the media coverage described above.

7. Suggestive Investigative Procedures: The investigative procedures employed by the police and prosecution were so suggestive that they were fundamentally unfair and resulted in identifications of Guerra that were unreliable (p. 165).

a. Police Intimidation of Witnesses (p. 166):

Police began intimidating witnesses at the crime scene, even before the witnesses began providing their initial police statements. Several witnesses were handcuffed at the scene, and at least one witness was threatened with the loss of custody of her child if she did not "cooperate."

b. Letting Witnesses See Guerra in Handcuffs (p. 166):

Police officers allowed Guerra, handcuffed and with paper bags over his hands, to be seen by witnesses at the police station before the lineup was held, suggesting that Guerra was the person who should be identified as the shooter.

c. Improper Lineup Procedures (p. 166):

(i) Suggestive Lineup:

At the lineup, Guerra was the only participant with "collar length hair," which was the description of the shooter initially given to police by several witnesses. One of the men in the lineup had previously been arrested by police at the crime scene and shown to witnesses, who insisted that he was not the shooter.

- (ii) During the lineup several witnesses verbally identified Guerra as either the driver, the passenger, or the shooter, in a manner that was audible to all the other witnesses present, thereby placing him at the scene. The witnesses knew that the other suspect, Carrasco, was dead, which left Guerra as the only live suspect who could be charged. In at least one instance, an HPD Detective openly solicited an identification in the presence of other witnesses, and several witnesses were pressured by another witness to identify Guerra as the shooter in the presence of police during the lineup.

d. Suggestive Reenactment (p. 171):

On the morning of July 22, nine days after the shooting, police gathered together several of the State's witnesses to conduct a "walk-through" or "reenactment" of the shooting. In the presence of other so-called "eyewitnesses," one witness (Galvan) radically changed her version of the shooting, and a second witness (Flores) identified Guerra as the shooter for the first time, claiming that she had not done so at the original lineup because she thought enough other people had already done so.

e. Suggestive Mannequins/Prosecutors Brand Guerra as "the Man Who Shot the Cop" (p.172):

On the weekend before the trial, several of the State's witnesses were shown the mannequins and allowed to discuss the facts of the case in each other's presence. By dressing and grooming the life-like mannequin of Guerra as he appeared on July 13, the prosecutors ensured that the witnesses could easily frame their identification testimony to correspond to the mannequin of Guerra and avoid the confusion that the witnesses' earlier statements had revealed. With the mannequin of Carrasco wearing a bloodied, bullet-riddled shirt, it was obvious which of the two mannequins represented someone who was dead and thus which one was still alive. We will prove that the prosecutors left nothing to chance, showing several of the witnesses pictures of Carrasco and Guerra, identifying Carrasco as dead, and describing Guerra as "the man who shot the cop."

- f. Unremitting Barrage of Suggestive Procedures and Comments by the State (p. 174):

By the time they got to trial, the witnesses had been subjected to an unremitting barrage of suggestive tactics and comments by police and prosecutors, clear signals concerning which of the two witnesses at the scene was still alive and available for prosecution, and numerous opportunities to influence each other's recollections.

- g. Stories of the So-Called "Eyewitnesses" Contradicted the Physical Evidence and Changed Over Time (p. 176):

As a result of these undue influences, the stories of the State's so-called "eyewitnesses" contradicted the irrefutable physical evidence that Carrasco, not Guerra, was left-handed and that the shooter fired in a mostly westerly direction, while the five so-called eyewitnesses had the shooter firing northward. In addition, each witness' description of what happened became more detailed from one telling to the next, and included fundamental inconsistencies over time.

- h. Only Guerra's Witnesses Gave Initial Statements Consistent with the Physical Evidence and with Their Trial Testimony (p. 191):

The only witnesses whose initial statements were consistent with the physical evidence and with their own and Guerra's trial testimony were two defense witnesses (Jacinto Vega and Jose Heredia) and Guerra. Their statements on the night of the shooting were given before any of the witnesses had talked to Guerra's lawyer (in fact before Guerra even had a lawyer).

- i. Stories of the So-Called "Eyewitnesses" Contradicted Each Other (p. 192):

The stories of each of the five so-called "eyewitnesses" were materially inconsistent with each other in terms of where the Buick came from, how many people were in it, where the witnesses were located before the shooting, where the non-shooter started, moved, and ended before the shooting, where Harris was located immediately before the shooting, what the shooter looked like, where the shooter reached to pull his gun, the location of Guerra's hands just before the shooting, seeing the Browning 9-mm pistol before the shooting, and statements made by Harris before the shooting.

8. Ineffective Assistance of Counsel: Guerra's attorneys provided ineffective assistance throughout the entire trial process (p. 212).

a. Inadequate Pretrial Investigation (p. 213):

They failed to conduct a prompt and adequate pretrial investigation and failed to analyze the State's evidence to ascertain the inherent inconsistencies between and among the State's witnesses and the physical evidence. They were appointed about six and one-half weeks before trial began. During that period, the lead attorney had a one-week trial. The junior attorney had never tried a capital case and had only been in practice for three years. They did not review the police file until August 19, more than a month after their appointment and only 11 days before trial began. They did not request the appointment of an investigator until August 13, almost a month after the appointments, and the request was not granted until August 19. On August 13, they filed a Motion for Continuance, describing their time problems and insisting that forcing them to go to trial within six weeks could work to Guerra's detriment. The resulting shortage of time made it even more imperative to undertake a prompt and intensive investigation using investigators and experts extensively. After four or five weeks of jury selection, on the first day of testimony they filed another Motion for Continuance, which the court denied. They hired an investigator, but used him to question only three or four witnesses with no apparent lawyer follow-up. If they had thoroughly investigated, they would have found the additional witnesses identified in the brief and exposed the deficiencies in the State's investigation and its witnesses. Much of this failure was due to lack of information as a result of police withholding of exculpatory evidence.

b. Failure to Consult Experts (p. 216):

They failed to consult and retain independent experts, such as (i) a ballistics and firearms expert, who could have determined the location of the shooter and thereby refuted the testimony of every so-called "eyewitness," (ii) a trace metal expert, who could have determined that the pattern on Carrasco's left hand was consistent with the pattern left on the murder weapon, suggesting that the 10-year old's description of a left-handed shooter might have been referring to Carrasco, (iii) a fingerprint expert, who could have determined whether the smudged print found on the police car belongs to Guerra and whether the shooter had left a print on Harris' holster when Harris' gun was taken, (iv) a chemist, who could have



determined whether gunpowder was present on the right rear shoulder of Guerra's shirt, substantiating Guerra's claim that he heard the sound of Carrasco's gun over his right shoulder, and (v) a lighting expert, who could have examined the amount of street light at the scene to determine how easily witnesses could discern clothing color, hair length and color, and movements. They never requested funds for experts in part because the prosecutors failed to provide some of the evidence that would have made obvious the need for an expert.

c. Failure to Attack Lineup and State's Pretrial Investigative Techniques (p. 219):

They failed to attack the lineup and other prosecutorial pretrial investigative techniques. This is partly the result of the police camouflaging their improper procedures by inserting into several witness statements descriptions of the lineup that were carefully phrased to leave the impression that proper procedures had been followed.

d. Failure to Object to Prosecutor Statements During Voir Dire (p. 222):

They failed to object when prosecutors repeatedly misstated the law during *voir dire* by telling people who became jurors that (i) Guerra's status as an illegal alien was relevant at the punishment stage, which they objected to only once out of three times, (ii) police officers are entitled to more credibility than other witnesses, and (iii) the length of prison term actually served by a person given a life sentence is determined by a formula used by the Parole Board.

e. Failure to Object to Lineup and In-Court Identifications of Guerra (p. 223):

Although the defense lawyers received an indication about the State's use of improper identification and investigative procedures, they failed to request a pretrial hearing at which they could expose the unreliability of the identifications, and they failed to object to the in-court identifications of Guerra by the State's witnesses. If they had excluded the identifications, the State's case would have collapsed, since there was no other evidence on which to base a conviction.

f. Failure to Question Fingerprint Expert (p. 224):

They failed to ask the State's fingerprint expert to admit that he had discovered no fingerprints on the murder weapon matching Guerra's fingerprints.

g. Failure to Obtain and Present Evidence of Guerra's Character (p. 228):

In the penalty phase, the State must prove that (i) the defendant committed the crime deliberately and with the reasonable expectation that death would result, and (ii) there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society. The defendant is then expected to respond.

- (i) The entire defense case during the punishment phase consisted of one-and-one-half pages of testimony by Guerra's mother, in which all she said about Guerra was that Guerra had come to the U.S. in May, that he was 20 years old, that he had never come here previously, that he had lived with his parents in Monterrey before coming here and that he had never been convicted of a felony. In closing argument the prosecutor's repeatedly referred to the failure to ask Guerra's mother what her son had been like growing up and the failure to put on evidence about Guerra's character from her or anyone else, suggesting that this left the jury no alternative but to find that Guerra would likely be dangerous in the future.
- (ii) Guerra will show extensive information about his background from numerous witnesses, including that he came from a close-knit and supportive, though poor, family, that he was well regarded by his teachers and his employer in Monterrey, that he turned his entire paycheck over to his mother every week so that she could purchase food and clothing for the family, that he was well regarded by his soccer teammates, that he went to the U.S. in search of a better job, that he regularly sent money home from Houston (he had a \$300 money order made out to his mother in his pocket when he was arrested), that he had never been arrested, charged, or convicted of any crime before this case, that a psychologist who examined him when he was 16 thought he was a follower, not a leader, and found no indication that he possessed criminal or violent tendencies, that he was known as a quiet, calm man who helped support his parents, that he exhibited discipline on the soccer field, and that he was a quiet boy who respected authority and interacted well with other children in school.

9. Definitions of Terms in the Jury Charge: The court erroneously refused to define the terms "reasonable doubt," "deliberately," "criminal acts of violence" and continuing threat to society" in the punishment questions given to the jury (p. 260).

- a. The definition of "reasonable doubt" that the judge gave to some of the jurors was substantially less complete than the definition provided by a recently enacted statute. This left some jurors with a too-narrow definition and others with no definition at all (p. 260).
- b. The term "deliberately" as interpreted by most people adds nothing to the "intentional" conduct required to find someone guilty of murder (p. 262).
- c. The terms "criminal acts of violence" and "continuing threat to society" also have no clear or objective meaning. Almost every person convicted of capital murder could be found to have some "probability" of committing violent acts in the future. A review of cases shows that it is impossible to rationally explain why the court has found the evidence on this issue sufficient in some cases, while finding substantially more evidence about future dangerousness insufficient in other cases (p. 262).

10. Jury Selection: The court erroneously refused to excuse four members of the venire for cause following an appropriate challenge by defense counsel (p. 237).

- a. Standard Procedure (p. 237):

Each side is entitled to an unlimited number of strikes of venire members who demonstrate bias (known as striking "for cause"), and each side is given a certain number of strikes that they can use at their discretion for any reason (known as "preemptory challenges"). If a member of the venire is not dismissed for cause and neither side uses a preemptory challenge (or if one side or the other has run out of preemptory challenges), then that member of the venire becomes a member of the jury. If someone should be struck for cause after demonstrating bias but the judge refuses to strike them, it forces a lawyer who does not want that juror to use one of a limited supply of preemptory challenges and eventually forces the attorney to accept on the jury someone the lawyer would prefer to strike but cannot.

- b. Belief that All Killers of Police Officers Should Die (p. 242):

One member of the venire repeatedly (1) stated her belief that a person who killed a police officer should be sentenced to death and (2) reversed the burden of proof, requiring Guerra to produce evidence that death was not the appropriate penalty. But the judge refused to strike her for cause.

c. Houston Police Officer (p. 238):

Another member of the venire had been a police officer for 32 years, including 24 years at HPD. The court refused to strike him for cause, even though some states disallow police officers from ever serving as jurors, and it would be difficult for any police-juror to be fair and impartial in a case involving the murder of a fellow police officer, especially in a case with numerous police department employees testifying. Moreover, this police officer actually knew both prosecutors and had known for many years at least seven of the police officers subpoenaed by the prosecution to be witnesses in the case, for periods ranging from five to 25 years, including two who actually testified, the fingerprint expert and the blood spatter expert. This police officer had actually used the fingerprint expert on some of his own cases.

d. Belief that D.A.'s Burden of Proof is Too Heavy (p. 244):

The third member of the venire said that she felt that the "beyond a reasonable doubt" burden on the prosecution was inappropriate and that if Guerra failed to testify, she would hold it against him.

e. Preference for Death Penalty Over Life Sentence (p. 248):

The fourth member of the venire actually became a member of the jury. He admitted that he would favor the death penalty over a life sentence because he believed in an eye for an eye.

f. Defense Was Forced to Accept Unacceptable Jurors (p. 252):

Although the judge granted the defense one additional preemptory challenge, it was too late to exclude from the jury the people who the defense lawyer identified as the jurors that he had to take because he had exhausted his preemptory challenges on the first three people listed above.

11. Court Inquiry into Jury Division: The court put pressure on one holdout juror by inquiring into the numerical division of the jury during the guilt-innocence phase deliberations (p. 254).

a. Jury Reached Verdict 15 Minutes After Court Inquiry (p. 254):

During the jury's deliberations in the guilt-innocence phase, the trial court asked whether the jury had yet voted. Told that it had, the court asked for the numerical division, and the foreman responded that the split was 11 to 1, without indicating whether the majority favored conviction or acquittal. The trial court asked whether further deliberations that evening would be productive, the foreman requested an additional hour, and the jury returned 15 minutes later with a unanimous verdict.

b. Court Inquiry Pressured Holdout Juror (p. 256):

The request for the jury's numerical division serves no useful purpose and brought to bear in some degree pressure on the holdout juror and froze the determination of the majority. The speed with which the jury reached a verdict after the court's inquiry suggests that this pressure worked.

12. Law of Parties: The court failed to correct a misimpression, created by the prosecutors, that even if Guerra were not the shooter, he could be given the death penalty based on the intent and character of Carrasco (p. 259).

13. Cumulative Effect of Trial Errors: The cumulative effect of the errors at trial denied Guerra a fundamentally fair trial. There is a reasonable probability that the verdict might have been different if the trial had been properly conducted (p. 283).

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1200 SMITH STREET, SUITE 1400

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chwwm@sam.neosoft.com

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E. ALLAN TILLER  
SHAREHOLDER

August 28, 1997

Scott J. Atlas, Esq.  
2300 First City Tower, 1001 Fannin  
Houston, Texas 77002-6760

Re: Presentation in Monterrey, Mexico

Dear Mr. Atlas:

Thank you again for your participation in the upcoming conference in Monterrey, Mexico. I trust that by now you have made or are in the process of making your flight and hotel reservations, and please keep in mind that we need to have your outline (or other handout) by no later than September 15th. If you have been assigned a mentor, please deliver the outline to him or her for review. Also, if you will need an overhead projector or any other audio/video assistance, please notify your mentor (whom I ask to notify me) or me so that we can arrange for such assistance. Finally, please fax to me at 713/658-2553 your resume or short professional summary for introduction purposes in Monterrey and for CLE purposes.

As always, do not hesitate to call me or your mentor if you have any questions.

Yours sincerely,

CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & MARTIN, P.C.

By: 

E. Allan Tiller, Chairman

Monterrey Conference Subcommittee

cc: Ms. Stephanie Harrison  
Ms. Kay Sim  
Ms. Sherrie Harrison

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Executive Director

August 27, 1997

Scott J. Atlas  
1001 Fannin St.  
Suite 2300  
Houston, TX 77002-6760

Re: CDLP Skills Course  
Forensics and Habeas (Fertile Ground for Relief)  
October 16, 17 & 18, 1997  
Course Directors: Cynthia Hujar Orr  
Stanley Schneider

Dear Mr. Atlas,

We are pleased that you are able to speak at the referenced seminar. You are scheduled to speak on Friday, October 17th at 9:30 a.m. on the topic entitled, "Direct Examination of an Expert Witness" followed by a panel entitled, "Admissibility after Daubert". The seminar is being held at the Plaza San Antonio Hotel, 555 S. Alamo St. in San Antonio. We have rooms blocked for a room rate of \$155 single/double. Hotel reservations must be made by September 16th to guarantee room rate and availability.

Your responsibilities as a speaker include the following.

- (1) Preparation of an article or outline consisting of no more than 75 single pages. Due to publication time constraints a hard copy of your paper must be submitted no later than October 6th. Please submit along with your hard copy a 3.5 floppy diskette. Papers received after October 6th are not eligible for reimbursement of printing costs. If you anticipate difficulty in meeting the deadline, please contact me at the CDLP office before the deadline.
- (2) Your oral presentation should be based upon your article, however, you are encouraged not to read from it. Instead, be conversational. Simplicity, informality, and humor which makes your point strongly encouraged.

conversational. Simplicity, informality, and humor which makes your point strongly encouraged.

Please complete the enclosed speaker introduction form and submit it to CDLP. The form will be used to introduce you to the participants. You may submit it by mail or fax.

All speakers will be reimbursed for travel, hotel and meals. To be eligible for reimbursement you must travel coach class (preferably seven (7) day advance ticket) or by automobile. If you travel by automobile you will be reimbursed at the state rate of \$.28 per mile. Mileage is based upon the State Mileage Guide. I have enclosed a reimbursement form, and this should be mailed to our office no later than thirty (30) days following the seminar.

If you have any questions or if I may be of further assistance please do not hesitate to call me. I look forward to seeing you in San Antonio.

Sincerely,

Jannie Chiat  
Program Coordinator



**Atlas, Scott**

---

**From:** Atlas, Scott  
**Sent:** Tuesday, August 26, 1997 12:19 PM  
**To:** Van Fleet, Allan  
**Subject:** RE: Texas-Mexico Bar Association - Reminder

How do I become a member?

-----  
**From:** Van Fleet, Allan  
**Sent:** Tuesday, August 26, 1997 11:17 AM  
**To:** Atlas, Scott; Weiland, William; Kimball, Robert; Gonzalez-Falla, Celso  
**Subject:** Texas-Mexico Bar Association - Reminder

*Do remember to register for the Texas-Mexico Bar Association Annual Meeting and renew your memberships. Let me know if you need forms. Particularly because Ricardo Aldape, sadly, was in the news again, there has been a fair amount of media interest in the meeting and Scott's speech and award presentation.*  
Best,  
avf

F AID # 15

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August 18, 1997

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Edificio Losoles Desp. B-33  
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Dear Ignacio:

Thank you so much for your many courtesies while I was in Monterrey last weekend to speak at the Phi Delta Phi conference. I enjoyed having the opportunity to visit with you and your friends and to speak to the group.

You organized a splendid conference.

Very truly yours,



Scott J. Atlas

P.S. In case you needed the hotel receipt, it is enclosed.  
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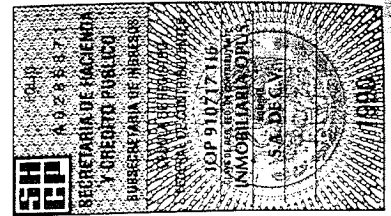


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Del: 9/13/15 A: 27/08/16  
IOP 001 CCG 0357

FECHA DATE	CLAVE DE CARGO CHARGE CODE	DESCRIPCION DESCRIPTION	CARGOS CHARGES	CREDITOS CREDITS
RESUMEN				
		RENTAS RENTA DE HABITACION	698.49	
		EFE EFECTIVO	-700.00	
		MISCEL MISCELANEOS	0.00	
GRACIAS POR HOSPEDARSE EN FIESTA INN. HEMOS ACREDITADO			SUBTOTAL	698.49
SU CUENTA DE PROGRAMA COMERC 02900982			IMPUESTO	0.00
LOS PUNTOS APARECERAN EN SU ESTADO DE CUENTA ENTRE 4 Y 6			IMPUESTO HOSPEDAJE	11.94
SEMANAS.			SERVICIO	SALDOS: 9.49
			TOTAL FACTURA	BALANCE DUE: 700.00
*** SETECIENTOS PESOS 00/100 M.N. ***				

LA REPRODUCCION AUTOMATICA DE ESTE COMPROBANTE CONSTITUYE UN DELITO EN LOS TERMINOS DE LAS DISPOSICIONES FISCALES

Hora de Salida 1:00 P.M.

700.00

700.00

IMPRESA POR FORMAS IMPRESAS COMPUTACIONALES, S.A. DE C.V. R.F.C. FI-950216 581 AUT D.O.F. 19/06/96 TELS 371 79 77 371 99 80 LADA SIN COSTO (01 800) 504 5017 / 0000 MAY097

f-AU-15  
8/16/97

## Analizan ética legal, política y educativa

Participan políticos, abogados y educadores en panel organizado por la Facultad Libre de Derecho

Por CARMEN ROMO

La ética desde el contexto legal, político y educativo fue analizada por varios expertos pertenecientes a varios campos en el evento Insurge, Importancia de la Ética en Nuestros Días.

Organizado por la Fraternidad Jurídica Internacional PHI-DELTA-PHI, y la Facultad Libre de Derecho de Monterrey el evento reunió a personalidades del mundo de la política, educación y derecho local e internacional en el auditorio del Corporativo Alfa.

El programa comenzó con el desarrollo del panel Ética en la Política, donde los participantes profundizaron sobre el papel de la ética dentro de la función legislativa, la educación, los medios de comunicación y la participación política de la mujer.

Integraron el panel Lucas de la Garza, analista político; Jorge Padilla, diputado federal del PAN, Sergio Elías Gutiérrez, analista político; María Elena Chapa, senadora del PRI; y Oscar Adame, diputado local electo del PRI.

Una de las discusiones más relevantes versó sobre la falta de regulación en la función social de los medios de comunicación, expuesta por Padilla y apoyado por varios panelistas.

Chapa criticó el nulo espacio para que la mujer participe en el quehacer político y la manera en que se duda de su capacidad para desempeñarse en puestos de decisión.

Otro punto importante dentro del panel fue el referente a la plática en la educación, donde Padilla mencionó que este sistema informa, pero no forma a las personas y por ello señaló la necesidad de que se apoye en principios morales.

Sin embargo, Chapa en con la opinión de Padilla argumentando que ella no sólo recibió información sino también formación en escuelas públicas.

La siguiente mesa de discusión, Ética en la Educación, la integraron Ramón de la Peña, rector del ITESM Campus Monterrey; y José Antonio Cárdenas, director del Centro de Desarrollo Humano del Grupo Vitro.

También participó Juan Antonio González Aréchiga, director de la Universidad del Noreste; y Reyes Tamez, Rector de la Universidad Autónoma de Nuevo León, entre otros directivos escolares.

Dentro de esta sesión, las diferentes instituciones educativas del nivel superior destacaron cómo dentro de los programas de estudio se incluyen materias relacionadas con la promoción de valores en el campo profesional.

El último de los paneles, Ética en el Derecho, fue integrado por Pablo Páramo Sierra, abogado postulante; y Sergio Villarreal Salazar, ex presidente del Colegio de Abogados de Monterrey.

