

[Material that is irrelevant to Los Tocayos Carlos and contains sensitive personal information about one or more persons has been removed.]

INVESTIGATION MEMORANDUM

TO: JIM LEBMAN
FROM: PESO CHAVEZ
DATE: FEBRUARY 22 thru 26, 2004

RE: CARLOS DELUNA

Preliminary investigation in the DeLuna case took place on the above dates in Corpus Christi, Texas. As previously agreed, my directives were to pursue "*The Carlos Hernandez Did It Theory*". In order to pursue this theory the following witnesses were located and interviewed. In contacting all witnesses I identified myself, stated who I represented and the purpose of my visit/call to which they understood.

Mary Ann Benavidez (Perales)
[Material removed]

According to Ms. Benavidez, she met Carlos DeLuna one time when she was in Jr. High School but she never really knew him. They did not come from the same neighborhood and she does not recall ever hanging out with him. She was acquainted with his brother Manuel who attended the same High School and recalls that he had a crush on her sister Linda.

MEMO / DELUNA
February 22 thru 26, 2004
Page 2

Sometime prior to trial she was contacted and informed that Carlos DeLuna was alleging that her and her sister had given him a ride on the night in question. Ms. Benavidez stated, "I don't remember who it was that came to my house and told me I was going to have to go to court and testify. They told me that they knew Carlos was lying but that I would have to testify

anyway and that he was trying to make-up other alibi's and none of his stories were making sense".

When she went to court they had her stand directly in front of Mr. DeLuna who testified that she looked exactly the same way she did on the night her and her sister gave him a ride. Ms. Benavidez stated, "I don't know what he was thinking because I was 8 months pregnant and big at that time. When I went to court I had already had my baby and was thin. Besides, on that night I was attending my own baby shower—we had photographs and everything. I was never with him on that night. I think what he did, was bring our names up from the past thinking that we were no longer around. He even brought up my mom's car and we didn't even have this car in 1983".

[Material removed]

That was another thing that was so stupid that Carlos said-- that me and my sister picked him up. At that time both my sister and I were married and we didn't even hang-out together because of her husband. On the other hand my husband was very understanding—he knew that I wasn't there and was not a part of it even though newspaper misprinted that I was out on a date with Carlos".

Ironically, 20 plus years later, Linda married Manuel DeLuna for a brief period. Ms. Benavidez described Manuel during those years as a compulsive liar who wrote hot checks.

Ms. Benavidez was not familiar with anyone by the name of Carlos Hernandez, Ronnie Gonzales or Yvonne Gonzalez. However, shortly after

MEMO / DELUNA

February 22 thru 26, 2004

Page 3

the trial she received a collect call from an inmate named Carlos Hernandez--she was so scared she just hung-up.

LINDA AYALA (PERALES)

[Material removed]

My conversation with Ms. Ayala was cut short by her husband who took the phone from her and stated, "I am married to my wife and I don't appreciate you calling here—I could make a complaint on you--If I was you I would leave her alone". Prior to this the following information was obtained.

According to Ms. Ayala she knew both Carlos and Manuel Hernandez. She stated, "When I was younger Manuel and I went to the same school and we kind of hung-out together but I never hung-out with Carlos".

Ms. Ayala was aware that Carlos went to trial and was convicted and later executed. However, she was unaware that Carlos was claiming that she and her sister Mary Ann were his alibi. She stated, "No one ever contacted me about this and I didn't even know Mary Ann had testified. My ex-husband was very jealous and he kept me from my family a lot".

I asked Ms. Ayala if it was possible that she and her sister gave Carlos a ride on the night in question. She stated, "I really don't remember because it was so long ago. But it's probably unlikely because in 1980 I got married and I never really saw Manuel or Carlos after that. Then in 1983 I had my 3rd child so I probably I would not have been hanging out with them. Especially in 1983 because I had a real jealous husband but I don't remember--I would have had 3 kids by then--I probably would not have been with them".

MEMO / DELUNA

February 22 thru 26, 2004

Page 4

Approximately 5 year's ago Ms. Ayala was married to Manuel DeLuna for a brief period. Manuel told her that his brother was innocent and that Carlos Hernandez was the perpetrator. Carlos Hernandez is related to Pricilla Hernandez (her uncle) Ms. Ayala's ex-husbands daughter. Pricilla told Ms.

Ayala that her uncle Carlos was a drug addict and that he may have been with Carlos DeLuna the night the lady was killed and he may have been the one that killed her. Ms. Ayala said the Pricilla would have more information about Carlos Hernandez. She did not have her telephone number or her new address. She just moved out of the housing authority (Ayers) and moved to house by the Trade Center near SPID.

According to Ms. Ayala, Manuel maybe locked up. She stated, "He's a con artist—he was locked up quite a few years for rapping a women. He's bad news who lives off women but I don't know where he's at now". Manuel's mother died shortly after Carlos's execution.

THE SCENE

Carlos DeLuna testified at trial that he went into Wolfy's and had a beer while he waited for Carlos Hernandez. After 10 minutes of waiting he walked out and observed Mr. Hernandez inside the Shamrock station wrestling with a woman. I can only assume after 20 years that Wolfy's was located in the same building as "Tequila Boom" which is presently located at the corner of Dodd Dr. and South Padre Island Drive. Depending on the lighting condition at the time and the structure of the building (appears to be a new building) Mr. DeLuna would have been approximately 50 yards away. It also appears that George Aguirre could have observed what he said he witnessed from the freeway. Please see attached photographs.

LOCATION OF THE ARREST

Mr. DeLuna was arrested on Franklin St. which is in close proximity (approximately 250 yards) from Sigmor Shamrock. Please see attached photographs.

MEMO / DELUNA

February 22 thru 26, 2004

Page 5

FUTURE INVESTIGATION

After my preliminary investigation I do feel confident that I can identify the CARLOS HERNANDEZ that Mr. DeLuna referred to as being the perpetrator. Once that information is obtained, depending on the

outcome, a re-interview of Aguirre and Baker might be in order. It is my understanding that physical evidence for comparison would then be in order.