También participaron en el mismo Salvador Benítez Lozano, presidente del Colegio de Abogados de Nuevo León y Carlos de la Garza Santos, presidente de la ANARE, sección Nuevo León.

Durante su charla, los abogados expusieron desde la realidad que se vive dentro del derecho mexicano, la ética considerada desde las leyes y los diferentes obstáculos que enfrenta el profesional en este campo.

La conferencia de Scott Atlas, abogado defensor de Ricardo Aldape Guerra, cerró el evento.

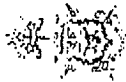
El abogado texano basó su ponencia principalmente en relatar todo el proceso legal que desarrolló al tomar el caso del mexicano condenado a muerte.

Finalmente destacó el compromiso ético que tiene cada abogado con los pobres.

F- AID#ALS

8/15/97

3397390



Phi-Delta-Phi

Capítulo Salinas-  
Martínez

Fraternidad Jurídica  
Internacional



INSURGE  
INSTITUTO DE LA ETICA EN NEGOCIOS

Auditorio del Corporativo Alfa

"Ain cuando los hombres tengan el derecho  
e incluso el deber de realizar su destino individual...  
ellos serán sólo aquellos que en la medida de su conciencia  
no entreguen su futuro para el interés general"

ANDRE HAURIQU

15 de agosto

9:00 A.M.

Invitados Especiales:

- Lic. Benjamín Clariond Reyes Retana. por confirmar
- Lic. Fernando Canales Clariond.
- Lic. Fernando Margáin Benlanga.
- Sra. Teresa García de Madero.

Agradecimientos:

Agradecemos al Lic. José Roble Flores Fernández por  
su gran apoyo en la organización de este evento, así como  
al Lic. Leopoldo Marroquín del Grupo Alfa.

Hereby / send you the program of  
the event.  
The person who is going to pick you up at the  
airport is --> ADRIAN GARATE.  
I look forward to ~~see~~ meet you at the  
event.  
BEST REGARDS,

IGNACIO B. *[Signature]*  
10/10/97 13:00:00  
P.S. 002 43683940  
INFORMES 347-1015



Insurge es un evento organizado por la Fraternidad Jurídica Internacional PHI-DELTA-PHI, capítulo Salinas Martínez sito en la Facultad Libre de Derecho de Monterrey. El evento consistirá de una serie de paneles de discusión, siendo éstos el de política, educación y derecho.



#### Programa:

9:00 - 9:30 Inauguración.

9:45 - 11:00 Desarrollo del Panel de Ética en la Política.

11:00 - 11:30 Sesión de preguntas y respuestas.

11:30 - 11:45 Receso.

11:45 - 1:15 Desarrollo del Panel de Ética en la Educación.

1:15 - 2:00 Sesión de preguntas y respuestas.

2:00 - 4:00 Receso.

4:00 - 5:30 Desarrollo del Panel de Ética en el Derecho.

5:30 - 6:00 Sesión de preguntas y respuestas.

6:00 - 6:15 Receso.

6:15 - 7:00 Conferencia del Abogado Scott Atlas en relación a la Ética en el Derecho.



#### Participantes:

##### Panel de Política.-

- Lic. Sergio Elías Gutiérrez. (Analista Político)
- Lic. Lucas de la Garza. (Analista Político)
- Lic. Eloy Canú Segovia. (Senador) *por confirmar*
- Lic. Jorge Padilla. (Diputado)
- Lic. Ma. Elena Chapá. (Senadora)
- Lic. Oscar Adame. (Diputado Local Eleto)

##### Panel de Educación.-

- Ing. Ramón de la Peña. (Rector del ITESM Campus Monterrey)
- Ing. José Antonio Cárdenas. (Director del Centro de Desarrollo Humano del Grupo Vito)
- Dr. Arturo Salinas Martínez. (Presidente del Consejo de la TLDM)
- Lic. Heriberto Amaya. (Director de la División de Ciencias Jurídicas de la UDEM)
- Dr. Reyes Tamez. (Rector de la UNAM) *por confirmar*
- Ing. Juan Antonio González Aréchiga. (Director de la Universidad del Noroeste)
- Hermano José Manuel Cubillas. (Director de la División de Post grado del Instituto Regionontano)

##### Panel de Derecho.-

- Abogado Scott Atlas. (Abogado defensor de Ricardo Aldape Guerra)
- Lic. Pablo Páramo Sierra. (Abogado Postulante)
- Lic. Sergio Villarreal Salazar. (Ex Presidente del Colegio de Abogados de Monterrey)
- Lic. Salvador Benítez Lozano. (Presidente del Colegio de Abogados de Nuevo León)
- Lic. Ma. Teresa Herrera Tello. (Presidenta del Tribunal Superior de Justicia)
- Lic. Carlos de la Garza Santos. (Presidente de la ENADE, sección N.L.)

##### Moderador.-

Gilberto Marcos. *por confirmar*

F:

CHAMBERLAIN, HRDLICKA, WHITE, WILLIAMS & MARTIN

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(713) 658-2553 (FAX)

chwww@sam.neosoft.com

August 13, 1997

DIRECT DIAL NO. (713) 658-2504

E. ALLAN TILLER  
SHAREHOLDER

HOUSTON  
ATLANTA  
SAVANNAH

cc: Santiago Adel  
RECEIVED (Fax)

AUG 15 1997

SJA

Scott J. Atlas, Esq.  
2300 First City Tower, 1001 Fannin  
Houston, Texas 77002-6760

Re: Speaker Delegation to Monterrey on October 10

Dear Mr. Atlas:

I am pleased to advise you that you have been selected to be one of seven speakers at the HBA/ANADE Lawyer Exchange Conference in Monterrey, Mexico on October 10, 1997. The complete speaker slate is as follows:

1. Death Row Litigation - Scott T. Atlas of Vinson & Elkins
2. Internet Liability - Paul Morico of Arnold, White & Durkee
3. Selecting Mexican Counsel by U.S. Firms - joint presentation by Sofia Adroque of Susman Godfrey L.L.P. and Roliff Purrington of Mayor, Day, Caldwell & Keeton, L.L.P.
4. Tax Treatment of Offshore Entities - Rhett Buck, attorney at law
5. IRS Authority to Subpoena Bank Records - Carlos Ryerson of Adams and Reese
6. Piercing the Corporate Veil - David Levy of Fulbright & Jaworski, L.L.P.

Please let me know immediately if your circumstances have changed so that you will not be able to participate in the conference.

You will be allotted forty minutes for your presentation, which might include five to ten minutes at the end for questions. Although Spanish is preferred, you may give your presentation in either English or Spanish; if you cannot speak freely in Spanish without

reading your speech, you should use English. We are arranging for simultaneous translation from either language to the other.

As a speaker, you are asked to prepare an outline as a handout at the conference. There are no strict rules as to the length of the outline, although I suggest anywhere between 7 to 20 pages. It is preferable, but not required, that the outline be in Spanish. If you have any problems or questions in this regard, please contact Stephanie Harrison at (713) 850-7766, who will be available to assist you with regard to this and other logistical matters involving the conference. Of course, you can also contact me if you have any questions or problems. In order to have the outlines ready for the conference, please send to me (or your mentor) a completed outline by September 15.

You should plan to arrive in Monterrey by midday October 9 and remain through the evening of October 10. Special events are planned by ANADE for the HBA Delegation for lunch on Thursday and on Friday evening after the conference. In addition, ANADE has invited all members of the HBA Delegation and all conference attendees to an event on the evening of October 9th and a late lunch following the conference on October 10th. Spouses of HBA Delegation members are invited to all Delegation and conference events.

Each Delegation member is responsible for making his own travel and hotel arrangements and is responsible for his or her own costs. You should contact the hotel in Monterrey, La Quinta Real, at 011-52-8-368-1000 (located at Diego Rivera #500, Garza Garcia, Mexico 66260). To reserve your room as soon as possible, ask for the Sales Department and explain that you are reserving under the HBA/ANADE block; if there are any problems, ask for Ms. Gaby Cardenas.

You should also book your airline flights as soon as possible. I understand that Continental has a flight (#597) to Monterrey on October 9 leaving at 9:35 a.m. and arriving at 10:55 a.m., and a flight leaving Monterrey the following Saturday at 11:40 a.m. and arriving in Houston at 1:00 p.m. (#594). AeroMexico also has some direct flights that are considerably less expensive, but on prop planes. If you do not have your own travel agent, I have been speaking to Andre at SuperTravel (713/974-3491), and he is familiar with the choices. Bring your U.S. passport with you, but it is not necessary to obtain a Mexican visa.

You will find this to be a most rewarding and enjoyable experience, and I look forward to traveling to Monterrey with you and the other Delegation members. Please feel free to bring your spouse as well, but let me know as soon as possible if your spouse will be attending.



August 13, 1997

Page 3

Again, thank you for your interest in the conference and for the work that you will be doing on behalf of the conference.

Yours sincerely,

CHAMBERLAIN, HRDLICKA, WHITE,  
WILLIAMS & MARTIN, P.C.

By: 

E. Allan Tiller, Chairman  
Monterrey Conference Subcommittee

EAT/km

cc: Ms. Stephanie Harrison  
Ms. Kay Sim  
Ms. Sherrie Harrison  
Mr. Jorge de la Garza

**SANTOS-ELIZONDO-CANTU-RIVERA-GARCIA-GONZALEZ-DE-  
LA-GARZA, S. C.**

Edificio Losoles B-33, 3º Piso  
Av. Lázaro Cárdenas No. 2400 Pte.  
San Pedro Garza García, N. L.

**FAX No. 363-36-84**

**TELECOPY TRANSMISSION**

**TO:** MR. SCOTT ATLAS

**FROM:** MR. IGNACIO BERMEJO JUAREZ

**DATE** 30 / JUNE / 1997  
**DAY MONTH YEAR**

**FAX N° (713) 615-5319**

**NUMBER OF PAGES** (including this cover): **2**

**MESSAGE:**

If reception is defective or incomplete, or if any clarification is needed, please dial  
(8) 363-33-40 in Monterrey, N. L., México with IRENE MARTINEZ SALAZAR.

~~ACE~~ 8/15  
0-f- A/d#15

June 30, 1997

**MR. SCOTT ATLAS  
VINSON & ELKINS, L.L.P.  
2300 First City Tower  
1001 Fannin Street  
Houston, Texas 77002-6760**

Dear Mr. Atlas,

Regarding the conversation we had yesterday in the afternoon, I hereby send you a confirmation letter concerning your participation in the seminar called "INSURGE: La Importancia de la Etica en Nuestros Días" (The Importance of Ethics nowadays), that will be held on August 15, 1997.

~~As I informed you before, the event will start at 9:00 am and will end at 6:30 pm. with a cocktail party. Your conference will start at 4:30 pm., and afterwards, the lawyer's discussion panel will be honored with your participation.~~

~~We have already made you hotel reservation in FIESTA INN Valle with the following reservation number: POS30G88450. I will have someone to pick you up at the airport at 3:30 pm.~~

I truly appreciate your admirable interest in this matter.

I will send you by fax the publicity of our event sometime next week.

Sincerely yours,

~~MR. IGNACIO BERMEO JUAREZ~~  
Magister of Salinas-Martinez Inn



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Postconviction Death Penalty  
Representation Project

c/o Georgetown University Law Center  
600 New Jersey Ave., NW  
Room 421  
Washington, DC 20001  
(202) 662-9699  
Fax: (202) 662-9683  
E-Mail: tammytaylor@staff.abanet.org

MEMORANDUM

**TO:** Attorneys in the D.C. Area Providing Post-Conviction Death  
Penalty Representation

**FROM:** Doug Robinson  
Tammy Taylor

**DATE:** July 17, 1997

**RE:** Brown Bag Group Reception  
Tuesday, July 22, 1997

The next meeting of the D.C. Brown Bag Group will be held on **Tuesday, July 22, 1997, from 5:30 p.m. to 7 p.m.**, at the law offices of Sidley & Austin, 1722 Eye Street, NW, Conference Room 9C. Please enter the building from the Eye Street entrance and a guard on the lobby level will be available to direct you to Conference Room 9C on the ninth floor. Please let the guard know that you are attending the Scott Atlas reception.

Although this is very short notice, we are taking advantage of a unique opportunity to have Scott Atlas, an attorney from Vinson & Elkins L.L.P. in Houston, Texas, as our speaker. Scott, who received considerable assistance from the Postconviction Death Penalty Representation Project, was recruited by the Government of Mexico to handle the post-conviction case of Ricardo Aldape Guerra, who spent more than fourteen years on death row in Texas. On Wednesday, April 16, 1997, the state of Texas dropped all charges against Mr. Guerra. Mr. Guerra's case has been very widely publicized during the past few months, both in the United States and in Mexico, Mr. Guerra's native country. We hope that a discussion of Scott's case will provide necessary information for you in your own death penalty appeals. Please feel free to bring your questions and comments, as well as other attorneys representing death row inmates and summer associates in your firm, who might not otherwise receive notice of this meeting.

We look forward to seeing you on the 22nd.

CHAIR

Lawrence J. Fox  
c/o Drinker Biddle & Reath  
1345 Chestnut Street  
Philadelphia, PA 19107  
(215) 988-2714

CRIMINAL JUSTICE SECTION

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(212) 259-8100

Kenneth C. Frazier

c/o Merck & Co., Inc.  
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COORDINATOR OF  
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(202) 662-9236

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MAURICIO CASTROPAREDES MERINO  
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GOODRICH, RIQUELME Y ASOCIADOS  
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FAX 525-12-27  
E-mail: [goodrich@iserve.net.mx](mailto:goodrich@iserve.net.mx)

Send card

Dear Mr. [Name] [Address] [City] [State] [Zip]  
[Text]  
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[Text]

[Text]  
[Text]  
[Text]  
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# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET  
HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

July 15, 1997

Mr. Mauricio Castroparedes Merino  
Goodrich, Riquelme y Asociados  
Paseo de la Reforma 3355  
06500 Mexico, D.F.

Dear Mauricio:

As we discussed during the lunch honoring the University of Houston program in Mexico City last month, I am enclosing my business card.

I enjoyed meeting you, albeit briefly.

Very truly yours,



Scott J. Atlas

Enclosure

VEHOU07:44816.1

F-AD ALS

F-A15

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET

HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

July 11, 1997

**VIA TELECOPY 011-525-327-3282**

Emb. Michael Angel Gonzalez Felix  
Consultor Juridico  
La Secretaría de Relaciones Exteriores  
Ricardo Flores Magón No. 1  
Edificio Nuevo, Piso No. 3  
Ala B  
Col. Guerrero 06995 Mexico D.F.

Dear Ambassador Gonzalez Felix:

I have been remiss in not writing to thank you for the gracious hospitality that I received from you and your office when I was in Mexico City several weeks ago. I appreciated the opportunity to meet with you and to speak to members of the Foreign Ministry.

Since returning to Houston, I have given considerable thought to ways that your Government could communicate to Mexican citizens accused of capital crimes in the United States about their right to notify the nearest Mexican Consulate. It occurred to me that there are several organizations that provide training to lawyers who take these kinds of cases. I spoke to a representative of one such organization, the NAACP Legal Defense Fund, and was told that they would be delighted to inform lawyers attending their training courses about the assistance that your Government would like to provide and publicize the name and telephone number of someone they can contact.

It is not difficult to direct attorneys to the nearest Consulate if the lawyer works in Houston or another big city where Mexico has a Consulate. But it is more complicated when the lawyer works in a state that has no Consulate. Is there a particular person or particular Consulate who lawyers could contact to be put in touch with people in the Mexican Government who could assist them? If you provide me with a name and telephone number, I will commit to communicate that information to several such organizations.

I know that the Legal Defense Fund is conducting a training course on July 31. If I have this information before then, they can disseminate it at the next training course and every course thereafter.



Emb. Michael Angel Gonzalez Felix  
Page 2  
July 11, 1997

Once again, thank you for your many courtesies.

Very truly yours,

A handwritten signature in cursive script, reading "Scott J. Atlas". The signature is written in dark ink and is positioned above the printed name.

Scott J. Atlas

Emb. Michael Angel Gonzalez Felix

Page 3

July 11, 1997

bc: Santiago Rdel

*VIA TELECOPY*

VEHOU07:44503.1

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET

HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

F-15

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

July 9, 1997

**VIA TELECOPY 011-525-250-5444  
and DHL**

Honorable Ricardo Ampudia  
Subsecretario de Promocion y Fomento  
Presidente Masaryk 172-3  
Col. Bosque de Chapultepec  
C.P. 11580 Mexico, D.F.

Dear Secretary Ampudia:

Thank you for your letter of last week describing your meeting with Joaquín López Dóriga. I would be pleased to be interviewed by Mr. Dóriga. Unfortunately, I have no current plans to return to Mexico. If this is something that you believe is sufficiently important, however, let me know, and I will attempt to find a date for a visit.

I realized recently that all the news articles I sent you with my last letter were from U.S. newspapers. I have enclosed a few from several newspapers in Mexico.

Very truly yours,



Scott J. Atlas

Enclosures  
VEHOU07:44018.1

# Aplazan ejecución de Riccardo Aldape

**A**ustín, Texas, *septiembre 21*, (SUN).- La Corte de Apelaciones del Estado de Texas acordó esta tarde aplazar por tiempo indefinido la ejecución con la inyección letal, en la cárcel de Huntsville, Texas, del mexicano Riccardo Aldape Guerra, programada para las primeras horas del próximo 24 de septiembre.

El procurador de Justicia del estado de Texas, Dan

a primera fecha de ejecución de Aldape Guerra fue fijada para el día 12 de mayo pasado pero se pospuso para el 24 de septiembre y ahora se estima que en un plazo de 90 días podría confirmarse una nueva fecha para la aplicación de la pena capital



El procurador de Justicia del Estado de Texas, John Morales confirmó la decisión a las 16:00 horas, tiempo local (15:00 horas tiempo de la ciudad de México) y más tarde se lo informó a la gobernadora Ann Richards.

El juez Woody Densen aprobó la petición de posponer la ejecución de Aldape Guerra, tras recibir la petición del abogado defensor del reo, Scott Atlas enviada hoy en la mañana.

Scott Atlas había solicitado asimismo al fiscal Kori Skertl que interviniera ante el juez para aplazar la ejecución.

La Fiscalía a su vez busca eliminar cualquier duda de que pretenda matar a un inocente.

La primera fecha de ejecución de Aldape Guerra fue fijada para el 12 de mayo pasado pero se pospuso para el 24 de septiembre y ahora se estima que en un plazo de 60 días podría confirmarse una nueva fecha para la aplicación de la pena capital.

Leticia Vázquez, vocera oficial del Gobierno del Estado de Texas, confirmó que la gobernadora Ann Richards recibió la información de la Corte de Apelaciones Criminales en donde se le detalla la decisión del aplazamiento de la ejecución del regiomontano Ricardo Aldape Guerra.

El abogado defensor de Aldape Guerra, Scott Atlas, entrevistado por vía telefónica en su oficina de Houston, Texas se mostró satisfecho con la solución que dio la Corte de Apelaciones Criminales de Texas y se mostró optimista en que se presentarán nuevas pruebas de inocencia de su cliente, acusado del homicidio y por lo cual fue convicto en julio de 1982, hace ya diez años.

Charles L. Brown, asistente del director del Departamento de Justicia del Estado de Texas, con residencia en Huntsville, Texas, población a 130 kilómetros al norte de Houston, lugar donde se ubica la cárcel que alberga a Aldape Guerra, dijo que en la celda de alta seguridad fue informado Aldape Guerra de la decisión de aplazamiento de su ejecución.

Según el expediente, Ricardo Aldape Guerra disparó de muerte al oficial de la Policía de Houston, Texas, James D. Harris, de 29 años de edad, quien

recibió tres disparos en la cabeza después de detener a Guerra y su cómplice Roberto Carrasco Flores, de 26 años, en la intersección de las calles Edgewood y Walker por una aparente violación de tránsito.

Momentos después de disparar al policía, Guerra abrió fuego a un automóvil que transitaba por la calle, matando a José Armijo, quien conducía su auto acompañado de sus dos hijos.

Cinco testigos dijeron ver cuando Guerra disparó a Harris, aunque los abogados ubicaron a Flores como el asesino. Flores fue muerto en una balacera con policías varias horas después de que Harris fue asesinado.

El oficial de Policía de Houston, Lawrence J. Trepagnier, fue duramente golpeado por Flores antes de que lo mataran.

Coacusado: Roberto Flores, de 26 años de edad, muerto por la Policía durante una balacera.

De no haberse aplazado, por segunda ocasión, la ejecución con la inyección letal, el regiomontano Ricardo Aldape Guerra se hubiera convertido en el reo número 363 que enfrentará la pena capital.

En la historia carcelaria de Huntsville, Texas, de apenas 20 mil habitantes, ubicada a ejecutado a 362 hombres y 4 mujeres con la inyección letal.

Huntsville destaca en Texas por tener 9 cárceles o "Centros de Corrección".

Los más importantes son las denominadas Ellis I, en donde concentran los reos próximos a ser ejecutados y, la Ellis II quienes purgan condenas de cadena perpetua y de alta peligrosidad.

La población prácticamente vive de la derrama

económica que generan los centros penitenciarios y de la Universidad Estatal "Sam Houston", una de las más importantes de la Unión Americana y con una población estudiantil de 20 mil jóvenes de todas las razas y nacionalidades.

De acuerdo con datos del Departamento de Justicia Criminal de los Estados Unidos, del 7 de diciembre de 1982 a la fecha se han ejecutado, con inyección letal a 72 personas.

Las ejecuciones se realizan en el edificio que alberga al Departamento de Cárcel del Estado de Texas, ubicado en el centro de la ciudad, caso contrario al resto de las prisiones que se ubican a 30 kilómetros de distancia.

#### LA CAMARA DE EJECUCIONES EN 20 METROS CUADRADOS

La cámara de ejecuciones se localiza en el inmueble anterior, construida en 1848 y fue la primera cárcel estatal de Texas que concentrara a reos de alta peligrosidad y condenados a muerte.

Un enorme reloj, con números romanos, resalta en la fachada del edificio, remozado de ladrillo color café brillante y en cada extremo del edificio se levantan dos torres de vigía, con guardias que portan armas de

alto poder y prácticamente convertidos en francotiradores.

La cámara de ejecuciones apenas mide unos 20 metros cuadrados, cuyo único mobiliario es una cama tipo hospital en donde es acostado el reo y amarrado de manos y pies.

Un fotógrafo imprime la última fotografía en vida del ejecutado; un empleado del Departamento de Dactiloscopia toma las huellas digitales para comparalas con las que se tienen de archivo y evitar que surja una equivocación.

#### INYECCION LETAL, EQUIVALENTE A EUTANASIA

Más tarde un médico y su asistente aplican tres inyecciones al condenado a muerte: Primera, para relajar al ejecutado.

Segunda, para paralizar el cerebro y disminuir los latidos del corazón y, Tercera, el veneno letal.

La operación no dura más de 20 minutos.

Un médico legista hace acto de presencia y chequea al ejecutado.

Allí mismo rinde su dictamen: "Este hombre está muerto, bien muerto".

Acto seguido, las autoridades penitenciarias convocan a conferencia de prensa para informar del acontecimiento.

Los familiares no tienen acceso a la ejecución y sólo se les permite estar en el pasillo.

Miércoles 17 de Noviembre 1993, Año LVI / Número 20,092

# EL NORTE

## Afirma testigo ser forzada a culpar a Ricardo Aldape

Por JACQUELINE LERMA

*EL NORTE/Enviada*



**HOUSTON.**— Una testigo y ex-vecina del Barrio Magnolia, donde presuntamente Ricardo Aldape asesinó a un policía en 1982, declaró ayer en la Corte Federal que fue presionada para culpar al regiomontano.

"La señora Galván, una vecina del barrio, nos aconsejó a todos los testigos que Aldape era un pin... mojado que sólo había venido a Estados Unidos a hacer crímenes, así que era mejor que dijéramos que él había sido porque alguien tenía que pagar ese crimen", expresó Elena González Holguín.

En el segundo día de la audiencia concedida al regiomontano, la mujer dijo que cuando ella le comunicó a la Policía que el culpable era Roberto Carrasco Flores, y no Aldape, un oficial se enojó tanto que esa misma noche del incidente la esposó y se la llevó a la demarcación, donde permaneció casi seis horas.

"En el juicio me llamaron, pero no me dejaron ha-

blar mucho", declaró la mujer.

Calificó a Carrasco Flores como un joven violento a quien siempre veía llegar al Barrio Magnolia quemando llanta.

"A quien si veía yo más seguido era a Aldape, era un joven tímido que no se metía con nadie", agregó. "En cambio Carrasco, una vez estaba tomando ahí con sus amigos y comenzó a disparar balazos".

Herlinda García, quien en ese entonces tenía 14 años, declaró haber visto esa noche a Carrasco Flores sacar algo de su pantalón y disparar al policía.

"Yo recuerdo haber visto a Aldape con sus manos sobre el cofre cuando el otro disparaba", dijo García, cuyo esposo coincidentemente también se encuentra ahora en pena de muerte.

"Esa noche fui llevada a la demarcación policiaca a declarar", agregó. "Ahí nos tuvieron hasta las 6:00 horas. Yo no sabía en ese entonces leer ni escribir y los policías me redactaron en inglés mi testimonio y me lo pasaron sólo para que lo firmara.

"Me dijeron que firmara y firmé. Me dijeron que si no lo hacía me iba a meter en graves problemas".

■ La decisión, el 18 de octubre, en Texas

## Sería Aldape el primer mexicano en salvarse de la pena de muerte

Notimex, Houston, 13 de octubre □  
Luego de casi 14 años de esperar su ejecución en Estados Unidos, Ricardo Aldape Guerra podría convertirse en el primer mexicano en ser dejado en libertad tras estar condenado a muerte, si un fiscal se desiste de acusarlo de matar a un policía.

Ante la corte estatal de distrito 248, presidida por el juez Werner Voigt, la fiscalía del condado texano de Harris decidirá el 18 de octubre si libera o casulcia de nuevo al mexicano.

Ricardo Aldape nació el 3 de abril de 1962 en Monterrey, capital del norteno estado de Nuevo León.

En caso de la segunda opción, el nuevo proceso arrancaría aquí el 8 de diciembre próximo.

La increíble y triste historia de Aldape Guerra se inició el 9 de mayo de 1982, cuando llegó como indocumentado a esta área metropolitana y se instaló con unos conocidos en el barrio mexicano de Magnolia.

Poca oportunidad tuvo el mexicano de ver de cerca el *american way of life*, ya

que el 13 de julio del mismo año se vio involucrado en un incidente donde murió baleado el policía James Harris.

Según testigos y defensores, el responsable de matar a James Harris y a un automovilista que transitaba por el barrio fue el acompañante de Ricardo Aldape Guerra, Roberto Carrasco, quien apareció en un enfrentamiento posterior con los policías que llegaron a la escena del crimen.

Aldape Guerra fue acusado del asesinato y, tras un rápido proceso que generó una inusual atención de la opinión pública por tratarse de un indocumentado, en una época -octubre de 1982- marcada por un sentimiento antiinmigrante, fue condenado a muerte en una corte estatal de distrito.

Cuando estaba a punto de ser ejecutado mediante una inyección que vale 72.50 dólares, el 24 de septiembre de 1992 un juez federal detuvo de manera indefinida la aplicación de la sentencia para analizar una apelación sometida por la defensa y el consulado de México en Houston.

PERIODICO "LA JORNADA" (MEXICO, D.F.)

LUNES 14 DE OCTUBRE DE 1996

**Miércoles**  
16 de Abril  
de 1997

104 Págs., 8 Secci

# EL NORTE

## Liberan a Aldape

**Solicita Fiscalía de EU desistimiento de juicio por falta de evidencias y argumentos**

Por **MIGUEL DOMINGUEZ**  
EL NORTE/ENVÍO

"En mi casa, donde quiera que iba, yo tenía una oración para mi hijo, cada vez que subía a la Corte, leía el salmo 91", expresó con voz entrecortada.

Ayer, Atlas informó a las autoridades consulares la decisión del juez de aceptar la dimisión de la Fiscalía en el caso y solicitó su apoyo para que gestionaran ante las autoridades migratorias la agilización de su entrega para hoy (miércoles).

Añadió que su defendido no ha pensado en promover ninguna contramanda contra la autoridad de Texas.

El abogado expresó que desde que el juez Frank Maloney decidió anular seis testigos claves que sostenían la acusación contra el regiomontano, sabía que poco le restaba a la Fiscalía para un segundo juicio.

Fue hasta la mañana de ayer cuando reconoció que poco tenía que hacer y solicitó al juez por la tarde retirarse por desistimiento.

Aldape estuvo en la cárcel 14 años y 10 meses, y justo a 12 días de haber cumplido 35 años de edad, recibió la noticia por medio de un canal de televisión en español.

Por la noche, su abogado defensor, Scott Atlas, y sus padres, Aureliano Aldape y Francisco Guerra, ofrecieron una conferencia de prensa.

El Cónsul garantizó que por la mañana, alrededor de las 8:00 horas, la familia Aldape Guerra estaría de regreso a Monterrey.

"Les doy las gracias a toda la gente, tanto al Gobierno como al Consulado, todos nos han ayudado, yo no me quejo, yo no sé con qué voy a pagarle al abogado, a toda la gente, nomás que comprendan que nosotros somos pobres, pero aún así, nunca nos dejarán solos", dijo el padre de Ricardo.

Su madre expresó que siempre encomendó a Dios el destino de su hijo y que ahora sabe que terminará su vida en paz con su familia completa.

HOUSTON.- Para el regiomontano Ricardo Aldape Guerra ayer concluyó una pesadilla de casi 15 años: su libertad, al fin, fue concedida después de que la Fiscalía de Texas solicitó un desistimiento del juicio al considerar que ya no tienen evidencias ni argumentos para sostener la acusación de asesinato.

A las 16.00 horas de ayer, Aldape Guerra, acusado de asesinar a un policía en 1982, quedó legalmente libre al firmar el Juez de Distrito, Frank Maloney, la solicitud de desistimiento de la Procuraduría de Texas.

Manuel Pérez Cárdenas, Cónsul de México en Houston, logró acelerar los trámites para que esta mañana, alrededor de las 10:00 horas, Aldape aterrice vía aérea en Monterrey, acompañado de sus padres y autoridades consulares.



**ALDAPE LIBRE**



# Abogado gastó Dls. 2.5 millones para liberar a Ricardo

**HOUSTON, 16** ■ Artífice principal de la inminente libertad de Ricardo Aldape, el abogado civil Scott Atlas estaba tan convencido de la inocencia del mexicano condenado a muerte, que sin importarle invirtió el trabajo equivalente a 2.5 millones de dólares para demostrarla.

En su defensa gratuita del reo originario de Monterrey, el litigante estadounidense contó con el apoyo de los gobiernos federal de México y estatal de Nuevo León, de la abogada Sandra Babcock, así como de organizaciones pro derechos humanos de los latinos.

Scott Atlas, quien trabaja con la firma legal 'Vinson and Elkins' -que con sede en Houston tiene oficinas en Washington y Europa- cuenta entre sus distinguidos clientes con petroleras y otras grandes empresas transnacionales.

Ricardo Aldape Guerra, nacido el 3 de abril de 1962, fue condenado a muerte en octubre de 1982 después de ser hallado culpable del asesinato del policía local James Harris, ocurrido el 13 de julio de ese año en el barrio mexicano Magnolia de Houston.

Desde su arresto ese mismo día, el mexicano alegó que el verdadero responsable fue su acompañante Roberto Carrasco Flores, quien murió en un enfrentamiento con los policías que llegaron a la escena del crimen.

Incluso, la mayoría de los testigos del juicio original afirmaron en una audiencia posterior que fueron intimidados por la policía para que incriminaran al indocumentado.

Texano de entre 45 y 50 años de edad, de expresivos ojos azules y pelo blanco que siempre viste traje oscuro o gris, la primera vez que Atlas escuchó sobre el caso de Aldape Guerra fue cuando Sandra Babcock, una joven y talentosa abogada, se lo explicó hace cinco años.

Babcock, quien trabajaba entonces con el

Texas Resource Center -organismo sin fines de lucro encargado de la defensa de condenados a muerte- logró que unas horas antes de realizarse, un juez federal aplazara de manera indefinida en septiembre de 1992 la quinta fecha de ejecución de Ricardo mientras analizaba su apelación.

Ella convenció a Scott Atlas de la inocencia de Aldape Guerra, y de que lo representara de manera gratuita o pro bono -un apartado donde prestigiadas firmas legales intervienen en presuntos casos de injusticia- en los posteriores recursos legales ante cortes federales.

Tan determinante fue también el papel de Babcock, que la madre de Ricardo, Francisca

Guerra le pidió anoche a Scott Atlas que avisara a Sandra de que su hijo saldría libre en las próximas horas a raíz de que la fiscalía anunció al juez estatal Frank Maloney su desistimiento en el caso.

Atlas decidió defender a Aldape Guerra, y como prueba de su compromiso era común que suspendiera vacaciones familiares o que llevara a las audiencias del proceso a sus padres, sus hijos o su esposa, la ahora juez federal Nancy Atlas.

A regañadientes, Scott Atlas precisó que en la defensa de Ricardo se realizó en los últimos años un trabajo legal por parte de su compañía valorado en unos 2.5 millones de dólares. ● NTX



El cónsul general de México en Houston, Manuel Pérez Cárdenas; el abogado de Ricardo Aldape Guerra, Scott Atlas; y el gobernador Benjamín Clariond conversan sobre la liberación.

# 'Sólo quería salvarle la vida'

Abogado de Aldape

afirma que no

representará al regio, si éste decide demandar a autoridades texanas

Por HUGO GUTIERREZ

Si Ricardo Aldape Guerra quiere demandar a las autoridades texanas por 15 años de prisión y cinco fechas para morir, no contará con la representación de su abogado Scott Atlas.

En medio de decenas de grabadoras y micrófonos en el Aeropuerto Internacional Mariano Escobedo, el representante jurídico del regiomontano dijo que lo más importante para él era salvar la vida de un inocente.

Si Atlas y todos los abogados que apoyaron el proceso de Aldape Guerra hubieran cobrado sus honorarios, la familia del regio habría tenido que pagarle más de 2 millones de dólares, agregó.

Y, no sería su abogado si él quisiera ha-

cer una demanda, yo siempre he tenido que pensar en otras cosas más que pensar en dinero para Ricardo o para mí.

"No, no, no, yo no he platicado más de una vez con la Fiscalía, no hay nada de acuerdo sobre eso, si Ricardo quiere tomar un caso de temandar, él puede hacerlo si él quiere, pero yo nunca he querido hacer eso", expresó Atlas.

Esta fue la oportunidad de participar salvando una vida, añadió.

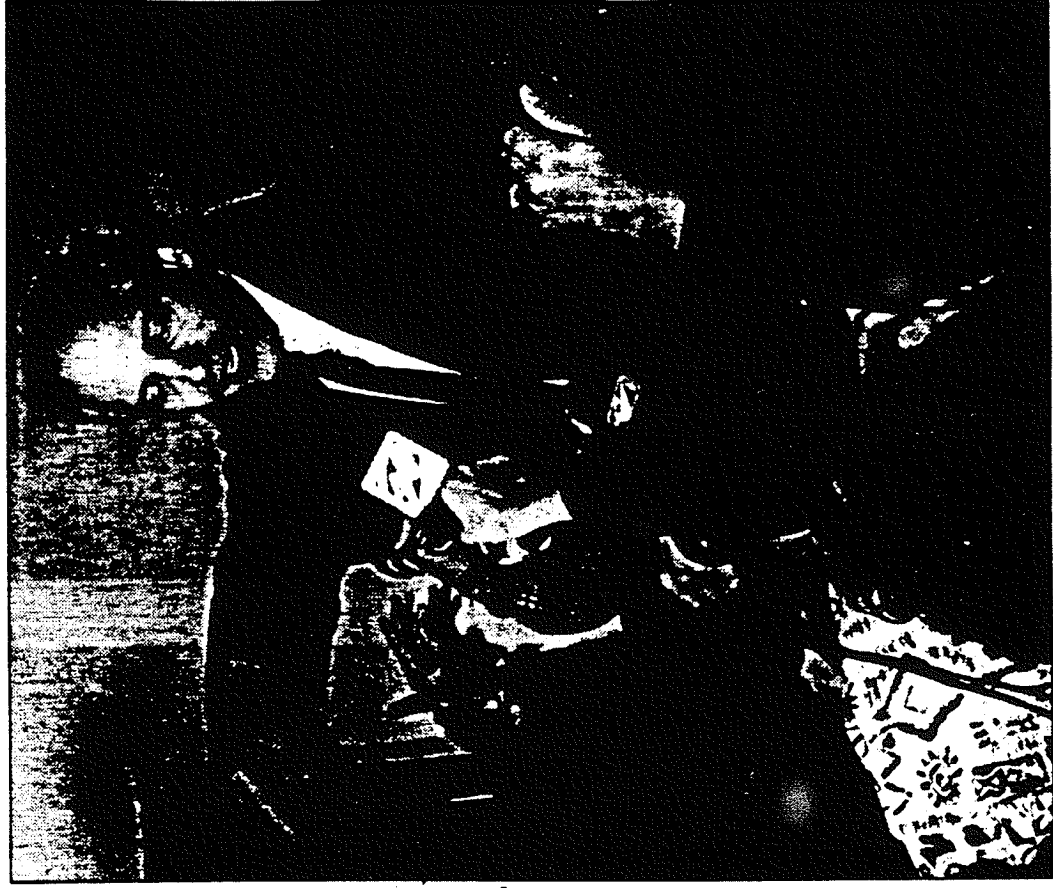
"Es la cosa más importante para cualquier persona, para un abogado y para toda la gente.

"No sé cuántas horas de trabajo hicimos en este caso, unas 20 mil horas es posible, entre todos los abogados es posible que ese número sea lo que se trabajó en este caso".

Atlas admitió que antes de estudiar el caso, estaba también convencido de la culpabilidad de Aldape Guerra, y que la opinión pública en ese sentido hizo muy difícil el caso.

Posteriormente, Atlas se trasladó a la casa de Aldape Guerra en la Colonia Moderna, ahí apenas cruzó el barandal de la vivienda y los familiares lo reconocieron y lo levantaron en hombros hasta la puerta de la sala, tediéndole porras y provocando en él un evidente desconcierto y la desbordante alegría.

"Nunca había visto algo así en toda mi vida, es muy emocionante", dijo el abogado en español y luego en inglés, cuando reporteros de Estados Unidos se lo pidieron.



Scott el triunfador... Familiares y vecinos alzan en hombros al abogado de Ricardo Aldape, a su llegada a la casa de la Colonia Moderna.

# Scott Atlas

ROBERTO MORA

**U**sédes díganme a qué hora les hablo...  
Sus palabras fueron difíciles de aceptar para unos periodistas acostumbrados a dudar de cuanto personaje público tienen que enfrentar en su trabajo.

"Queremos que sacarlo al aire alrededor de las 7:09 de la mañana, pero si gusta, dénos su número, y nosotros le marcamos", se le replicó.

Scott Atlas, sin embargo, fue firme: "Yo les hablo".

A diezas penas, aceptamos el compromiso del abogado de Ricardo Aldape Guerra para que desde Houston, él hablara el día siguiente para una entrevista de radio, justo antes, a las 7:08 horas. Estaríamos irremediabilmente atendidos a él.

Supimos que era un riesgo porque realmente pocas personas en México se manejan con formalidad extrema. Un abogado norteamericano, que ya había ganado el caso de Aldape, no necesitaba cumplimos.

Para nuestro alivio y cierta sorpresa, el teléfono en la cabina sonó, sin embargo, a las 7:07 horas justas. Era Scott Atlas, listo para la entrevista.

Este pequeño episodio, sucedido apenas el martes pasado, ilustra la personalidad, la responsabilidad y el compromiso del hombre que finalmente liberó a Ricardo Aldape. Atlas llevó el caso del regiomontano liberado ayer, durante más de cinco años, gastó más de dos millones y medio de dólares y cumplió con él, con su profesión, con Aldape, con México, con su país, pero quizá lo más importante, cumplió con la justicia.

Atlas, abogado particular, sirvió como defensor público expresamente para Ricardo. Pero aun tratándose de un defensor de oficio logró continuar con éxito la defensa iniciada por Sandra Babcock hasta concluir, a tambor batiente, el caso y demostrar la injusticia que se pretendía cometer contra el mexicano.

Si usted habla con Atlas se dará cuenta de que es un tipo un tanto frío, poco afecto a dramatizar y a mostrar sus emociones. Sin embargo, su presencia ayer en Monterrey, su emotivo abrazo con Ricardo en el aeropuerto y con sus padres fue el corolario para demostrar cuán comprometido estaba con el caso de Ricardo Aldape.

Seguramente Atlas no es perfecto. No obstante, estamos seguros que si hubiera más Scotts Atlas como abogados en México y en Monterrey, otro gallo nos cantara en materia de justicia, aquí, sí, en nuestro país.

cc: Rob Field

From: SGA

SCHNEIDER & MCKINNEY, P.C.

ATTORNEYS AT LAW

Eleven Greenway Plaza, Suite 3112

Houston, Texas 77046

(713) 961-5901

Telecopier: (713) 961-5954

Stanley G. Schneider  
W. Troy McKinney  
Thomas D. Moran

July 8, 1997

Scott Atlas  
Vinson & Elkins

VIA FAX: 713-615-5339

Dear Scott,

Thank you for agreeing to participate in the Forensic Seminar in October, 1997. Jeralyn Merritt, from Denver, and Kent Schaffer have agreed to participate in the panel and assist you in your presentation. Jerri is a NACDL Board member and is well versed in the practical aspects of Daubert. As you know, Kent is the current president of TCDLA and is a very experienced criminal practitioner.

We would like your talk to concentrate on preparation of direct examination of an expert witness and the practical considerations of choosing the right expert. The panel discussion would then concentrate on the practical aspects of Daubert and how to conduct a Daubert hearing.

Thanks

Stanley

cc: Jeralyn Merritt  
tel: 303-837-1837  
fax: 303-860-1665

Kent Schaffer  
tel: 713-228-8500  
fax: 713-228-0034

~~cc:~~  
Fax to Stan:  
date and  
time and  
location?

SGA  
10/17, ~8:30-10:15am  
Plaza Hotel,  
~~San~~  
(Durango & —)  
San Anton

f-ald  
A15

## **Atlas, Scott**

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**From:** Becker, Elizabeth (Lolly)  
**Sent:** Tuesday, July 08, 1997 9:10 AM  
**To:** Atlas, Scott  
**Cc:** Anderson, Donna  
**Subject:** RE: LAW PN 437: Tenth Amendment/ Records Management

Thanks for the update.

-----  
**From:** Atlas, Scott  
**Sent:** Monday, July 07, 1997 6:46 PM  
**To:** Becker, Elizabeth (Lolly)  
**Subject:** RE: LAW PN 437: Tenth Amendment/ Records Management

OK. Incidentally, I spent several days in Mexico City two weeks ago meeting with and speaking to members of the Foreign Ministry about how to deal with the problem of finding representation for Mexicans on death row in the U.S. I made several recommendations that they seemed quite enthusiastic about.

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**From:** Becker, Elizabeth (Lolly)  
**Sent:** Monday, July 07, 1997 6:36 PM  
**To:** Atlas, Scott  
**Subject:** FW: LAW PN 437: Tenth Amendment/ Records Management

any interest in speaking with the reporter regarding Mexican nationals on death row? it may be more focussed on Mexican law but it might be worth a shot?

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**From:** law  
**Sent:** Monday, July 07, 1997 6:19 PM  
**To:** law  
**Cc:** Elizabeth Lolly Becker  
**Subject:** LAW PN 437: Tenth Amendment/ Records Management

MCI Mail date/time: Mon Jul 07, 1997 1:08 pm CST  
Source date/time: Mon, 07 Jul 1997 14:53:11 -0400

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LAW PN 437: Tenth Amendment/ Records Management

PROFNET SEARCH: Law / Crime / Justice - 437  
July 7, 1997  
[Sent Monday at 2:45 p.m. EDT]

### **BOOSTER**

[CLOAKED]. For a major Southwest daily, a reporter continues to seek leads on experts who can discuss Mexican nationals on death row in U.S. prisons. In Texas, one Mexican national was recently executed and another had been released from death row. Both received a hero's welcome when they were returned to Mexico, albeit one returned in a casket. The issue stirs strong anti-American sentiment in Mexico. The reporter is looking for experts in the Mexican criminal justice system who can explain the history of the country's opposition to the death penalty and why the country reacts so strongly when the sentence is carried out in the United States. [For news organization and contact information, please contact ProfNet by e-mail at profnet@vyne.com.] [l:7/1:437]

### **SUMMARY**

1. State's Rights and Tenth Amendment - NPR
2. Records Management - Quill Corporation

3. Business Climate in D.C. - Greater Baton Rouge Business Report
4. Workplace Liability - Bloomberg News

#### QUERIES

**\*\*1. STATE S RIGHTS AND TENTH AMENDMENT - NPR. [DEADLINE TODAY]** We would like an expert on states' rights and states' sovereignty as pertains to the 10th Amendment, specifically someone who is in favor of more rights for the states. This is for a talk show on National Public Radio's New York City outlet. We need leads by 2:30 p.m. EDT today. >>> Maryann Carlson Phone: 212-669-2200 [l::7/1:437]

**\*\*2. RECORDS MANAGEMENT - QUILL CORPORATION.** For a customer newsletter for Quill corporation, a large direct marketer of office supplies, I need leads on experts who can discuss trends in the filing and organization of company records and materials, both paper-based and electronic. Along with that I'd like to include information on how to create records retention schedules, especially taking into account government and legal regulations for different industries. We are planning an informational book on the subject. >>> Patt Borgman E-mail: pattb@ais.net [l::7/1:437]

**\*\*3. BUSINESS CLIMATE IN D.C. - GREATER BATON ROUGE BUSINESS REPORT (LA).** I am writing a story on how Louisianians, esp. those from Baton Rouge fare in Washington, D.C. I'd like to find out from an expert what kind of business climate Washington, D.C. is for new businesses, esp. those based in the South, esp. in LA. Is it a hospitable climate? A profitable one? Good market base? What kind of business opportunities are available to Louisianans? Need leads by Wednesday. We are a business journal focusing on local business news for Baton Rouge, LA. >>> Mary Remuzzi E-mail: mmmr@his.com Phone: 703-524-1642 Fax: 703-524-1642 [l::7/1:437]

**\*\*4. WORKPLACE LIABILITY - BLOOMBERG NEWS.** Steve Matthews wants expert opinions on the following: Do companies have legal liabilities when there is violence in the workplace, e.g. disgruntled employees or former employees come in shooting, or similar situations. What are the legal precedents? How have cases been decided? He needs leads by Friday, 7/11. Fax: 404-524-3668 (preferable). Phone: 404-526-9553. [l::7/1:437]

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QUERIES

\*\*1. STATE S RIGHTS AND TENTH AMENDMENT - NPR. [DEADLINE TODAY] We would like an expert on states' rights and states' sovereignty as pertains to the

10th Amendment, specifically someone who is in favor of more rights for the states. This is for a talk show on National Public Radio's New York City outlet. We need leads by 2:30 p.m. EDT today. >>> Maryann Carlson Phone: 212-669-2200 [l::7/1:437]

**\*\*2. RECORDS MANAGEMENT - QUILL CORPORATION.** For a customer newsletter for Quill corporation, a large direct marketer of office supplies, I need leads on experts who can discuss trends in the filing and organization of company records and materials, both paper-based and electronic. Along with that I'd like to include information on how to create records retention schedules, especially taking into account government and legal regulations for different industries. We are planning an informational book on the subject. >>> Patt Borgman E-mail: pattb@ais.net [l::7/1:437]

**\*\*3. BUSINESS CLIMATE IN D.C. - GREATER BATON ROUGE BUSINESS REPORT (LA).** I am writing a story on how Louisianians, esp. those from Baton Rouge fare in Washington, D.C. I'd like to find out from an expert what kind of business climate Washington, D.C. is for new businesses, esp. those based in the South, esp. in LA. Is it a hospitable climate? A profitable one? Good market base? What kind of business opportunities are available to Louisianans? Need leads by Wednesday. We are a business journal focusing on local business news for Baton Rouge, LA. >>> Mary Remuzzi E-mail: mmmr@his.com Phone: 703-524-1642 Fax: 703-524-1642 [l::7/1:437]

**\*\*4. WORKPLACE LIABILITY - BLOOMBERG NEWS.** Steve Matthews wants expert opinions on the following: Do companies have legal liabilities when there is violence in the workplace, e.g. disgruntled employees or former employees come in shooting, or similar situations. What are the legal precedents? How have cases been decided? He needs leads by Friday, 7/11. Fax: 404-524-3668 (preferable). Phone: 404-526-9553. [l::7/1:437]

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RECEIVED  
JUL 7 1997

SJA

SECRETARÍA DE RELACIONES EXTERIORES  
M É X I C O

Mr. SCOTT Atlas,

Thank YOU for your VISIT TO OUR OFFICE.  
Your LECTURE TO OUR OFFICERS WAS  
SO INTERESTING. I heard great opinions on your  
PRESENTATION.

As we TALKED, I am sending  
a COPY OF THE LETTER OF STATE OF TEXAS.

I wish you all the best

Hernán Ruiz

2147124402

06/16/97 18:42 2147124402

VIAL HAMILTON

002/003

STATE OF TEXAS  
OFFICE OF THE GOVERNORGEORGE W. BUSH  
GOVERNOR

June 16, 1997

Mr. Michael J. Matheson  
Acting Legal Adviser  
United States Department of State  
Washington, D.C. 20520

Re: Death Penalty Case of Mexican National, *Irineo Tristan Montoya*

Dear Mr. Matheson:

On behalf of Governor Bush, I am responding to your letter dated June 12, 1997, concerning the impending execution of Mexican national Irineo Tristan Montoya. Specifically, I am writing to confirm my conversation with Catherine W. Brown with your office on Friday, June 13, 1997.

Since the State of Texas is not a signatory to the Vienna Convention on Consular Relations, we believe it is inappropriate to ask Texas to determine whether a breach of Article 36 of the Vienna Convention on Consular Relations occurred in connection with the arrest and conviction of Mr. Montoya. Ms. Brown agreed that the State of Texas need only provide information that is necessary for the United States of America and Mexico to determine if a treaty violation has occurred.

Additionally, I have advised Ms. Brown that I felt it would be inappropriate for the Governor's Office to give an opinion regarding the consequences and materiality of any breach of the treaty, including with regard to the fairness of the judicial process against Mr. Montoya. Such legal matters are best left to our courts. Ms. Brown agreed that the State of Texas would not address the consequences and materiality of any breach of Article 36 of the Vienna Convention on Consular Relations.

06/16/97 18:03

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06/16/97

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VIAL HAMILTON

We hope to provide our findings to Ms. Brown by close of business, Tuesday, June 17,

ENTIRELY,



Alberto R. Gonzales  
General Counsel

ARG/nhn

cc: Ms. Catherine W. Brown



**SECRETARY OF TOURISM  
UNDERSECRETARY OF TOURISM PROMOTION**

**FAX COVER SHEET**

Av. Presidente Masaryk  
No. 172-3er PISO  
COL. POLANCO  
11587 MÉXICO, D.F.  
TEL. 250-66-08  
250-44-34  
FAX. 250-64-44

Mexico City, July 2<sup>nd</sup>, 1997

**TO: MR. SCOTT J. ATLAS  
VINSON & ELKINS  
ATTORNEYS AT LAW**

**FROM: RICARDO AMPUDIA  
MEXICO'S MINISTRY OF TOURISM**

**FAX NUMBER: 95(713)615-53-99**

**MESSAGE:**

Dear Scott:

Thank you for the information you kindly sent me. I hope I can give you good news in the near future.

I am sending you this communication because today I had a meeting with Joaquín López Dóriga, a very important journalist in Mexico, he writes for "El Heraldo Journal", and also has a very important radio and TV program.

Mr. Dóriga would be pleased to do an interview with you for the Mexican television in reference to Ricardo Aldape's case, however he cannot go to Houston. In this respect I would be grateful if you could let me know when you plan to visit Mexico next, so I can make all necessary arrangements.

Waiting to hearing from you soon.

*Sincerely yours,*

**RICARDO AMPUDIA**

México, D.F., 2 de julio de 1997.

**LIC. JOSÉ ÁNGEL GURRÍA**  
**SECRETARIO DE RELACIONES EXTERIORES**  
**PRESENTE.**

Muy estimado Señor Secretario:

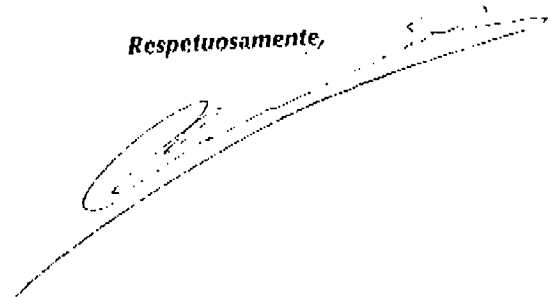
Tal y como te comenté en días pasados en Cancún, Quintana Roo, me estoy permitiendo enviarte el curriculum vitae del Abogado Scott Atlas, así como dos artículos que se publicaron relativos a su participación en el "Caso Aldape".

El señor Atlas llevó el caso de Ricardo Aldape durante casi cinco años, logrando su liberación después de grandes esfuerzos. El señor Atlas integró para dicho caso, un grupo de aproximadamente veintiún abogados, los cuales, considerando sus honorarios y gastos administrativos, hubieran ascendido a cerca de 3 millones de dólares.

Por los motivos antes expuestos y con todo respeto, me permito recomendarte al señor Atlas, como un posible beneficiario de la Condecoración del Águila Azteca que otorga el Gobierno Mexicano.

Agradezco de antemano el que me hayas dado la oportunidad de plantearle esta posibilidad, al mismo tiempo hago propicia la ocasión para enviarte un saludo muy afectuoso.

Respetuosamente,



# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET  
HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

F-  
F- A15  
14y-f-A86

WRITER'S TELEPHONE

(713) 758-2024

WRITER'S FAX

(713) 615-5399

June 25, 1997

**VIA TELECOPY 011-525-250-5444**

Honorable Ricardo Ampudia  
Subsecretario de Promocion y Fomento  
Presidente Masaryk 172-3  
Col. Bosque de Chapultepec  
C.P. 11580 Mexico, D.F.

Dear Secretary Ampudia:

I want to express my gratitude for your willingness to join us for a few minutes last Friday evening. I am pleased that we finally had the opportunity to meet.

When I returned to my hotel later the same night, I was delighted to find the two beautiful books and the commemorative Tianguis coin that you had delivered to my room. It was most thoughtful of you. You must give me the opportunity to repay your kindness when you next visit Houston.

During our visit, you asked me to send you some information about me and about our work in the defense of Ricardo Aldape Guerra. I have enclosed the following documents:

- (1) a short summary of my curriculum vitae,
- (2) the full version of my curriculum vitae, and
- (3) a few articles that describe the work that we did in representing Ricardo Aldape Guerra.

If you need any additional information, please feel free to call.

Very truly yours,



Scott J. Atlas

Enclosures  
VEHOU07:43255.1

# METROPOLITAN

News & Features

## FIGHT OF A LIFETIME

After 5 years, Atlas' persistence pays off for Aldape Guerra

By JENNIFER LENHART  
Houston Chronicle

Growing up along the Mexican border in the 1950s, Scott Atlas felt the pull of big schools and big cities and knew he'd probably have to leave his native McAllen to pursue his goals, at least for a few years.

This son of the Valley, educated at Yale and the University of Texas Law School, attained a lofty legal position in Houston, as a partner at Vinson & Elkins, the city's largest corporate law firm. But roots were hard to leave behind, and Atlas soon added another kind of client to his growing portfolio: the

See ATLAS on Page 39A.

## Atlas

Continued from Page 37A.

poor. On Tuesday, the 47-year-old achieved folk hero status in Mexico when he freed Mexican Ricardo Aldape Guerra from Texas' death row. The Houston lawyer and the legal team he assembled worked for five years to prove Aldape Guerra was innocent. In the process, Atlas said he became involved in the most emotionally resonant legal fight of his lifetime.

"This case is the only case I've ever done that my 11- and 12-year-old children understand," Atlas said. "I can't explain to them corporate litigation, but I can explain to them trying to save the life of an innocent man."

With the help of a small army of other volunteers, Atlas ultimately convinced a state judge and a federal judge that police officers intimidated six witnesses who testified against Aldape Guerra in his 1982 capital murder trial. It wasn't long after those rulings that Harris County District Attorney John B.

Holmes Jr. decided not to retry the case without the witnesses' crucial testimony.

By the time he was freed, Aldape Guerra had spent 14 years on death row and another year before that in Harris County Jail. He turned 35 on April 3.

"We all had trouble sleeping some nights because we felt guilty about going home, knowing that every minute we spent not doing work was that much less work we could do trying to help Ricardo," Atlas said. But Atlas would rather not draw attention to himself. He shifted the talk to the fascination among Mexi-



Richard Carson / Chronicle

After serving 14 years on Texas' death row, Ricardo Aldape Guerra celebrates his release from prison with defense lawyer Scott Atlas, a partner in the law firm of Vinson & Elkins.

cans with Aldape Guerra's legend. "Of all the Mexicans on death row in the United States, he was the one whose proof of innocence was the strongest," Atlas said. "There have been three songs, two books and a movie about him in Mexico in the last 10 years."

When Atlas returned to Mexico Wednesday, he went as the mythical Texan who, at the invitation of the government of Mexico, traveled to Monterrey to be there when Aldape Guerra went home. The townspeople hoisted Atlas on their shoulders and carried him through the streets.

He was far from the quiet, Oriental-rug lined hallways of Vinson & Elkins, where Atlas practices law from a 29th floor office with skyline views. But in spirit, he was closer to home that day than he had ever been.

"I grew up in a very poor community, McAllen," Atlas said. "There was one high school in town. I was fortunate, my father was a professional, but there was no distinction growing up. There were no private schools."

His father, prominent Rio Grande Valley lawyer Morris Atlas, served for years as counsel to Sen. Lloyd Bentsen's family. The younger Atlas followed in his father's footsteps to some extent, at one point working as Harris County coordinator for Bentsen's re-election campaign. Atlas' wife, Nancy, is a U.S. district judge who recently presided over the Mario Ruiz Massieu trial involving the forfeiture of alleged drug money.

But pro-bono legal work, which is provided to clients at no charge or for a reduced fee, has always highlighted Atlas' resume. He represented William Rummel in challenging the constitutionality of Texas' habitual offender law. Rummel, a third-time felon, was automatically

3

4/20/97

**'We all had trouble sleeping some nights because we felt guilty about going home, knowing that every minute we spent not doing work was that much less work we could do trying to help Ricardo.'**

**Scott Atlas**

sentenced to life for writing three bad checks totaling \$230, Atlas said.

After seeing firsthand the conditions attorneys and their clients tolerated during prison visits — they had no privacy and guards listened in — Atlas convinced the Texas Department of Corrections to adopt rules governing attorney visitation, including the right to privacy.

Through the strength of his personality and his reputation for thoroughness, Atlas recruited about 16 other lawyers and countless paralegals and researchers to Aldape Guerra's legal defense team.

Attorney Rick Morris worked on the case while at Vinson & Elkins, and, like some attorneys, stayed on the case after leaving the firm.

"I probably didn't have as much faith as the people did that Ricardo would eventually be exonerated, but I had a lot of faith in Scott and I knew because of his doggedness that this day would probably come," Morris said. "I'm Mexican-American. My mother was born in Mexico, and I think that (the case) had additional import to me. In my entire legal career I don't think I will ever be a part of something as fulfilling."

Sandra Babcock, a freshly minted Harvard Law School graduate when she took on the case in 1991 for the now-defunct Texas Resource Center, recalled her early enthusiasm

for a case that had an allure for lawyers, young and old.

"I pulled several all-nighters writing the petition" to reconsider the case, said Babcock, now a public defender in Minneapolis.

Babcock recalled that an investigator named Guillermo Canizales, then working at the Central American Refugee Center in Houston, agreed to work for a reduced rate in locating and reinterviewing the original witnesses.

"We would drive around Houston in a pickup truck at night and try to track these people down who had no fixed address, many of whom were undocumented and poor and some of whom were illiterate."

Working through the Mexican Consulate in Houston, Babcock convinced the government of Mexico that a large firm with vast financial resources could do the most to help Aldape Guerra. Atlas, with his reputation for tackling pro-bono cases, was contacted through former Gov.

Mark White.

The power of Babcock's 200-page petition convinced Atlas that Aldape Guerra was innocent, but Atlas said he was concerned about his own lack of expertise in criminal law.

"To show you how naive I was, I believed that all I had to do was spend a few months putting together an explanation of what happened, show it to the prosecutor and the judge and then everybody would realize a mistake had been made," Atlas said.

Criminal attorney Stan Schneider gladly joined the team, providing much-needed expertise.

"They were very idealistic, but this is a case to be idealistic about," Schneider said. "As an outsider looking at Scott, he's going to kill me if I say anything nice about him, but Scott attracted the brightest and the best to work on this case. He had enormous enthusiasm, commitment to Ricardo and a belief in his innocence."

And he was buttressed by the many Vinson & Elkins lawyers on the case. "To me, the number of attorneys working on this was a dream come true," Schneider said.

To recruit members of his own firm, Atlas circulated a memo outlining the case and received offers of help from a dozen volunteers. Associate Michael Mucchetti joined the firm in late 1991 and got on the Aldape Guerra case a year later.

"It was the particular injustice

involved here that motivated me," Mucchetti said. "It just bothers me that, confronting an IRS audit without an accountant would terrify most taxpayers, yet we're going to allow all but the wealthy to face execution without the basic means to defend themselves."

Associate Sarah Cooper, a 1990 Stanford Law School graduate, joined Vinson & Elkins 18 months ago and considered working on the Aldape Guerra case a privilege.

"It's the kind of thing you hope to work on when you're in law school," she said. "Scott was the perfect person to handle a case like this because he had unbelievable perseverance..."

Vinson & Elkins backed the case financially and, unlike most firms that support pro-bono work, allows lawyers working on pro-bono cases to get credit for their hours as if they were regular, billable hours.

Atlas estimated the value of the time he and other V&E lawyers contributed, if billed, would have been \$2.5 million, "and my time is probably half of that because my billing rates are much higher (about \$340 an hour) than anyone else's on the case."

As the case wound down last week, Atlas said he'd changed during the years he'd been involved with the Aldape Guerra saga.

"I'm a little tired now," he said. "It's harder for me to do all-nighters than when I was younger."



# Atlas Trying to Woo Big Firms to Take On Death Row Cases

## V&E'S ATLAS HALTS GUERRA DEATH TRAIN

by RICHARD CONNELLY

The lights from eight or nine TV mini-cams are blinding him in a crowded hallway outside a Harris County criminal court, but attorney Scott Atlas isn't fazed.

When some of the reporters start shouting questions in Spanish about his client, a Mexican national and former Death Row inmate, he doesn't hesitate. "*Quisiera oír primero las preguntas en inglés; después todas las preguntas en español*," he answers smoothly, assuring the Spanish reporters they'll get equal time later.

It is only when he gets asked a technical question about the process that will likely end up freeing his client from jail that he hesitates. "I'm not sure," he says. "As you know, I'm not a

criminal lawyer."

While that's true — Atlas is a commercial litigator at Vinson & Elkins who more typically handles complex suits between Fortune 500 companies — his four-year fight to save Ricardo Aldape Guerra from execution has garnered him far more publicity than any usury-defense suit ever did.

He has traveled to Mexico to give press conferences in his smooth-but-rudimentary Spanish, trying to calm local reaction to temporary setbacks in a case that is regular front-page fodder in that nation. He typically finds himself surrounded after each court appearance with groups like the 16 or so reporters who quizzed him Aug. 21 after a hearing in 248th District Judge W.R. Voigt's courtroom.

Far from relishing the spotlight, Atlas, 46, almost disappears into it. He is, in many ways, the epitome of those who handle dense-pack high-stakes business litigation for the country's wealthiest companies — someone who immerses himself in paperwork and research; a plodder rather than an orator; someone who can't seem to shake his office pallor, probably because he spends much of his time there preparing meticulously for depositions rather than depending on florid jury arguments.

"He's flamboyant only in the results obtained, not in his method of doing it," says fellow V&E partner Paul Stallings.

CONTINUED FROM PAGE 1

### Police Shootout

Whatever the method, Atlas stands on the verge of a very flamboyant result indeed: the freeing of Guerra, a 32-year-old illegal immigrant who was within days of being executed four years ago for the 1982 slaying of a Houston policeman.

U.S. District Judge Kenneth Hoyt threw out Guerra's conviction in November 1994, blistering Houston police and Harris County prosecutors for intimidating witnesses and withholding exculpatory evidence. Voigt has scheduled a hearing for Oct. 18 to determine whether Hoyt's ruling means almost all eyewitness testimony, much of which has been recanted anyway, will be excluded from any retrial.

No physical evidence links Guerra with the murder of Houston police officer J.D. Harris. Guerra and a recent acquaintance, Roberto Carrasco Flores, became involved in a shoot-out after a traffic stop in Southeast Houston in July 1982 that left Harris and a bystander dead.

Carrasco was killed after he shot five times at another officer who found him hiding; he had the murder weapon nearby and Harris' service revolver on him. Guerra, who had no previous criminal record in the U.S. or Mexico, was captured separately.

Hoyt found that police had improperly intimidated witnesses and influenced them into identifying Guerra as the gunman.

SEE ATLAS, PAGE 24

CONTINUED FROM PRECEDING PAGE

## Fierce Fund-raiser

That goes for his political fund-raising, too. The son of Morris Atlas, the politically powerful Rio Grande Valley attorney, Atlas has long been close to former Sen. Lloyd Bentsen and former Gov. Ann Richards, helping both select judges. (With their exits from office, he has scaled back his political work.)

"The guy was fierce when it came to fund-raising," says longtime Democratic political operative David Jones, of counsel to Houston's Williams, Birnberg & Anderson. "It's a matter of organization, and if you agreed to do anything with Scott, the next thing you know you got a package a couple of inches thick with names to call and times to report back to him and all of that."

"He just gets immersed in his cases — you can use all the clichés about leaving no questions unresearched, all of that," says former V&E partner Larry Veselka, who went to Yale University with Atlas. "He's always been very successful, even while doing the pro bono work — he has always been a financially productive lawyer at V&E."

Veselka admits that the phrase "colorful character" doesn't leap readily to mind in describing Atlas, whose sense of humor tends toward the dry side. "He's certainly not the closest drinking buddy or telling-lies buddy," says Veselka, now name partner in Houston's Snysen, Kaplan & Veselka. "There are people who are more fun. . . . Usually, we just end up talking politics."

Atlas' wife, U.S. District Judge Nancy Friedman Atlas, "is a little more fun, a little more of a bubbly personality," Veselka says.

## Chance at Freedom

But it's doubtful that Guerra, who's now in Harris County jail waiting for the DA to decide whether or not to re-try him, is looking for laughs from his attorney. What he has gotten, instead, is a very good chance at being set free.

Prosecutor Casey O'Brien, who has been handed the case, told reporters after the Aug. 21 hearing that no decision had been made on whether to re-try Guerra. Getting a second conviction would be a daunting task, however, considering the passage of time and the testimony of witness intimidation.

O'Brien did not return calls; neither did the two private attorneys who handled the case as prosecutors at the trial level.

Atlas is optimistic — he notes that now he may allow himself to smile for a photo accompanying a Guerra story — and he admits getting a charge out of the experience.

"It's the only case I have ever worked on that my sons understand," he says, recalling forlornly a previous try at grabbing the interest of his kids, now ages 10 and 12.

"The only time I took them to hear one of my cases, it was a nasty trademark infringement suit," he says. "I spent an hour trying to explain the case to them, and when we got to court I was questioning the plaintiff and he just disintegrated on the stand as I questioned him. It was great. Later I asked the boys how they liked it and one said he liked crawling on the seats and the other said he'd rather go to the dentist. With this [Guerra] case, at least, they ask about it all the time."

Atlas, who does not oppose capital punishment, says he took the case because "at the risk of sounding corny, it is the highest calling there is for a lawyer — protecting the rights of someone whose life is in jeopardy."

## GUERRA'S TEAM

*Attorneys who've worked on Ricardo Aldape Guerra's case*  
**Vinson & Elkins, Houston:**

Scott Atlas  
 Lisa Beck

Sarah Cooper

Stephanie Crain

Michael Mucchetti

J. Cavanaugh O'Leary

**V&E, Dallas:**

Scott Breedlove

Stacy Siegel

William D. Sims Jr.

Eric Stahl

**Former V&E lawyers:**

J. Anne Clayton, now an independent contractor with Compaq Computer Corp.

Richard Morris, now at Houston's

Feldman & Rogers

**Stanley Schneider, Schneider &**

**McKinney**

ardy. One of the young lawyers working on the case commented to me after the habeas hearing [in Hoyt's court] that 'This reminds me why I became a lawyer,' and I knew what he was talking about."

## Emotional Burden

Then why not do it full-time, instead of splitting time between, as political colleague Jones half-jokingly describes it, "freeing the dispossessed and defending the possessed?"

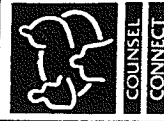
"It's an enormous emotional strain," says Atlas, who also admits liking his civil docket. Atlas says "there wasn't a dry eye in the courtroom" when Hoyt allowed Guerra's mother to hug him; the two embraced for 10 minutes.

High emotions in that habeas hearing also produced what may have been the most unlikely moment in the case: former prosecutor Bob Moen, under questioning from Atlas, telling the slightly built defense lawyer, "If you want to quarrel with me, we can take it out in the hallway."

"I didn't find [the remark] to be responsive or particularly illuminating," Atlas says.

The emotional cost of defending Death Row cases, along with their significant financial burden, has made efforts like Atlas' somewhat rare. Perhaps not surprisingly, he is busy applying his organizational skills to try to remedy the problem.

He will spearhead an American Bar Association task force that will ask the country's big firms to take on Death Row cases. "We're going to mail out letters and see what happens; we'll follow up with peer-to-peer phone contacts," he says. "We have mentors available to assist, we have brief banks, we're going to be using the Internet. We're making every possible effort to make it less frightening to the uninitiated." ■



The 5th Circuit briefs in the Guerra case are on COUNSEL CONNECT, in the Criminal Law & Procedure section of the Library. See page 37 for details.

Atlas got into the case in 1992 after the Mexican consul-general's office in Houston began looking for someone to take over Guerra's appeal from the stretched-thin Texas Resource Center. Former Gov. Mark White recommended Atlas, whom he knew from both Atlas' prodigious Democratic fund-raising and from the lawyer's constant lobbying to get Texas to change its laws regarding automatic life sentences for three-time felons.

Atlas' only major criminal experience had come in a previous pro bono case, in which he argued unsuccessfully to the U.S. Supreme Court that Texas constitutionally had given an automatic life sentence to a man convicted of three felony hot-check charges totaling about \$200. (Atlas later won the client's release by arguing the defendant had received ineffective assistance from his trial counsel.)

### Pro Bono

Atlas agreed to consider taking Guerra's case on a pro bono basis.

"I spent the July 4th weekend totally immersed in the briefs and I became convinced they had convicted the wrong man," Atlas says. "I had no background to speak of as a criminal lawyer, but I ultimately became convinced the choice wasn't between me or an experienced criminal lawyer handling the case, but between me and a grossly overworked Texas Resource Center."

He brought in noted criminal lawyer Stanley Schneider to assist him; he also brought in a revolving team of V&E volunteers and his background of doing extensive and painstaking groundwork.

"I've never seen anyone so thorough and prepared," says Schneider, a name partner in Houston's Schneider & McKinney. "He predicted right 99 percent of the time what answers he was going to get from witnesses on the stand. He put together a trial notebook the way it's supposed to be prepared. It was absolutely, absolutely incredible. Guerra got the Cadillac of representation."

That representation has totaled more than \$2 million worth of V&E attorney hours, Atlas says, with a substantial but undetermined amount of out-of-pocket costs.

Schneider, like others, marvels at Atlas' willingness to slog through rewrites and research to prepare his case. "When he does something, you get an initial draft, then a second draft, then a fifth, then more — he wants to make everything perfect," Schneider says. "Some of us don't have that luxury. We file something and then a month later read it and go 'Oh, shit.' With him, he's constantly trying to get it perfect so that won't happen."

CONTINUED ON NEXT PAGE

## Scott J. Atlas

**Born:** Austin, Jan. 15, 1950.  
**Education:** Yale University (magna cum laude, B.A. in math and economics, 1971); University of Texas (J.D., 1975; editor-in-chief, Texas Law Review).  
**Clerk:** To 5th U.S. Circuit Court of Appeals Judge Thomas Gibbs Gee, 1975-1976.  
**Civic Activities:** Has served as board member or coordinated legal work for Houston's Alley Theater, the Houston Shakespeare Festival and the Children's Theater Festival.  
**Political Activities:** Major fund raiser for former Sen. Lloyd Bentsen and former Gov. Ann Richards; heavily involved in recommending judicial candidates to both.  
**Family:** Married to U.S. District Judge Nancy Friedman Atlas; two sons, ages 10 and 12.  
**Noted Pro Bono Cases:** *Rummel v. Estelle*, 445 U.S. 263 (1980), which challenged Texas' automatic life sentence on a third felony conviction for a client who had written three hot checks totaling about \$200; *Lamar v. Estelle*, an 11-year challenge to the Texas prison system's attorney visitation rules that resulted in a 1988 settlement outlining a policy that included uncensored exchange of documents during attorney-client visits; *Guerra v. Collins*, ongoing representation of a former death row inmate whose conviction, a federal judge found, was obtained partly through police and prosecutor misconduct.



TOM COLLINS

Relying on his impressive organizational skills, Vinson & Elkins commercial litigator Scott Atlas (above) has won praise for his "Cadillac" representation of Ricardo Aldape Guerra in his Death Row appeal.

F- AIS

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET  
HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE  
(713) 758-2024

WRITER'S FAX  
(713) 615-5399

June 25, 1997

Honorable and Mrs. Santiago Roel  
Sierra Guadarrama #30  
8-A Lomas  
C.P. 11000 Mexico City

Dear Santiago and Margarita:

I just wanted to send a note thanking you for your kind hospitality. After knowing you both for several years, it was a delight to see your home. It was exactly what I had expected—warm, friendly, and beautiful.

I only regret that Nancy and the children could not have been with me. They send their regards. Nancy loved the platter. It is a worthy addition to our small collection.

Now you must return to Houston so that we can repay your kindness.

Very truly yours,



Scott J. Atlas

VEHOU07:43303.1

F-415

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET

HOUSTON, TEXAS 77002-6760

TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE  
(713) 758-2024

WRITER'S FAX  
(713) 615-5399

June 25, 1997

Mr. Hernan Ruiz Bravo  
Secretaria de Relaciones Exteriores  
Avenida Ricardo Flores Magon No. 1  
Ala B, Piso 3  
Col. Guerrero  
Postal 06995 Mexico D.F.

Dear Hernan:

Thank you for the many kindnesses that you showed to me while I was in Mexico City. I appreciate all of your efforts in organizing my time there. I hope that the people in the Foreign Ministry found some of my suggestions to be useful. Let me know if I can do anything further in that regard.

I also appreciate your purchasing the book that describes verb tenses. I hope to put them to use the next time that I am in Mexico City.

Very truly yours,



Scott J. Atlas

VEHOU07:43304.1

CNDH

"ARGUMENTOS"

GUIA DE PREGUNTAS.

TEMA: "DERECHO ESTADOUNIDENSE Y PENA DE MUERTE".

INVITADO: ABOGADO SCOTT ATLAS.

Radio UNAM

6/21/95 9:15-10:15 am

S. Ald  
ATLAS

1. ¿Qué lo motivó a estudiar la carrera de Derecho?
2. ¿Qué diferencias ha encontrado entre la teoría impartida en las aulas de estudio y la práctica profesional?
3. ¿Qué actividades profesionales ha desarrollado hasta la fecha?
4. ¿Cómo logró alcanzar el reconocimiento profesional dentro de la sociedad estadounidense?
5. ¿De qué manera se desarrolló el caso "Aldape Guerra"?  
¿Cómo se logró finalmente la despenalización de este connacional mexicano?
6. ¿Por qué todavía en la actualidad está vigente la pena de muerte en Estados Unidos?
7. ¿En qué forma las leyes de Estados Unidos protegen la integridad humana de los mexicanos que ingresan en territorio norteamericano?
8. ¿Qué deben saber nuestros compatriotas cuando ingresan en forma legal o ilegal en los Estados Unidos de Norteamérica sobre el sistema jurídico de dicha nación?
9. ¿De qué ha servido la aplicación de la pena de muerte en los estadounidenses?
10. ¿Qué avances se han tenido con respecto a la abolición de la pena de muerte en Estados Unidos?
11. ¿Por qué no se respetó la Convención de Viena y se llevó a efecto la ejecución de Irineo Tristán Montoya?
12. ¿Qué lugar ocupan los Derechos Humanos en la sociedad estadounidense?

13. ¿De qué manera se cumple en la Unión Americana con la promoción, protección y defensa de los Derechos Humanos?

14. ¿Cómo es, desde su óptica personal, el trato que reciben nuestros compatriotas radicados en Estados Unidos en forma legal o ilegal?

15. ¿Qué le aportan nuestros connacionales a la sociedad estadounidense? ¿En algún momento, estos mexicanos representan una carga social?

OPERADOR: FONDO MUSICAL PARA CREDITOS.

ANTONIO: PRODUCCION: DAVID VAZQUEZ LICONA.  
COORDINACION RADIOFONICA: JORGE PULIDO.  
ASISTENCIA DE PRODUCCION: AMANDA MEDINA.  
GRABACION: ...  
CONDUCCION: ANTONIO MORALES CORTES.



- 0. a. no export
- b. need to help client
- be more

RAG: Foreign Ministry (6/20/97)

01. Use RAG as case study

~~RAG: Foreign Ministry (6/20/97)~~

F - Old  
A 15

## A. Intro

1. 5/82: to U.S.
2. 1/82: Dark sentence
3. 12 yrs: uproar - songs, bks, movies, demos, ~~etc.~~

## B. Overview

1. Facts in record
2. Facts we found + issues raised
3. Procedure
4. 1/93 lrg
5. ~~Final~~ Outcomes
6. Lessons

## C. Facts - Trial

1. Quichie: event  
shootout + guns → RCF

### 2. Detail

- a. ② murders
- b. capture
- c. HPD - stories confused → clearer
- d. trial
  - (1) Jose Jr only → com.
  - (2) penalty phase

~~G. 1/93 Hiring me~~

## D. Post-Conv. Procedure

1. penalty phase
2. to TCA + U.S.S.C.
3. habeas
  - a. state: trial ct → TCA
  - b. federal: 3 levels  
- no new issues
  - c. state findings conclusive
  - d. constl issues
  - e. slow; many safeguards
  - f. stays

new (96) law: Fed. + Tx

- (1) file w/in 1 yr
- (2) state ct. ruling on law + facts almost final
- (3) 2d hab pet - only if overwhelming evd of innoc.
- (4)

## E. 6/92: Hiring me

1. pro bono tradition
2. convinced re innocence + questionable trial conduct

## F. Investigation

1. dn record

a. "illegal alien" comment - voir dire

~~1. constant murder~~

b. ct. won't strike cop

c. cemetery murder

d. grizzly photos + Ms. Harris

e. Heredia "on drugs"

f. Jose Luis + Jose Manuel lies:  
- attys.

## 2. Outside Record

### a. press

(1) 4 cops died '82

(2) much TV re case - "illegals"

(3) fear of immigr. reform  
- way of life  
- Claire Luce

(4) econ study

(5) Hou. newspaper study

(6) 2 ~~Hisps.~~ Hisps. on panel - struck

(7) ~~cops in Ct.~~

### ~~1. appointed~~

### b. police + D.A. conduct

(1) crime scene: handcuff  
threaten child loss

(2) RAG in handcuffs

(3) Galvan pressures Jose Jr

(4)  $\Delta$  statements: no read or translate

(5) suggestive reenactments

(6) mannequins: bullet holes/blood

(7) D.A.s: "dead man" vs. "man who shot cop"

(8) angle of shot

(9) wife: RAG's hands at shooting time

(10) RAG's roommate as gun robber

(11) wife for RAG as gun robber

c. apptd. atty: no \$ in time

d. cost of inv.

e. Govt. of Mex.'s help

## G. Chronology

1. pre: '92

a. state appeals

b. case "lost" '88-'91

c. Resource Center - 200-pg. bf.

2. 9/16/92: 300 pg. brief

3. 9/21: D.A. delay; <sup>4 mos.</sup> Ct. NO

4. TCA stays / denies

5. 7/43- bf. to feed it
6. 11/43 hrg

## H. Evid. Hrg.

1. Floyd: angle of shot; 0%
2. 6-7 wits. re intimidation  
d told cops RCF did it, forced to sign statements
3. juror re "alien" comment, cops, etc.
4. cop: RAG deserves death even if RCF shot
5. D.A.'s:
  - a. justify "alien" comment
  - b. feeling persecuted

## I. Prospects

1. ruling "soon"
2. 3 options
3. appeals
4. clemency

## I. Ruling - 1/44, 5/45

1. for us on every argument of misconduct & innocence

## J. Appeal - 3-0 (7/46)

## K. Retrial Effort

### ~~1. suppressed evd~~

- a. cops "remembered"
- b. wits. - many versions

### c. DA's

- (1) violated "rule" [re mtgs: w/ > 1 wit.]
- (2) advise to cops
- (3) argumt. re "mojado" [expresión de menosprecio]

### 3L. Lessons

1. ~~cop killings: unusual~~
2. ~~apptd. counsel in death cases -~~ ~~start earlier~~  
~~# for experts, inv. articles~~
3. ~~sys. usually works, but SLOW~~ ~~Δ law re consular notice~~

### M. David's Story

#### L. Lessons

1. D.A.'s owe duty to truth, not victory
2. Troublesome conduct
  - a. pretrial threats
  - b. decision to ~~prosecute~~ indict
  - c. trial conduct
  - d. decision to appeal
  - e. " " retry
  - f. advice to cops re recollectn
  - g. viol. of rule
  - h. specious arguments.
3. Need for volunteers
  - ask clients to ask U.S. attys.
4. Unpopular Cause
5. Press Dealings
  - a. Threats ~~in~~ Reynosa
  - b. Accuracy
6. Reps. to Ct.

### M. David's Story

Hernan Ruiz

011/525 - 117-4227 (o)

327-3282 (f)

591-1571 (r)

f-222  
415

6/20 lunch 2:30pm.

UH 30th anniversary of Mex. Studies Program

by Legal Adviser of Foreign Ministry  
(Michaelaugo Gonzalez Felix)

organized by Hernan Ruiz

radio station at Natl Univ. -  
talks at Crim. Lawyers Bar

F.ald  
A15

## JUNE BIRTHDAYS

06/03/77	Katie O'Neill
06/04/	Beth Lief
06/10/84	Greg Moss (Sara's son)
06/14/68	Karin Rhodes
06/19/57	Minerva Derry
06/20/81	<u>Bradley O'Neill</u>
06/22/61	<u>Sherie Jenkins</u>
06/22/95	NEFA's Senate Judiciary Comm. vote
06/23/73	Hugh & Wendy Levey Anniversary
06/28/11	<u>Herb Friedman</u>
06/28/84	<u>Ryan Friedman Atlas</u>
06/30/95	NEFA's U.S. Senate Vote
06/30/67	<u>Stacy Susman</u>

## JULY BIRTHDAYS

07/01/	Sheila O'Shea
07/04/25	Beatrice Young
07/04/39	Margaret House
07/12/50	Deborah Gee
07/15/39	Harry M. Reasoner
07/15/63	Michele Brainerd
07/16/50	<u>Franci Beck</u>
07/22/17	Rose Bergman
07/25/33	Sue Elsenbrook
07/31/81	Carolyn Trager
07/31/57	Julie Alexander

Scott J. Atlas

# DAILY CALENDAR

Thursday, June 19, 1997

Sunday, June 22, 1997

Thurs., 6/19/97	.....	<b>NEFA, RYAN &amp; DAVID:</b> C-Lazy-U (970/887-3344) per voice mail from Sherie.
Thurs., 6/19/97	.....	State Court Vacation Week.
Thurs., 6/19/97	8:30 a.m.	Meet at Henry May's office.
Thurs., 6/19/97	9:00 a.m.	V&E Meeting with Steven P. Reynolds, Chairman & CEO of PG&G Gas Transmission-Texas, 1200 Smith Street, Suite 900, 713/951-2015.
Thurs., 6/19/97	<b>LV 12:10 p.m.</b>	<b>SJA TRAVEL:</b> Continental Flight #1511 IAH <b>ARR Mexico City 2:17 p.m.</b> Ticket rec'd 6/10/97. Accommodations: Hotel Maria Isabel Sheraton, Reforma 325, Colonia Cuauhtemoc, Mexico, D.F., Confirmation #62597, Phone: 011-525-207-3933. Reservations made by Hernan de Jesus Ruiz Bravo.
	<b>ARR 2:17 p.m.</b>	
Thurs., 6/19/97	5:00 p.m.	Meeting w/ Michaelangelo Gonzalez Felix, Legal Adviser to Foreign Minister (or Fri. 11:00 a.m.)
Thurs., 6/19/97	6:00 p.m.	Enrique Loaza, General Coordinator of Consular Affairs.
Thurs., 6/19/97	8:00 p.m.	Free?
Fri., 6/20/97	.....	<b>NEFA, RYAN &amp; DAVID:</b> C-Lazy-U (970/887-3344) per voice mail from Sherie.
Fri., 6/20/97	.....	State Court Vacation Week.
Fri., 6/20/97	8:00-10:30 a.m.	Free?
Fri., 6/20/97	11:00-11:45 a.m.	Private meeting with Michael Angel Gonzalez Felix (or Thurs., 5:00 p.m.)
Fri., 6/20/97	12:00-2:00 p.m.	Speech to Foreign Ministry; or Public meeting (40-50 people) w/ media on legal system.
Fri., 6/20/97	2:00-5:00 p.m.	SCLPSR: Committee meeting, Cape Elizabeth, ME.
Fri., 6/20/97	2:30-4:30 p.m.	Lunch: 30th Anniversary of UH Mexican Legal Studies Program.



Fri., 6/20/97	3:30-6:00 p.m.	Law Clerks and Staff of United States District Judge Lee H. Rosenthal invite you to attend a reception in honor of her Fifth Anniversary on the Bench, 515 Rusk Avenue, Courtroom 11B. RSVP to 250-5982 or 250-5983 by June 16, 1997. SJA RSVP'd no.
Fri., 6/20/97	7:30 p.m.	A dinner honoring the engagement of Sarah Duckers and Mark Davidson at Grappino's (behind Vincent's/Nino's), 2817 West Dallas. RSVP to Sandra LaMont at 758-2593. RSVP'd no.
Sat., 6/21/97	.....	<b>NEFA, RYAN &amp; DAVID:</b> C-Lazy-U (970/887-3344) per voice mail from Sherie.
Sat., 6/21/97	.....	SCLPSR meeting in Cape Elizabeth, Maine, Inn by the Sea in Cape Elizabeth.
Sat., 6/21/97	.....	To pyramids.
Sat., 6/21/97	8:30-12:00 Noon	SCLPSR: Committee meeting.
Sat., 6/21/97	12:30-4:00 p.m.	SCLPSR: Meet with invited guests. We have invited the Chief Justices in New England as well as pro bono managers, legal services directors, bar association leaders, and other leaders in the legal community in New England to join us for lunch on Saturday to discuss pro bono activities in their respective communities.
Sat., 6/21/97	6:30 p.m.	SCLPSR: Dinner at Bob Hirshon's home (casual).
Sun., 6/22/97	.....	<b>NEFA, RYAN &amp; DAVID:</b> C-Lazy-U (970/887-3344) per voice mail from Sherie.
Sun., 6/22/97	.....	<b>NEFA &amp; DAVID</b> to Austin, drop David at Camp Champions; <b>NEFA</b> to Houston; <b>Ryan</b> stays w/Curtis-Lushers
Sun., 6/22/97	.....	<b>DAVID:</b> First day at Camp Champions, RR1 Box CC, Marble Falls, Texas 78654; PHONE: 210/598-2571, 800/696-3334; FAX: 210/598-1095.
Sun., 6/22/97	<b>LV 10:12 a.m.</b>  <b>ARR 1:07 p.m.</b>	<b>NEFA &amp; DAVID TRAVEL:</b> United Flight #1500 Denver <b>ARR Austin 1:07 p.m.</b> Car: Budget, Confirmation #25006648US2, intermediate car, Austin, Tex, reserved for Atlas, Nancy.
Sun., 6/22/97	<b>LV 12:35 p.m.</b> <b>ARR 2:43 p.m.</b>	<b>SJA TRAVEL:</b> Continental Flight #186 Mexico City <b>ARR IAH 2:43 p.m.</b>
Sun., 6/22/97	<b>LV 6:43 p.m.</b> <b>ARR 7:30 p.m.</b>	<b>NEFA TRAVEL:</b> Continental #1711 Austin <b>ARR IAH 7:30 p.m.</b> (per Sherie)

f- old #A15

# Agenda of Attorney Scott Atlas

## Thursday June 19, 1997

- 2:17: Arrive at the Mexico City Airport; Hernán Ruíz, Esq. will pick him up.
- 5:30: Interview with Emb Patricia Soria, Director General of Protection and Consular Matters with Monica Mora, Esq.
- ~~6:30~~: Interview at Radio Station "Radio UNAM" [National Autenonomous University of Mexico].

## Friday, June 20, 1997

- 9:00 breakfast w/ Mary Lou & Luis Diaz
- 11:00: Interview with Legal Consultant, Emb Miguel Angel González Félix.
- 12:00: Conference in the Conference Room concerning the procedures of the death penalty. Participants are the officials of the Secretary of Foreign Relations.
- 14:30: Dinner in the area of the Conferences of the Chancellery; he will talk 5 minutes.
- 4:04:30 Coffee w/ Ruelo
- 7:00 pm Mtg. w/ Nícochea (he'll call my room)

## Saturday, June 21, 1997

- 9-10:00 Interview at Radio UNAM
- 11:00: Visit to the Pyramids of Teotihuacan: Hernán Ruíz will take him.

RAG - Royal de Pedregal  
726-9036

## Sunday, June 22, 1997

- 11:00: Mexico City Airport. Hernán Ruíz will take him.

Santiago Ruel  
Margueta

202-8094(r)  
281-1069(o)

Miguel Nícochea

616-5888(o) 635-1203(o)  
550-9320(o)

Hernan Ruiz 117-4234(o)  
591-1571(r)

Monica Mora 5782-3523(o)  
327-3122(o)

Luis & Mary Lou Diaz 768-3609(o)  
-4699(o)  
606-5172(r)

Leo Austin 515-1624(o)  
271-7206(o)  
606-1853(r)

TO: SCOTT ATLAS  
713 - 6155399

6/18/97

Visit

AGENDA DEL ABOGADO SCOTT ATLAS.

JUEVES 19 DE JUNIO DE 1997

2:17 HORAS. LLEGA AL AEROPUERTO DE LA CD. DE MEXICO.  
LO RECOJE LIC. HERNAN RUIZ.

5:30 HORAS ENTREVISTA CON EMB. PATRICIA SORIA. DIRECTORA GENERAL DE  
PROTECCION Y ASUNTOS CONSULARES, CON LIC. MONICA MORA.

6:30 HORAS. ENTREVISTA EN ESTACION DE RADIO, RADIO UNAM.

VIERNES 20 de JUNIO DE 1997

11:00 ENTREVISTA CON EL CONSULTOR JURIDICO, EMB. MIGUEL ANGEL GONZALEZ FELIX

12:00 HORAS CONFERENCIA EN LA SALA DE CONFERENCIAS SOBRE PROCESOS DE PENA DE  
MUERTE. PARTICIPAN FUNCIONARIOS DE LA SECRETARIA DE RELACIONES EXTERIORES.

14:30 HORAS COMIDA EN EL AREA DE CONFERENCIAS DE LA CANCELLERIA:  
HABLARA 5 MINUTOS.

SABADO 21 de JUNIO de 1997.

11:00, VISITA A LAS PIRAMIDES DE TEOTIHUACAN; LO LLEVARA LIC. HERNAN RUIZ.

DOMINGO 22 de JUNIO de 1997.

12:00 AEROPUERTO DE LA CD. DE MEXICO. LO LLEVARA LIC. HERNAN RUIZ.

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
1001 FANNIN STREET  
SUITE 2300

**HOUSTON, TEXAS 77002-6760**

TELEPHONE (713) 758-2222  
VOICE MAIL (713) 758-4300  
FAX (713) 615-5399

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TO: Mr. Santiago Roel

COMPANY:

TYPE OF DOCUMENT: Correspondence

PAGES: 2 (including this transmittal page)

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# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
1001 FANNIN STREET  
SUITE 2300

**HOUSTON, TEXAS 77002-6760**

TELEPHONE (713) 758-2222  
VOICE MAIL (713) 758-4300  
FAX (713) 615-5399

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DATE: **June 18, 1997**

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TO: **Mr. Miguel Nicoechea**

COMPANY:

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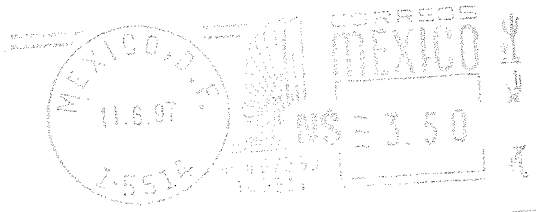
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RECIPIENT'S FAX #: **011-525-550-3858**

HARD COPY FOLLOWS: ☐ YES ☒ NO



6/11/97



SECRETARIA DE RELACIONES EXTERIORES  
CALLE PORTA JUDICIAL

SR. SCOTT J. ATLAS  
ABOGADO  
VINSON & ELKINS, L.L.P.

2500 FIRST CITY TOWER  
1001 FANNIN  
HOUSTON, TEXAS 77002-6760

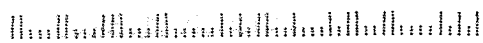
USA



SRIA. DE REL. EXTERIORES  
RICARDO L. GONZALEZ MAGON No. 1  
C. P. 06995

VIA AEREA

77002/6760



## *La Secretaría de Relaciones Exteriores*

*se complace en invitar al Sr. Scott J. Atlas, a la comida que se ofrecerá con motivo del XXX Aniversario de la Fundación del Programa de la Universidad de Houston sobre el Sistema Legal Mexicano y los trece años de capacitación de funcionarios del sector público en esa universidad, el viernes 20 de junio de 1997, a las 14:30 horas, en el Salón de Recepciones de la Secretaría (Área de Conferencias).*

*Ricardo Flores Magón N° 1*

*R.S.V.P.: 117-4234 y 327-3217*

*Exatelo, D. F.*

*Sr. Scott J. Atlas*  
*Abogado*  
*Vinson & Elkins, L.L.P.*  
*Presente*



## MEMORANDUM

**Via Facsimile**

TO: All Program Coordinators for Annual Conference, Texas-Mexico Bar Association

FROM: Rona R. Mears

SUBJECT: Final Program Details--*Immediate Response Requested*

DATE: May 13, 1997

---

**Agenda and Program.** Faxed to you with this memorandum is the current draft of the program for our Annual Conference. Please review the portion of the agenda that pertains to your program to insure that it is complete, correct and meets with your approval. In particular, if you have not submitted a program description, please do so now. ***Mark up the agenda with any changes and fax directly to Beth Vann at 915-845-3512.*** Please do this ***by Friday, May 23.*** If Beth does not hear from you she will assume that the agenda is approved and complete.

**Bios.** Please contact your speakers now and obtain a one paragraph biographical statement (preferably in both English and Spanish). This will appear in the written materials for the conference. ***Beth should receive all bios by Friday, May 23.*** If you will be participating as a moderator or speaker, do not forget to submit your own bio to Beth as well!

**Contact Information for All Speakers.** When you submit the bios to Beth, please include full contact information for all speakers including firm, address, fax and phone, to be used for follow-up contacts regarding the conference.

**Written Materials.** Deadline for speakers to submit written materials is August 1. All speakers are asked to submit a paper. We are requesting both hard copy and electronic form on a disk. Please alert your speakers now about this deadline.

**Hotel Reservations.** A limited number of rooms have been reserved at a special rate at Le Meridien Dallas. I am transmitting a reservation form with this memo; please pass it along to your speakers and urge them to make their reservations now to insure that they will get a room at the lower Conference rate.

***Please note that I will be out of town May 17 to June 1. If you have questions during that time please contact Beth, Allan Van Fleet or Napoleon Cantu.***

Enclosures d-412230.1

cc: Beth Vann, Allan Van Fleet, Napoleon Cantu

**DRAFT**

# **Fourth Annual Conference Cuarta Conferencia Anual**

**The Texas-Mexico Bar Association  
Barra de Abogados México-Texas**

***September 14 - 16, 1997  
Cityplace Conference Center  
Dallas, Texas, U.S.A.***

**Texas - Mexico Bar Association  
Barra de Abogados México-Texas  
Fourth Annual Conference/Cuarta Conferencia Anual  
Dallas, Texas, U.S.A.  
September 14-16, 1997/Septiembre 14-16, 1997**

*Application has been made to the State Bar of Texas for MCLE credit./Se ha hecho la solicitud a la State Bar of Texas para credito MCLE.*

*If there is sufficient interest among the participants, simultaneous translation will be provided./Si existe suficiente interes entre las participantes, se proveerá traduccion simultanea.*

**Schedule of Events  
Programa de Eventos**

**Sunday, September 14, 1997  
Domingo 14 de Septiembre de 1997**

- 3:00-5:00 p.m. Early registration at Le Meridien Dallas Hotel  
Inscripción anticipada en el Le Meridien Hotel
- 6:00-8:00 p.m. Welcoming reception  
Recepción de Bienvenida

**Monday, September 15, 1997  
Lunes 15 de septiembre de 1997**

- 7:30-8:20 a.m. Registration and Continental Breakfast at Cityplace Conference Center  
Inscripción y desayuno continental en el Cityplace Conference Center
- 8:20-8:30 a.m. Welcoming Remarks  
Bienvenida

Rona R. Mears, TMBA Co-Chair  
Haynes and Boone, L.L.P.  
Napoleon Cantú Cerna, TMBA Co-Chair  
Santos-Ehizondo-Cantú-Rivera-Garcia-Gonzalez-De La Garza, S.C.

- 8:30-8:50 a.m. Justice Delayed: The Case of Ricardo Aldape Guerra  
Justicia Demorada: El Caso de Ricardo Aldape Guerra

Scott Atlas  
Vinson & Elkins, L.L.P.

- 8:50-9:00 a.m. Presentation to Scott Atlas of TMBA Special Recognition Award for Outstanding Contributions to Cross-Border Relationships  
Entrega a Scott Atlas de la Presea de Reconocimiento Especial que le otorga la BAMT por sus contribuciones sobresalientes a las Relaciones Fronterizas

Co-Chairs/Co-Presidentes Napoleon Cantú Cerna and Rona Mears

- 9:00-10:30 a.m. Joint Ventures: Practical Ways of Bridging Differences and Complementing Virtues  
Coinversiones: Formas Practicas de Salvar Diferencias y Complementar Virtudes

Panelists will discuss the reasons companies seek joint venture partners, protocol and problems in the courtship, negotiation manners, documentation hurdles, and the realities of doing business together./Los conferencistas discutirán las razones por las que se buscan coinversiones, acercamiento y problemas iniciales, formas de negociacion, obstaculos en la documentacion y las realidades de hacer negocios conjuntamente.

**Moderators/Moderadores:**

Robert Kimball  
Vinson & Elkins, L.L.P., Dallas  
Jorge Barrero Stahl  
Santamarina y Steta, Monterrey

**Speakers/Conferencistas**

Tomás Cantú  
Vitro, S.A. de C.V., Monterrey  
E. Webb Spradley  
Vice-President, Consorcio International Hospital, S.A. de C.V.

10:30-10:45 a.m. Break/Receso

10:45-12:15 p.m. Cross Border Insolvency: The Bordertown You Never Want to Visit  
Suspension de Pagos en México y los Estados Unidos: El Pueblo Fronterizo que Tu Nunca  
Querras Visitar

This discussion will contrast and compare the insolvency and bankruptcy laws of the United States and Mexico, including their application to companies doing business on both sides of the Border. /Esta discusión comparará y señalará los contrastes de las leyes de insolvencia y quiebra de los Estados Unidos y México, incluyendo su aplicación a las empresas que hacen negocios en ambos lados de la frontera.

**Moderators/Moderadores:**

Leticia Clark, U.S. Bankruptcy Judge, Houston

**Speakers/Conferencistas**

Charles Beckham  
Kemp, Smith, Duncan & Hammond, P.C., El Paso  
Miguel Angel Hernandez Romo  
Mexico City  
Karan Thomas  
Vinson & Elkins, Houston

12:30 - 1:45 p.m. Luncheon and Speaker/Comida y Presentación

Labor Issues and NAFTA / Cuestiones Laborales y el TLC

**Speaker/ Conferencista:**

Roy Heenan  
Heenan Blaikie, Montreal

2:00-3:30 p.m. Compliance Issues and Recent Developments in Environmental Law  
Problemas de Cumplimiento y Recientes Cambios en la Legislación Ambiental

Discuss recent developments in Mexican environmental law; practical considerations in environmental compliance in Mexico; update on filings and actions under the Environmental Side Agreement of NAFTA and at the Commission on Environmental Cooperation. / Discusión sobre recientes cambios en la Legislación Ambiental Mexicana; consideraciones prácticas sobre cumplimiento Ambiental en México; actualización sobre registros y acciones de acuerdo con el adjunto Convenio del Medio Ambiente del TLC y en la Comisión de Cooperación Ambiental

**Moderators/Moderadores:**

Jill A. Kotvis  
Hughes & Luce, L.L.P., Dallas

**Speakers/Conferencistas**

Jorge Diep Rosas  
Basham, Ringe & Correa, S.C., México City

Scott Koolik  
Integrated Environmental Management Services, Monterrey  
Timothy O'Leary  
Editorial Board, Dallas Morning News

3:30 - 3:45 p.m. Break/Receso

3:45 - 5:45 p.m. Concurrent Workshops/Talleres Simultáneos

**Workshop I - Contrasting Models of Equity Investment: Joint Ventures and the Financial Investor**  
**Diversos Modelos de Inversion: Coinversiones y Financiamientos**

Two common sources from which companies may obtain capital are joint venture partners and financial investors. Inability to distinguish the differing needs of each is a common obstacle to successfully capitalizing companies. Panelists will discuss the different perspectives involved in forming a joint venture to obtain capital and obtaining capital from financial investors, including the various issues which arise in control and exit decisions. / Dos formas comunes por las que las compañías pueden obtener capital son con socios o con inversionistas financieros. La falta de comprensión para distinguir las diferentes necesidades de cada uno, es un obstáculo para lograr la debida capitalización de las compañías. Los conferencistas discutirán las diferentes perspectivas involucradas en una co-inversionistas financieros, incluyendo los problemas de relacionados con el control y forma de tomar decisiones

**Moderators/Moderadores:**

Jorge Barrero Stahl  
Santamarina y Seta, Monterrey  
Robert Kimball  
Vinson & Elkins, L.L.P., Dallas

**Panelists/Panelistas**

José Rodríguez Márquez  
Rodríguez Márquez y Asociados, México City  
Tomás Cantú  
Vitro, S.A. de C.V., Monterrey  
E. Webb Spradley  
Vice-President, Consorcio International Hospital, S.A. de C.V.  
Miguel A. Noriega or Christina Weaver  
Managing Director - Latin America, Hics, Muse, Tate & Furst, Inc., Mexico City or Latin America Analyst, Hics, Muse, Tate & Furst, Inc., Mexico City

**Workshop II-Special Issues in Cross Border Litigation: Letters Rogatory and Powers of Attorney**  
**-Temas Especiales en Litigios Fronterizos: Carta Rogatoria y Ctorgamiento de Poderes**

Review and discuss the main aspects of letters rogatory and powers of attorney under U.S. and Mexican law and how those instruments are regulated by the International Conventions between the U.S. and México / Revision y discusion de los principales aspectos de las cartas rogatorias y poderes de acuerdo con las leyes de los Estados Unidos y México y como son regulados estos instrumentos por los Convenios Internacionales entre los Estados Unidos y México

**Moderators/Moderadores:**

Luis Santos  
Von Wobeser y Sierra, S.C.

**Panelists/Panelistas**

Bill Wieland  
Vinson & Elkins, L.L.P., Houston  
Leonel Pereznielo Castro  
Von Wobeser y Sierra, S.C.

7:30-10:30 p.m. Association Annual Dinner  
Cena Anual de la Asociación

**Tuesday, September 16, 1997**  
**Martes 16 de septiembre de 1997**

8:00-9:00 a.m. Committee Breakfast Meeting  
Junta Desayuno de Comités

9:30-10:00 a.m. Annual Meeting of the Association  
Junta Anual de la Asociación

10:00-12:00 p.m. TMBA Board of Directors Meeting (All members welcome to attend)  
Junta del Consejo Directivo de la TMBA (Todos los miembros están invitados a asistir)

**LOCATION OF EVENTS/LUGARES DE EVENTOS.**

The opening reception on Sunday evening, September 14, will be held at the home of: / El cocktail recepción se llevará a cabo en la noche del domingo, 14 de septiembre, en el domicilio particular de:

Mr. and Mrs. William L. Keller  
5371 Montrose Drive  
Dallas, Texas 75209  
(214) 357-8564

The luncheon on Monday, September 15, will be held at the following location: / La comida del lunes, 15 de septiembre, se llevará a cabo en:

Cityplace Conference Center  
2711 North Haskell (at N. Central Expressway)  
Dallas, Texas 75204  
(214) 828-7050

The dinner on Monday, September 15, will be held at the following location: / La cena del lunes, 15 de septiembre, se llevará a cabo en:

The City Club  
69<sup>th</sup> Floor, Nations Bank Plaza  
901 Main Street  
Dallas, Texas 75202  
(214) 748-9525

Both the Seminar (including Registration) on Monday, September 15, and the Annual and Committee Meetings on Tuesday, September 16, will be held at the following location: / El Seminario (incluyendo la inscripción) celebrado el lunes, 15 de septiembre, como la Junta Anual, la Junta del Consenso Directivo y la Junta de Comités a celebrarse el martes, 16 de septiembre, se llevarán a cabo en:

Cityplace Conference Center  
2711 North Haskell (at N. Central Expressway)  
Dallas, Texas 75204  
(214) 828-7050

Early registration on Sunday afternoon will be held at the following location: / La inscripción anticipada, el domingo en la tarde, se llevará a cabo en:

Le Meridien Dallas Hotel  
650 M. Pearl Street  
Dallas, Texas 75201-2877  
(214) 979-9000

**GENERAL INFORMATION****HOTEL ACCOMMODATIONS**

For room reservations, please contact Le Meridien Dallas Hotel, 650 M. Pearl Street, Dallas, Texas 75201-2877, Phone 214-979-9000, Fax 214-855-1735, or use the attached form and return it directly to Le Meridien. A block of rooms has been reserved at the special rate of \$125 US dollars per day, plus taxes (single or double), equivalent to approximately 1000 pesos (MEX). All reservations must be guaranteed with pre-payment or a credit card. All unreserved rooms will be released on August 22<sup>nd</sup>. When contacting the hotel identify yourself as a participant in the Texas-Mexico Bar Association Meeting. **NOTE: Your room reservation will be confirmed by the hotel. Please do not send any payment for accommodations to the Texas Mexico Bar Association/Barras de Abogados Mexico-Texas.**

**SEMINAR LOCATION**

Both the Seminar on September 15 and the Annual Meeting on September 16 will be held at the Cityplace Conference Center, 2711 North Haskell (at N. Central Expressway, Dallas, Texas 75204, Phone 214-828-7050. Cityplace is a 5-minute drive or taxi ride from Le Meridien Dallas Hotel.

**MEALS**

The registration fee covers all food-and-beverage expenses related to the Welcome Reception on Sunday evening and the Luncheon and Dinner on Monday. Guests fees for the Luncheon and Dinner on Monday are listed on the registration form in this brochure.

**REGISTRATION BY MAIL OR FAX**

You may register for the conference by mail or fax at the address shown on the Registration Form. All faxed registrations must be accompanied by a VISA number and expiration date.

**PRE-REGISTRATION**

In order to allow us to serve you more effectively, we recommend that you pre-register for the conference. *The pre-registration deadline for the Fourth Annual Conference is September 8, 1997. Registrations received after that date (including registration on the day of the event) will be subject to an additional fee of \$15.00.*

**CANCELLATION POLICY**

If your plans for attendance change, simply notify us in writing by September 8, 1997 at 5:00 p.m. in order to receive either a full refund or to receive written materials with a refund of amount paid less \$25.00. No phone call or written notification is necessary for a substitution by another person for all or part of the conference; however, please check in at the conference registration desk. If no cancellation is made on or before September 8, 1997, the written materials will be sent automatically to paid no-shows.

**WRITTEN MATERIALS**

If you cannot attend the Fourth Annual Conference but would like to receive the Written Materials from the conference, please register for such materials using the Registration Form. Please allow 2-4 weeks after the Conference for delivery.

**SIMULTANEOUS TRANSLATION**

In order to make the Fourth Annual Conference available to individuals who might not be fluent in both Spanish and English, we hope to provide simultaneous translation in Spanish and English throughout the program on Monday, September 15. If you need simultaneous translation, please note such need on the application form.

**REGISTRATION  
ANNUAL CONFERENCE****TEXAS-MEXICO BAR ASSOCIATION  
BARRA DE ABOGADOS MEXICO-TEXAS**

September 14-16, 1997  
Dallas, Texas, USA

Mail or fax to:

Elizabeth J. Vann, Treasurer  
Texas-Mexico Bar Association  
600 Sonland Park Drive, Suite 2-100  
El Paso, Texas 79912  
Tel. (915) 845-3505  
Fax (915) 845-3512

**Participant's Information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Guest Name: \_\_\_\_\_

**Registration Fees: Per Person**

- |   |                |
|---|----------------|
| <input type="checkbox"/> Members  | U.S. \$100.00  |
| <input type="checkbox"/> Non-Members  | U.S. \$150.00* |
| <input type="checkbox"/> Law Student<br>(without meals and written materials) | U.S. \$ 25.00  |
| (including meals and written materials)                                       | U.S. \$ 75.00  |
| <input type="checkbox"/> Late Registration Fee                                | U.S. \$ 15.00  |
| <input type="checkbox"/> Written Materials Only                               | U.S. \$ 25.00  |
| <input type="checkbox"/> Luncheon Cost for Guest                              | U.S. \$ 20.00  |
| <input type="checkbox"/> Dinner Cost for Guest                                | U.S. \$ 35.00  |

**TOTAL**

NO REFUNDS after 5:00 p.m., September 8, 1997

**Payment Method of Registration:**

- ☐ Check or Money Order, made to: Texas-Mexico Bar Association
- ☐ Wire transfer payment to the following bank account:

International Bank of Commerce  
4501 San Bernardo  
Laredo, Texas 78041  
ABA Routing No. 114502528  
Credit IBC-San Antonio, with further credit to:  
Account name: Texas-Mexico Bar Association  
Account No. 004482-0  
Contact name: Elizabeth J. Vann, Treasurer

- ☐ Bank draft in U.S. dollars, made payable to: Texas-Mexico Bar Association

Simultaneous translation needed: Yes \_\_\_\_\_ No \_\_\_\_\_

\*Includes 1-year membership to the Texas-Mexico Bar Association

## INFORMACIÓN GENERAL

### HOSPEDAJE:

Para reservación de habitaciones favor de comunicarse al Hotel Le Meridien Dallas, 650 M. Pearl Street, Dallas, Texas 75201-2877. Tel: 214-979-9000, Fax: 214-855-1735. Una suite de habitaciones ha sido reservada a una tarifa especial de US\$125.00 (más impuestos) por día, equivalente a MINS\$1,000.00 (más impuestos), aproximadamente. Todas las habitaciones sin reservación quedarán disponibles a partir del 22 de agosto. Al comunicarse al Hotel, por favor identifíquese como uno de los miembros de la Barra de Abogados Texas-México. **NOTA:** La reservación de su habitación será confirmada por el Hotel. Favor de no enviar ningún pago por concepto del hospedaje a la Barra de Abogados México-Texas.

### UBICACION DEL SEMINARIO

Tanto el Seminario del 15 de septiembre y la Junta Anual del 16 de septiembre se llevarán a cabo en el Cityplace Conference Center, 2711 North Haskell (al N. Central Expressway), Dallas, Texas 75204. Tel 214-828-7030. Cityplace está localizada aproximadamente 5 minutos por camion o taxi del Hotel Le Meridien Dallas.

### COMIDAS

La cuota de registro cubre todos los gastos de comida y bebida relacionados con el Evento de Bienvenida a celebrarse el domingo por la tarde, así como los derivados de la comida y cena del viernes. Las cuotas para invitados a la comida y cena del lunes aparecen en la forma de inscripción de este folleto.

### INSCRIPCIÓN VÍA CORREO O FAX:

Puede inscribirse para la conferencia vía fax o correo a la dirección que se indica en el formato de inscripción. Todas las solicitudes de inscripción deberán ser acompañadas por un número de Visa y su fecha de vencimiento.

### PRE-INSCRIPCIÓN:

Con objeto de servirle con mayor eficiencia, le recomendamos pre-inscribirse a la conferencia. La fecha de vencimiento para la pre-inscripción para la Tercera Conferencia Anual es el 8 de septiembre de 1996. Las inscripciones que se reciben posteriormente a esa fecha (incluyendo inscripciones el día del evento) estarán sujetas a un cargo adicional de US\$15.00 dólares.

### POLÍTICA DE CANCELACIÓN

Si sus planes para asistir cambian, simplemente notifíquenos por escrito antes del 8 de septiembre de 1997 a las 5:00 p.m., a fin de obtener ya sea, el reembolso total, o para recibir material escrito y un reembolso por la cantidad pagada menos US\$25.00 dólares. No se requiere notificación por escrito o por teléfono para ser sustituido por otra persona durante toda o parte de la conferencia; sin embargo, registre por favor en el módulo de inscripciones de la conferencia. Si no se cancela antes o en el transcurso del 8 de septiembre de 1997, el material por escrito será enviado automáticamente para cubrir los pagos efectuados sin haber asistido.

### MATERIAL POR ESCRITO

Si usted no puede asistir a la Cuarta Conferencia Anual pero desea recibir el material por escrito, para la obtención del mismo, favor de registrarse empleando el formato de inscripción. Concedámos un plazo de 2-4 semanas después de la conferencia para la entrega de dicho material.

### TRADUCCIÓN SIMULTÁNEA

Con el objeto de que personas que no dominan los idiomas inglés y español puedan participar en la Cuarta Conferencia Anual esperamos poder ofrecer traducción simultánea en español e inglés para el programa del lunes 15 de septiembre. Si usted necesita traducción simultánea, favor de indicarlo en la forma de solicitud.

## REGISTRATION/INSCRIPCION ANNUAL CONFERENCE/CONFERENCIA ANUAL

### TEXAS-MEXICO BAR ASSOCIATION BARRA DE ABOGADOS MEXICO-TEXAS

Septiembre 14-16, 1997  
Dallas, Texas, U.S.A

Enviar o fax a:

Elizabeth J. Vann, Treasurer  
Texas-Mexico Bar Association  
600 Sunland Park Drive, Suite 2-100  
El Paso, Texas 79912  
Tel. (915) 845-3505  
Fax (915) 845-3512

### Información del participante:

Nombre: \_\_\_\_\_

Dirección: \_\_\_\_\_

Teléfono: \_\_\_\_\_ Fax: \_\_\_\_\_

Name/Nombre acompañante: \_\_\_\_\_

### Cuotas de Inscripción: Por Persona

- |                          |   |                |
|--------------------------|---|----------------|
| <input type="checkbox"/> | Licenciado en Derecho (miembros)                                | U.S. \$100.00  |
| <input type="checkbox"/> | Licenciado en Derecho (non-miembros)                            | U.S. \$150.00* |
| <input type="checkbox"/> | Estudiante de Derecho<br>(sin comidas o materiales por escrito) | U.S. \$ 25.00  |
|                          | (con comidas y materiales por escrito)                          | U.S. \$ 75.00  |
| <input type="checkbox"/> | Cuota de Registro Extemporaneo                                  | U.S. \$ 15.00  |
| <input type="checkbox"/> | Solo Materiales por Escrito                                     | U.S. \$ 25.00  |
| <input type="checkbox"/> | Costo de Comida por invitado                                    | U.S. \$ 20.00  |
| <input type="checkbox"/> | Costo de Cena por invitado                                      | U.S. \$ 35.00  |

### TOTAL

NO REEMBOLSOS después de las 5:00 p.m. el 8 de septiembre de 1997.

### Forma de Pago de la Inscripción:

- ☐ Cheque o Giro, a nombre de "Texas-Mexico Bar Association"
- ☐ Transferencia bancaria a la siguiente cuenta:
- International Bank of Commerce  
4501 San Bernardo  
Laredo, Texas 78041  
ABA Routing No. 114902528  
Credit IBC-San Antonio, with further credit to:  
Account name: Texas-Mexico Bar Association  
Account No. 004482-01  
Contact name: Elizabeth J. Vann, Treasurer
- ☐ Giro bancario en U.S.\$ a nombre de "Texas-Mexico Bar Association"

Traducción simultánea se necesita. Si \_\_\_\_\_ No \_\_\_\_\_

\*La cuota de inscripción incluye la cuota anual de socios en La Barra



# Le MERIDIEN

*Is Pleased To Welcome...*

## TEXAS-MEXICO BAR ASSOCIATION

Your organization has negotiated a special rate for you.

	STANDARD	CLUB PRESIDENT	SUITES
Single:	\$ 125.00	\$ 149.00	1-BR BALCONY \$ 200.00
Double:	\$ 125.00	\$ 149.00	2-BR BALCONY \$ 275.00
Triple:			
Quad:			

*Reservations received after*

*will be confirmed on a "space available" basis.*

Name \_\_\_\_\_

Firm \_\_\_\_\_

Street \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_ Zip \_\_\_\_\_

Phone (     ) \_\_\_\_\_

Share With \_\_\_\_\_

Arrival Date \_\_\_\_\_

Departure Date \_\_\_\_\_

### ***Please Note:***

Room types and special requests such as bed type, non-smoking, connecting and handicap rooms are subject to availability. ***Please note our Check-In time is 3:00pm. Check-Out time is 12 noon.***

For children under the age of 17 and sharing the room with an adult there will be no charge.

If departure date is changed to an early date after Check-In a \$35.00 charge will be assessed.

***Special Room Request:*** \_\_\_\_\_

### ***Guarantee***

All rooms must be guaranteed by one night's advance deposit or credit card. Guaranteed rooms will be held until 12:00 noon the following day.

### ***Check***

Please forward one night's room deposit. Make check payable to Le Méridien Dallas.

***Or***

### ***Credit Card***

Please check credit card type and fill in name of card holder, signature, number and expiration date.

- |   |   |
|---|---|
| <input type="checkbox"/> American Express | <input type="checkbox"/> Discover         |
| <input type="checkbox"/> Carte Blanche    | <input type="checkbox"/> MasterCard       |
| <input type="checkbox"/> Diners Club      | <input type="checkbox"/> American Express |

Card Holder's Name \_\_\_\_\_

Signature \_\_\_\_\_

Card Number \_\_\_\_\_

Expiration Date \_\_\_\_\_

### ***Cancellation***

Guaranteed reservations not cancelled by 4:00 CST on the day of scheduled arrival will be subject to first night's charge to your credit card. Reservations guaranteed by an advance deposit should be cancelled 48 hours in advance in order to receive a refund.

### ***For reservation information or changes:***

Phone 214.979.9000 Fax 214.754.7079



*S- old # A15*

## Hispanic Law Students Association

University Of Houston Law Center • 4800 Calhoun • Houston, Texas 77204 (713) 743-2219

March 24, 1997

Mr. Scott Atlas  
Vinson & Elkins, L.L.P.  
2300 First City Tower  
1001 Fannin Street  
Houston, Texas 77002-6760

Dear Mr. Atlas:

I am writing to inform you of the final matters with respect to the planning of the HLSA Spring Banquet. Enclosed please find a copy of the invitation which we sent to University of Houston Law Alumni and other attorneys in Texas. I have also enclosed a copy of the evening's schedule of events for your information.

As you see on the schedule of events, Councilmember Saenz will give the introductions for both Ramon Garcia and you. In order for her to prepare appropriate introductions, please send your curriculum vitae to her attention at the following address:

Councilmember Gracie Saenz  
P.O. Box 1562  
Houston, TX 77251  
(713) 247-2014  
(713) 247-3519 (fax)

*7:30pm*

It is an honor that you will be present as our guest and keynote speaker at our 26th annual banquet. We look forward to a very nice evening. If you have any questions or comments, please contact me.

Very truly yours,

*Javier G. Salinas*  
Javier G. Salinas  
HLSA President

Enclosures

RECEIVED  
MAR 26 1997

SJA

# HLSA Banquet Schedule

## April 12, 1997

7:30 p.m. Social Hour (Cash Bar)

8:00 p.m. Welcome - Gracie Saenz

8:10 p.m. Invocation

8:15 p.m. Dinner

8:30 p.m. Presentation of Graduating Law Students - Gracie Saenz  
Out of Office Note - Javier Salinas  
Swearing in of Officers - Judge Lupe Salinas  
A Few Words from New President

8:45 p.m. Introduction of Scott Atlas -Gracie Saenz

8:50 p.m. Scott Atlas

9:15 p.m. Introduction of Ramon Garcia - Gracie Saenz

9:20 p.m. Ramon Garcia

9:45 p.m. Closing Remarks - Gracie Saenz

*Please join*  
*the Hispanic Law Students Association*  
*for its 26th Annual Spring Banquet*  
*honoring graduating students*  
*and celebrating*  
*the University of Houston Law Center's 50th Anniversary*  
*Saturday, April twelfth*  
*Seven-thirty in the evening*  
*University of Houston Sports/Alumni Center*  
*3100 Cullen Boulevard*  
*Houston, Texas*

**Master of Ceremonies**  
The Honorable Gracie Saenz  
Houston City Council Member

**Keynote Speakers**  
Scott J. Atlas  
Vinson & Elkins, L.L.P.

Ramón García  
Law Office of Ramón García, P.C.

*RSVP by April fifth*  
*Hispanic Law Students Association*  
*(713) 743-2219*

*\$300 to sponsor a table*  
*\$30 per person*

Draft

F. ald #A 15

I am one of the lawyers who represented Ricardo Aldape Guerra. Ricardo is the young man from Monterrey, Mexico who was released last month after serving almost 15 years on Texas Death Row for the 1982 murder of Houston police officer James Harris. He became the first Mexican national on U.S. Death Row in history to ever win his freedom. Since Ricardo's release, I have been asked repeatedly why I agreed to help a "cop killer" avoid execution.

The answer is easy. Ricardo did not kill anyone. His release was not based on a technicality. No one needs to take my word that Ricardo is no killer. Both a federal judge (appointed by President Reagan) and a state judge (recently retired from Texas' highest criminal Court) heard evidence from both sides and concluded that they had "no doubt" that Ricardo would have been found not guilty if he had received a fair trial. Even Mrs. Harris, after listening to testimony from witnesses, was quoted in the press saying she had serious doubts about whether Ricardo shot her husband. The late Thomas Gibbs Gee, a respected, conservative judge on the United States Court of Appeals for the Fifth Circuit who signed many orders allowing execution during his 17 years on the bench before he retired, heard about Ricardo's case, read our legal briefs and the pertinent evidence, and asked to join our legal team because he became convinced of Ricardo's innocence. Floyd McDonald, who founded the Evidence Laboratory for the Houston Police Department and ran it for 30 years and then founded the Evidence Lab for the Pasadena Police Department, testified that if Ricardo was standing where every witness at the original trial placed him at the time of the shooting, it was impossible for him to be the shooter. As one of my colleagues put it, to believe Ricardo killed Officer Harris, you must believe that three bullets took a ninety degree left turn in mid-flight!

Why was Ricardo convicted if the evidence was so strong? Both the federal and state judges found rampant misconduct by the police and prosecutors. Here are just a few examples. First, the judges found that the police, in their zeal to punish someone for killing a fellow police officer, had

used threats to intimidate teenage witnesses into signing false statements and giving false testimony in 1982 blaming Ricardo for the shooting even though the witnesses did not see the shooting or knew the shooter was another man. Second, the judges found that the police and prosecutors deliberately withheld from Ricardo's original lawyers overwhelming proof that witnesses had described to police seeing a second man, not Ricardo, shoot Officer Harris. Third, the Courts concluded that the

prosecution was so anxious to win a conviction that they insisted that witnesses at trial give false testimony identifying Ricardo as the shooter. There was much more, including prosecutors telling jurors that Ricardo's status as an "illegal alien" was something the jury could consider, if it convicted him, in deciding whether to give him a life sentence or the death penalty—as if crossing the border without proper documents had any bearing on whether someone deserves to live or die! ~~All this~~  
**conduct was described by the judge as "deliberate," "rant,"**  
Ricardo's release was not based on a mere "technicality." After hearing all the evidence **"in bad faith," "outright"**  
offered by the prosecution, the state court judge ruled last month that at retrial the prosecutors could not use the false 1982 testimony and statements resulting from prosecutorial threats and intimidation. Realizing that he had no credible evidence against Ricardo, Harris County District Attorney Johnny Holmes dropped all charges.

Despite overwhelming evidence to the contrary, two different police union spokesmen have insisted that even if Ricardo was not the shooter, he was present at, and thus somehow involved in, the shooting, so is guilty of being an accomplice to the murder and deserves execution. But even the lead prosecutor from the 1982 trial acknowledged in federal court testimony that, if Ricardo was not the shooter, he was not involved in the murder in any way, because the shooting was a spontaneous act of one person, acting alone.

I support the death penalty. But I oppose executing the innocent. And I believe that anyone accused of a crime deserves a fair trial. Ricardo did not receive a fair trial. He did not kill Officer Harris or anyone else. He did not deserve to die or to spend 15 years on Death Row.

From everything I have heard and read, Officer Harris was a fine man, a dedicated public servant, and a caring husband and father. It would have done his memory no honor to execute an innocent man.

VEHOU07:39540.1

HLSA (4/12/92)

f-ald  
A15

Hispanic Law Students Assn.  
(CUH Law School)

A. Honor

B.

C. Purpose:

Describe 1 case, ~~from~~ lessons

D. Intro

1. RAG -

2. 2/82 - to U.S. w/o docs

~~1/82~~ 3. 10/82 - death sentence

4. 10/82 - 6/92 - appeals

E. How Chosen

1. consul general called ~~5~~ 6/92

2. mtg. w/ Mex. & Res. Ctr.

3. reviewed docs.

4. convinced of innocence <sup>+ viable trial conduct;</sup> agreed

5. not opposed to CP,

- but don't execute innocents

- troubled re process

~~to~~ 6. VE pro bono tradition



## F. Facts in Record

1. Quickie: <sup>event</sup> shootout & guns → RCF

2. Detail

a. 2 murders

b. capture

c. HPD — stories confused → clearer

d. trial

(1) Jose Jr. only → conv.

## G. Investigation

1. in record

a. "illegal alien" comment

b. cemetery murder

c. grizzly photos & victim impact

d. Heredia on drugs

e. 2 wits: lied to DA

## 2. Outside record - team formed

### a. press

- (1) 4 cops died '82 (since #70 yrs)
- (2) much TV re case - "illegals"
- (3) fear of immigr. reform
  - threatens way of life
  - Claire Luce
- (4) Hou. newspaper study -  
UH social. + poly sci profs
- (5) 2 Hrips. on panel - struck
- (6) cops in ct.

### b. police & DA conduct - teenage wets

- (1) crime scene: handcuff  
yell, curse  
take kid or spouse
- (2) RAG in hall handcuffed
- (3) Galvan pressures Jose Jr.
- (4)  $\Delta$  statements: no read or translate  
(4A) don't talk to RAG attys
- (5) suggestive reenactments
- (6) mannequins: bullet holes/blood
- (7) DAs: "dead man" vs "man who shot cop"

(8) angle of shot

(9) wits: RAG hands at time of shooting

(10) cops: RAG deserves death even if RCF shot  
~~DA~~ DA - non-shooter not involved

c. apptd. counsel: no \$  
 few coop. wits  
 misleading docs

d. cost of inv.

e. Govt. of Mex's help

## H. Chronology

SKIP?

1. pre-92

a. state appeals

b. case "lost" '88-'91

c. Res. Ctr. - 200 pg. brief

2. 9/16/92: 300 pg. brief

3. 9/21: DA: "delay, pls"; CT: NO

4. TCrA stays / denies

5. 2/93 br. to fed ct

6. 11/93 hug.

# I. Fed. Evid. Hrg. (1/4/83)

1. Floyd: angle of shot, 0%
2. 6-7 with me misconduct innocence
3. Sylvan: TV sketch
4. juror: "alien" comment
5. DA's: Q to Moen re "alien"  
only shooter guilty
6. Amici: LULAC, MABA, Hisp. Bar, MALDEF,  
Cath Ch., ADL, NAACP, Lawyer Comm Civ Rts.

# J. Fed. Ct. Ruling

1. with intimidation
2. suggestive ID - false memory
3. Brady
4. trial misconduct
5. intentional / flagrant / innocent man
6. retrial or release

# K. 5th Cir. : (3-D)

# L. DA: Retry

### M. Our Motions vs. Retrial

1. d/p & D/Jeop.
2. intentional misconduct
3. unfair - false memories

### N. 2/97 Evid. Hrg.

1. Flores: ~~was~~ 5-6 versions
2. Galvan: same  
"mojado"  
not derogatory
3. Jose Jr.: no show
4. 4/14 Hrg.: may be decided

### O. Lessons

#### 1. case-specific

- a. cops - tough job, ~~just~~ need leeway  
shouldn't cross line
- b. DA - enormous power  
needs self-restraint
- c. Amici
- d. cap-punishment - need \$ for exp.  
ineff counsel (not here)

## 2. generic

a. imp. of  $p_{ro} b_{ono}$

(1) ethical duty

(2) moral imperative as atty

~~---~~ "Freedom  
w/o Lawyers, only words"

(3) civic responsibility

(4) personal satisfaction

(5) skills devmt

~~(b)~~ (b) ~~"Freedom"~~ "Liberty & Justice for all."  
w/o Lawyers, Only Word"

P. David Story

# Vinson & Elkins

ATTORNEYS AT LAW

VINSON & ELKINS L.L.P.  
2300 FIRST CITY TOWER  
1001 FANNIN STREET  
HOUSTON, TEXAS 77002-6760  
TELEPHONE (713) 758-2222  
FAX (713) 758-2346

WRITER'S TELEPHONE  
(713) 758-2024

January 21, 1997

Mr. Javier G. Salinas  
Hispanic Law Students Association  
University of Houston Law Center  
Houston, Texas 77204-6370

Dear Mr. Salinas:

Thank you for your letter of January 14 inviting me to be one of the two guest speakers at HLSA's Annual Spring Banquet in April. It is my pleasure to accept your invitation.

Ramon Garcia from Edinburg, the other guest speaker, is a long-time friend. It will be my pleasure to share the podium with him.

I look forward to receiving further details about the program.

Very truly yours,

  
Scott J. Atlas

VEHOU07:31342.1

*Speed:*

*Hisp. Law Students  
Assn. (UH) Annual  
Banquet*

WRITER'S FAX

(713) 615-5399

*4/97*

F-AID #A15

read & return  
to me  
F-Speech

Javier G. Salinas  
**Hispanic Law Students Association**

University of Houston Law Center  
Houston, Texas 77204-6370  
(713) 743-2219

RECEIVED  
JAN 15 1997

SJA

January 14, 1997

Mr. Scott Atlas  
Vinson & Elkins, L.L.P.  
1001 Fannin, Suite 3300  
Houston, Texas 77002

Dear Mr. Atlas:


On behalf of the Hispanic Law Students Association (HLSA) at the University of Houston, it is my privilege to invite you to be one of the two guest speakers, along with Ramon Garcia from Edinburg, Texas, at our annual Spring Banquet. The banquet will take place the first or second weekend of April 1997, in Houston, Texas.

HLSA serves the entire student body at the University of Houston Law Center. HLSA gives academic support for its members by establishing faculty and peer mentorship programs. HLSA also provides opportunities for law students to meet members of the Mexican-American and Hispanic Bar Associations, thereby creating job contacts and fostering professional organization involvement. The association also serves as an information source for students to become more aware of legislation and various trends in our country affecting Hispanics. It is through a combination of the above-mentioned services that we help our fellow students in preparation for the challenges to come.

Every spring, HLSA holds a banquet honoring its Law Center Graduates. This year HLSA invites you to attend the banquet and to give a speech encouraging the young lawyers to excel professionally. Again, the date of the banquet is tentatively planned for the first or second week of April.

The members of HLSA hope you will honor us with your presence and we look forward to hearing from you soon. Once you accept, we will send you further details concerning the program.

Sincerely,

  
Javier G. Salinas  
HLSA President



RAG: ITESM

10/27/94

5:00 p.m.

F - Aldridge  
A 15

## A. Intro

1. 2/82: ~~to~~ U.S.

2. 10/82: Death sentence

3. 12 yrs: uproar - songs, bks, movies, demos, Pres. Salinas

## B. Overview

1. Facts in record

2. Facts we found & issues raised

3. Procedure

4. 11/93 Arg

5. Possible outcomes

6. Lessons

## C. Facts - Trial

1. Quickie: event  
shootout + guns → RCF

2. Detail

a. (2) murders

b. capture

c. HPD - stories confused → clearer

d. trial

(1) Jose Jr only → conv.

(2) penalty phase

~~C. 1/92 Hiring me~~

## D. Post-Conv. Procedure

1. penalty phase
2. to TCA & U.S.S.C.
3. habeas
  - a. state: trial ct → TCA
  - b. federal: 3 levels  
- no new issues
  - c. state findings conclusive
  - d. constl issues
  - e. slow; many safeguards
  - f. stays

## E. 6/92: Hiring me

1. pro bono tradition
2. convinced re innocence  
+ questionable trial conduct

## F. Investigation

1. dn record
  - a. "illegal alien" comment - voir dire
  - ~~b. cemetery murder~~
  - b. Ct. won't strike cop

c. cemetery murder

d. grizzly photos + Ms. Harris

e. Heredia "on drugs"

f. Jose Luis + Jose Manuel lied

## 2. Outside Record

### a. press

- (1) 4 cops died '82
- (2) much TV re case - "illegals"
- (3) fear of immigr. reform
  - way of life
  - Claire Luce
- (4) econ study
- (5) Hou. newspaper study
- (6) 2 ~~Hisps.~~ Hisps. on panel - struck
- (7) cops in ct.

### ~~1. appointed~~

### b. police + D.A. conduct

- (1) crime scene: handcuff  
threaten child loss
- (2) RAG in handcuffs
- (3) Galvan pressures Jose Jr.
- (4)  $\Delta$  statements: no read or translate

(5) suggestive reenactments

(6) mannequins: bullet holes/blood

(7) D.A.s: "dead man" vs. "man who shot cop"

(8) angle of shot

(9) wits: RAG's hands at shooting time

(10) RAG's roommate as gun robber

(11) wits for RAG as gun robber

c. apptd. atty.: no \$ or time

d. cost of inv.

e. Govt. of Mex.'s help

## G. Chronology

1. pre: '92

a. State appeals

b. case "lost" '88-'91

c. Resource Center - 200-pg. bf.

2. 9/16/92: 300 pg. brief

3. 9/21: D.A. delay; Ct. NO

4. TCA stays / denies

5. 7/43- bf. so fed ct

6. 11/43 hrg

## H. Evid. Hrg.

1. Floyd: angle of shot; 0%

2. 6-7 wits. re intimidation

3. juror re "alien" comment, cops, etc.

4. cop: RAG deserves death even if RCF shot

5. D.A.'s:

a. justify "alien" comment

b. feeling persecuted

## I. Prospects

1. ruling "soon"

2. 3 options

3. appeals

4. clemency

## J. Lessons

1. cop killings: unusual
2. apptd. counsel in death cases
3. sys. usually works, but SLOW

## K. David's story

# CONFERENCISTAS



**LIC. CARLOS CASTILLO PERAZA**  
Pdte. Comité Ejecutivo Nacional del PAN

**DR. ARTURO DIAZ BRAVO**  
Pdte. Instituto Mexicano de la Propiedad Industrial.

**LIC. ARMANDO FUENTES AGUIRRE "CATON"**  
Editorialista y Analista Político.

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**DR. VICTOR CARLOS GARCIA MORENO**  
Magistrado del Tribunal Federal Electoral, Sala Central.

**DIANA PRESTON, ESQ.**  
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**SCOTT ATLAS, ESQ.**  
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**LIC. ALBERTO AVILA**  
AMEDI Asociación Mexicana de Estudiantes de Derecho Internacional.

# PANEL T.L.C.



**JAMES HOLBEIN, ESQ.**  
U.S. Secretary Binational Secretariat.

**CRAIG GEISZE**  
Ex Asesor Técnico para el T.L.C. de la H. Cámara de Senadores de la Unión.

# PANEL LABORAL



**DR. BALTASAR CAVAZOS FLORES**  
Jurista Laboral Internacional  
Distinguido Laboralista Mexicano.

**NATHAN WESELEY, ESQ.**  
Bracewell & Patterson, Houston, Tx.  
Distinguido Laboralista Norteamericano.

**ROY L. HEENAN, ESQ.**  
Heenan Blaikie Lawyers; Montreal, Quebec.  
Distinguido Laboralista Canadiense.

# OBJETIVO



Concientizar a la comunidad jurídica estudiantil y profesional de la necesidad de incorporarnos a un nuevo orden mundial, mediante la presentación de exposiciones de diferentes materias abarcando temas que nunca antes habían tocado y explorando nuevos campos y sistemas legales

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# EVENTOS SOCIALES



**Miércoles 26:**

Brindis de Bienvenida en el Centro Estudiantil

**Jueves 27:**

Jurasic Night, Parque Fundidora

**Viernes 28:**

Noche Rock, Tío la Silla

**Sábado: 29:**

Comida de Clausura, Tío la Silla

10/26-10/29/94

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# VII SIM POS IUM

INTERNACIONAL  
DE DERECHO



## ITESM

OCTUBRE 26, 27, 28 Y 29 DE 1994

CENTRO ESTUDIANTIL



SALED 93-94



## M E M O R A N D U M

**BY TELECOPY 011-528-335-9130**

October 26, 1994

TO: Bernardo Ortiz

FROM: Scott J. Atlas

As you know, I will be arriving in Monterrey tomorrow, October 27, at 10:02 a.m., on Continental Flight Number 175.

Because of the death of a close friend and my need to arrive at the church in time for the funeral on Friday, I have been forced to take an earlier flight out of Monterrey. Given the limited number of choices, I must now leave Monterrey at 6:40 a.m. on Continental Flight 110.

I plan to take a taxi to the airport so that I will not inconvenience someone at that early hour.

I look forward to meeting you tomorrow.

f:\sa0399\adalpe\Ortiz.26

SJA

A handwritten signature in cursive script that reads "Scott".

# Vinson & Elkins

ATTORNEYS AT LAW

600 CONGRESS AVENUE, SUITE 2800  
AUSTIN, TX 78701-3200  
TELEPHONE (512) 495-8400  
FAX (512) 495-8612

VINSON & ELKINS LLP.  
1001 FANNIN STREET  
SUITE 2500

HOUSTON, TEXAS 77002-6780

TELEPHONE (713) 758-2222  
VOICE MAIL (713) 758-4300  
FAX (713) 758-2346

47 CHARLES ST., BERKELEY SQUARE  
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TELEPHONE 011 (44-71) 491-7236  
FAX 011 (44-71) 490-5320

2001 ROSS AVENUE, SUITE 9700  
DALLAS, TX 75201-2975  
TELEPHONE (214) 220-7700  
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1455 PENNSYLVANIA AVE., N.W., SUITE 600  
WASHINGTON, D.C. 20004-1008  
TELEPHONE (202) 639-6800  
FAX (202) 639-6804

UL POVARESKAYA, 21  
121069 MOSCOW, RUSSIAN FEDERATION  
TELEPHONE 011 (70-95) 202-6419  
FAX 011 (70-95) 202-0265

TO: S. J. ATLAS

0399/PRO127/29000

## CONFIDENTIALITY NOTICE:

The information contained in this FAX may be confidential and/or privileged. This FAX is intended to be reviewed initially by only the individual named below. If the reader of this TRANSMITTAL PAGE is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination or copying of this FAX or the information contained herein is prohibited. If you have received this FAX in error, please immediately notify the sender by telephone and return this FAX to the sender at the above address. Thank you.

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S.J.A.

DATE: OCTOBER 21, 1994

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Form VED138A - Rev. 12-15-93

1/2

SCOTT J. ATLAS

10/20/94

Bill,

Here's the program  
I mentioned where I  
am speaking at  
Monterey Tech.

I notice that  
Vitro's Jome's Centu'  
precedes me on the  
program. FYI.

Scott

cc: Allan Van Fleet

P.S. Should I arrive  
several hours earlier  
so I can visit with Centu'?

Scott

YES, IF POSSIBLE.  
HE HAS BEEN MY  
FRIEND FOR MANY  
YEARS. UWN  
24/X/94

2/2



# ITESM

INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY

RECEIVED

OCT 20 1994

S.J.A.

CAMPUS MONTERREY

F. Adame  
#A15

Monterrey, Nuevo León

18 de octubre de 1994

Scott Atlas, ESQ.:

It is an honor for the students of the Law School of the ITESM that you have accepted our invitation to the VII Law Symposium. We are very glad for having you as a speaker guest in this event.

We are sending you the airplane ticket along with this letter. We hope you won't have any problem, if so, please call us. We will make all the arrangements.

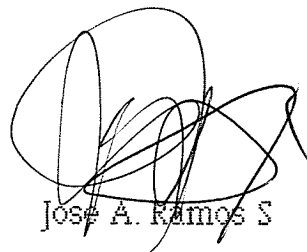
There will be someone of us to pick you up in the airport.

We are looking forward to your conference, and to meet you soon.



Luis Hernandez

Sincerely yours,



Jose A. Ramos S



# ITESM

CAMPUS MONTERREY

INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY

## MIÉRCOLES 26 DE OCTUBRE

**9:00 Entrega de Papelería**

### **11:00 CEREMONIA INAUGURAL**

Lic. Alberto F. Rebolledo Ponce, Director de la Carrera de Derecho ITESM.

C.P. Gerardo Lujón, Director de la División DACS del ITESM; Ricardo Treviño García, Director del Departamento de Derecho del ITESM; Dr. Carlos Mijares, Director de Asuntos Estudiantiles del ITESM; Dr. Rafael Rangel Sostmann, Rector del Sistema ITESM; Ing. Ramón de la Peña, Rector del Campus Monterrey; Dr. Baltasar Cavazos Flores.

### **11:30 "PANEL LABORAL INTERNACIONAL"**

Dr. Baltasar Cavazos Flores, México  
Nathan Weseley, Esq., EUA  
Roy L. Heenan, Esq. Canada

### **C O M I D A**

### **3:00 " PROPIEDAD INTELECTUAL EN MEXICO Y E.U.A.; CRECIENTE IMPORTANCIA COMERCIAL DE LOS REGISTROS MARCARIOS"**

Lic. Antonio Gutierrez Cabello, Director jurídico de Cervecería Cuauhtémoc-Moctezuma, Presidente de ANADE.

### **4:45 R E C E S O**

### **5:00 "LA DEMOCRACIA EN MEXICO"**

Lic. Carlos Castillo Peraza

### **7:00 BRINDIS DE BIENVENIDA**

Looby del Centro Estudiantil  
Después a la Disco

## JUEVES 27 DE OCTUBRE

### **10:00 TEMA PENDIENTE**

DR. JUAN RAMON PALACIOS VARGAS

Exministro de la Suprema Corte de Justicia de La Nación, Exmagistrado del Tribunal Colegiado de Circuito y distinguido jurista nacional.

### **11:30 R E C E S O**

### **11:45 "PANEL TLC RESOLUCION DE CONTROVERSIAS"**

-James Holbein, Esq.

Secretario del Cap. 19 del TLC en el Depto. de Comercio de E.U.A.

-Craig Geisze

Ex-asesor Técnico para el Tratado del Libre Comercio de la H. Cámara de Senadores de la Unión.

-Lic. Tomás Cantú (Moderador)

Vitro Corporativo

### **C O M I D A**

### **3:30 TEMA PENDIENTE**

Diana Preston, Esq.

Department of the Treasury

### **4:45 R E C E S O**

### **5:00 "EXPOSICION DE LA DEFENSA EN EL CASO ALDAPE"**

Scott Atlas, Esq.

Abogado Defensor de Aldape Guerra, Houston

### **9:30 NOCHE JURASICA CON CANTABAR**

Teatro Parque Fundidora



# ITESM

CAMPUS MONTERREY

INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY

## VIERNES 28 DE OCTUBRE

**10:00 "NUEVAS TENDENCIAS DEL DERECHO MERCANTIL EN MEXICO"**

Dr. Arturo Díaz Bravo  
Director del Centro de Propiedad Industrial Mexicano.

**11:30 R E C E S O**

**11:45 "EL MERCADO COMUN EUROPEO"**

Lic. Hermenegildo Altozano  
Buffete Lupiciano Rodríguez Abogados, España

### **C O M I D A**

**3:00 "EXPOSICION DE LA ASOCIACION MEXICANA DE ESTUDIANTES DE DERECHO INTERNACIONAL"**

Lic. Alberto Ávila

**3:30 "TRAFICO INTERNACIONAL DE MENORES"**

Dr. Victor Carlos García Moreno  
Magistrado del Tribunal Electoral Federal

**5:15 R E C E S O**

**5:30 "CREACION Y NECESIDAD DEL GRUPO SAN ANGEL"**

Lic. Demetrio Sodi de la Tijera  
Presidente del Grupo San Angel

**9:30 NOCHE ROCK DE LOS 50'**

Tío La Silla con Grupo en Vivo

## SABADO 29 DE OCTUBRE

**10:30 "LA EVOLUCION HISTORICA DEL ABOGADO EN MEXICO"**

Lic. Armando Fuentes Aguirre "Catón"  
Editorialista y Analista Político

**2:00 COMIDA MEXICANA DE CLAUSURA**

Tío La Silla con Mariachi y Grupo Norteño

## CONFERENCISTAS



**LIC. CARLOS CASTILLO PERAZA**  
Pdte. Comité Ejecutivo Nacional del PAN

**DR. ARTURO DIAZ BRAVO**  
Pdte. Instituto Mexicano de la Propiedad Industrial.

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Editorialista y Analista Político.

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Pdte. Grupo San Angel.

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**DIANA PRESTON, ESQ.**  
Director of Foreign Assets Control Service; Treasury Department.

**SCOTT ATLAS, ESQ.**  
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**LIC. TOMAS CANTU**  
Vitro Corporativo.

**LIC. ANTONIO GUTIERREZ CABELLO**  
Director Jurídico de Cervecería Cuauhtémoc y Presidente de ANADE.

**LIC. ALBERTO AVILA**  
AMEDI Asociación Mexicana de Estudiantes de Derecho Internacional.

## PANEL T.L.C.



**JAMES HOLBEIN, ESQ.**

U.S. Secretary Binational Secretariat.

**CRAIG GEISZE**

Ex Asesor Técnico para el T.L.C. de la H. Cámara de Senadores de la Unión.

## PANEL LABORAL



**DR. BALTASAR CAVAZOS FLORES**

Jurista Laboral Internacional  
Distinguido Laboralista Mexicano.

**NATHAN WESELEY, ESQ.**

Bracewell & Patterson, Houston, Tx.  
Distinguido Laboralista Norteamericano.

**ROY L. HEENAN, ESQ.**

Heenan Blaikie Lawyers; Montreal, Quebec.  
Distinguido Laboralista Canadiense.

## OBJETIVO



Concientizar a la comunidad jurídica estudiantil y profesional de la necesidad de incorporarnos a un nuevo orden mundial, mediante la presentación de exposiciones de diferentes materias abarcando temas que nunca antes habían tocado y explorando nuevos campos y sistemas legales

## COSTOS



**BONO ALUMNOS TEC.**  
(en efectivo) **N\$ 375.00**  
**N\$ 350.00**

**ULTIMOS 3 DIAS**  
(Bono y Efectivo) **N\$ 395.00**

**ALUMNOS FORANEOS** **N\$ 300.00**

**PROFESIONISTAS** **N\$ 500.00**

## EVENTOS SOCIALES



**Miércoles 26:**

Brindis de Bienvenida en el Centro Estudiantil

**Jueves 27:**

Jurasic Night, Parque Fundidora

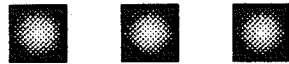
**Viernes 28:**

Noche Rock, Tío la Silla

**Sábado: 29:**

Comida de Clausura, Tío la Silla

# HOTELES



VIE. - DOM. LUN. - JUE.

## ANTARIS CINTERMEX

Habitación de Lujo N\$ 220.00 N\$ 245.00  
 Persona extra N\$ 40.00

## HOTEL FIESTA INN

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 Persona extra N\$ 50.00

## HOWARD JOHNSON

Habitación sencilla/doble N\$ 220.00 N\$ 330.00  
 Persona extra N\$ 50.00

## HOTEL INTERNACIONAL

N\$ 150.00 N\$ 160.00  
 2 personas

## ALBERGUE CINTERMEX

N\$ 35.00  
 (Noche por persona)

## RESERVACIONES

Srita. Elisa Verónica Treviño Vivanco.

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INFORMES:  
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 SUPERIORES DE MONTERREY  
 DIRECCIÓN DE LA CARRERA DE DERECHO  
 SUCURSAL DE CORREOS "J"  
 MONTERREY, N.L. C.P. 64849  
 TEL./FAX (8) 358-20-00 EXT. 4386 Y 4347



# VI SIM POS JUM

INTERNACIONAL  
DE DERECHO



ITESM

OCTUBRE 26, 27, 28 Y 29 DE 1994

CENTRO ESTUDIANTIL

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SALED 93-94





# ITESM

CAMPUS MONTERREY

INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY

September 23th, 1994.  
Monterrey, Nuevo León

ROY L. HEENAN, ESQ.  
Heenan Blaikie Lawyers  
1250 Rene-Levesque Blvd. West  
Suite 2500  
Montreal, Quebec  
H3B 4Y1  
Canada

As a member of the Student Council of the Law School of the Instituto Tecnológico y de Estudios Superiores de Monterrey, I.T.E.S.M., it is an honor to extend you an invitation to participate in the VII Symposium of our Law School. Despite I don't know you I am pretty excited to meet you because I would like to know how The Law works in Canada and which are the possibilities of a legal exchange between a canadian and a mexican lawyer. I am telling you this because I almost finish law school and when I graduated I would like to deal with International Law.

We would like you to participate in a labor panel with a mexican labor lawyer Dr. Baltasar Cavavos and also with an american labor lawyer so you could give us a general view of the Canadian Labor Law.

The goal that we are looking for this panel is to compare the Mexican, the American and the Canadian labor laws. In your case, we think that you might cover: the legal requirements for making a labor contract in the Canada, either an individual or colective one or the major problems regarding labor law or the requirements for a foreing investor who is to hire a worker in your country or how the three members of the NAFTA can reach a common legal system, but please feel free to put anything that you will be addressing.

*Sucursal de Correos "J" Monterrey, N. L. 64849, México. Tel. (83) 58-20-00*



# ITESM

## CAMPUS MONTERREY

### INSTITUTO TECNOLÓGICO Y DE ESTUDIOS SUPERIORES DE MONTERREY


The I.T.E.S.M. was founded in 1943 in Monterrey, Nuevo León. It is one of the best universities of Mexico. It has 27 campus distributed over the country including Monterrey's campus.

Some of the topics that will be treated in this Symposium are Constitutional Law, International Tax Regulation, Environmental Law, Corporate Law, Legal Regulation of the European Common Market as well as NAFTA'S.


The name of the VII Symposium of our Law School is " Legal Globalization, Conquering Borders ". The idea of this event is to mix several fields of the law, some of them haven't already been touched in past events. And we also would like to broad our legal knowledge digging in other legal systems, as the American and the Canadian. The Symposium will take place the 26th., 27th., 28th., and 29th., of October this year. All the expenses will be paid by us, it includes: flight ticket ( round trip ), hotel, transportation and meals.

I would like you to know that you are invited to stay in Monterrey ( at my parent's home if you will ) and join us at our Symposium during the whole event and that if it suits you, give your conference on Wednesday the 26th. of October.

Finally, we would thank you for the time that you will spend reading this letter and for all your cooperation to make possible this event. We will be thankfull if you can send us your confirmation as soon as possible.



\_\_\_\_\_  
Officer of the Student Council  
Members of the Law School  
Luis E. Hernández Mesa



\_\_\_\_\_  
context coordinator  
Bernardo Ortiz Garza

LULAC AZTECA  
CIVIL RIGHTS AWARD (2/19/93)

- ~~XXXXXXXXXX~~  
WHEN I WAS ASKED LAST JUNE TO REPRESENT RAG, I AGREED TO DO SO FOR TWO PRINCIPAL REASONS.
- FIRST, I BECAME CONVINCED THAT HE WAS INNOCENT AND THAT AN ACQUAINTANCE, WHO WAS FOUND BY POLICE WITH THE MURDER WEAPON AND THE VICTIM'S GUN, WAS THE TRUE MURDERER.
- SECOND, I DISCOVERED THAT THE PROSECUTORS HAD TOLD SEVERAL MEMBERS OF THE JURY THAT RICARDO WAS AN ILLEGAL ALIEN AND THAT THIS WAS A FACTOR THAT THEY COULD CONSIDER IN DECIDING WHETHER HE WOULD COMMIT VIOLENT CRIMES IN THE FUTURE, AND THUS WHETHER HE DESERVED TO LIVE OR DIE.
- I WAS OUTRAGED AT THE NOTION THAT HOUSTON PROSECUTORS, ONLY 10 YEARS AGO, WOULD DARE TO SUGGEST THAT UNDOCUMENTED WORKERS, WHO CAME HERE -- LIKE MANY OF OUR PARENTS AND GRANDPARENTS -- IN SEARCH OF A JOB AND A BETTER LIFE FOR THEMSELVES AND THEIR FAMILIES, WERE MORE LIKELY THAN OTHER PEOPLE TO BE VIOLENT CRIMINALS.

- SINCE I CONSIDERED THIS TO BE A VICIOUS AND COMPLETELY UNTRUE ETHNIC SLUR, I ASKED SEVERAL CIVIL RIGHTS ORGANIZATIONS TO CONSIDER FILING A FRIEND-OF-THE-COURT BRIEF CONDEMNING THESE COMMENTS AS AN APPEAL TO ETHNIC PREJUDICE.

- LULAC WAS THE FIRST GROUP TO STEP FORWARD AND SIGN UP.
- YOU WERE LATER JOINED BY MALDEF, THE HISPANIC AND MEXICAN-AMERICAN BAR ASSOCIATION, THE NATIONAL ADL, THE TEXAS CATHOLIC CONFERENCE, AND MANY OTHER DISTINGUISHED GROUPS.

- *pero Lulac fue el primer grupo que se ofrecio*  
BUT LULAC WAS FIRST.

- THANKS TO JOHNNY MATA AND MANY OTHERS, LULAC HAS ONCE AGAIN TAKEN THE LEAD IN THE FIGHT AGAINST ETHNIC PREJUDICE.

- THIS WAS ONLY THE LATEST CHAPTER IN THIS GROUP'S LONG AND DISTINGUISHED HISTORY AT THE FOREFRONT OF THE CIVIL RIGHTS MOVEMENT.

- BECAUSE OF YOUR LONGSTANDING COMMITMENT TO HUMAN RIGHTS, BECAUSE OF YOUR COURAGEOUS LEGACY IN THE FIGHT

AGAINST DISCRIMINATION, AND BECAUSE OF YOUR REMARKABLE  
RECORD OF PREVAILING AGAINST OVERWHELMING ODDS, I TAKE  
SPECIAL PRIDE IN ACCEPTING THIS AWARD.

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LULAC AZTECA CIVIL RIGHTS AWARD (2/19/93)

Cuando se me pidió en junio del año pasado que representara a Ricardo Aldape Guerra, accedí por dos razones principales.

Primero, me convencí que él era inocente y que un conocido, a quien la policía halló en posesión del arma de asesinato [murder weapon??] y la pistola de la víctima, era el verdadero asesino.

Segundo, descubrí que los abogados fiscales les habían dicho a varios miembros del jurado que Ricardo era indocumentado y que esto era uno de los factores que el jurado podía tomar en cuenta para decidir si él cometería crímenes violentos en el futuro, y por lo tanto si él merecía vivir o morir.

Me sentí extremadamente indignado ante la noción que abogados fiscales de Houston, hace solamente diez años, se atreverían a sugerir que trabajadores indocumentados, que vinieron aquí -- como muchos de nuestros padres y abuelos -- en busca de trabajo y de una vida mejor para ellos y para sus familias, eran más capaces que otras personas de ser criminales violentos.

Como ésta me parecía una calumnia étnica malévola y completamente falsa, les pedí a varias organizaciones de derechos civiles que consideraran presentar ante la corte un instrumento amicus curiae censurando estos comentarios como una apelación al prejuicio étnico.

LULAC fue el primer grupo que se ofreció.

Más tarde se unieron a ustedes MALDEF, el colegio de abogados hispanos y Mexicanos-Americanos, la ADL nacional, la Conferencia Católica de Texas, y muchos otros grupos distinguidos.

Pero LULAC fue el primero.

Gracias a Johnny Mata y a muchos otros, LULAC una vez más se ha puesto a la cabeza en la batalla contra el prejuicio étnico.

Este fue solamente el último capítulo en la larga y distinguida historia de este grupo en la primera fila del movimiento de derechos civiles.

Por causa de su dedicación por mucho tiempo a los derechos humanos, por su legado valeroso en la batalla contra la discriminación, y por su historia extraordinaria de prevalecer sobre fuerzas superiores, acepto este premio con orgullo especial.