

Bruce Whitman email to JSL re: Louis Richard Vargas meeting 11/21/04

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

I sent you a bcc of an e-mail I sent to Richard Vargas and his friend who lives with him, Rose Garza. My meeting with Richard was more of a getting to know you meeting and, yes, I know we really don't have time for getting to know meeting but I thought it was important to show Wanda's family we are sensitive to their loss and all they have gone through. At first Richard seemed very circumspect but after a time he began talking about the case. Some of the high points according to Richard were:

- 1) The group of Hispanic men that Rubin refers to were men located at a house at [material removed]. This is less than 2-blocks from the DS. Richard knows this because one of the men in the group was related to him through his first marriage. This man (Richard didn't want to give me his name and I didn't push it) told Richard his group said CDL hid under the p/up truck and they called the police and told them where he was. This same man told Richard that a number of CCPD officers arrived and arrested CDL and he was covered with blood.
- 2) Richard was at the scene and saw them take his sister away. He was very emotional and told the police if they didn't do their job he would take care of it himself. **There was talk at the scene the night of the murder about Carlos Hernandez.** Again I didn't push this though we could come back and talk about it when we decide how we want to use it?
- 3) Three or four plain cloths detectives visited Richard and his parents regularly during the investigation up and to the time of court and "kept us up to date on the investigation". **The police assured the family they were pursuing and exhausting all possible investigative leads including a complete investigation into Carlos Hernandez and his involvement if any in Wanda's death.**
- 4) Wanda called dispatch and reported a suspicious man with a knife hanging around the outside of the DS. The dispatcher told her to call be if he came inside the store. Five minutes later she call back and was murdered. [JSL: THIS EXPLAINS THE LARGER TIME LAPSE AFTER AGUIRRE THAN WE THOUGHT; MAYBE EXPLAINS HOW THE OTHER PEOPLE IN THE STORE HAD LEFT.]
- 5) CBS 60 minutes ran a segment on the case, and Wanda unanswered pleas for help soon after the murder occurred. [JSL: I DON'T UNDERSTAND THIS.]

That's pretty much the good stuff the rest was mostly talk about the how Wanda's death changed the family members' lives forever. Richard was very interested in what information we had regarding the case and I told him we have collected everything available under the Freedom of Information Act. He asked if I would see about getting him copies of a legal document that summed up the State's case? I was thinking next time we see Richard we should go armed with the court information filing and Richard is

also interested in copies of both Carlos Hernandez and Carlos DeLuna's death certs. He explained he wants them to complete the story of his sister life.

Richard was offered money in the civil case but refused it. As he put it money won't bring my sister back!

End of memo

Bruce

Bruce Whitman
[material removed]

Bruce's letter to Richard Vargas, brother of Wanda Vargas:

Richard and Rose:

Thanks for inviting me into your home and the visit. I found you both to be deeply sensitive, caring and very protective of your parents and your sister's memory. I thought we had been visiting for maybe 1-hour but when I looked the clock on your wall 3-hours had gone by. Again my heart goes out to you and the emotional tug of war/ roller coaster you have lived with trying to make sense of Wanda's murder but in the end you have resolved that. As you say, for whatever reason, God called for her and you are now at peace knowing there was a reason for it and you no longer need to anguish over it. I felt God wanted us to meet and visit today. I was truly moved by the visit and look forward to seeing you again if or when I'm back in town.

I will talk to Professor Liebman tomorrow and ask him about the documents we talked about

Sincerely yours,

Bruce

IN 11/22/04 phone conversation with Bruce by phone this additional information came up:

Richard Vargas lives near the Diamond Shamrock and happened to be driving by when saw police cars there; saw them take his sister away. He was extremely emotional at the time and the police had to restrain him; he says he was in shock. He told them that if they didn't take care of it, he would, and they assured him they would.

CH's name came up that night, right away, at the station. He had the impression that CDL and CH may have been in cahoots with each other, perhaps on a plan to rob his

sister. RV's first reaction to Bruce was that if CDL was in cahoots with CH, it didn't matter to him that CDL but not CH had been punished. CDL still deserved it. If CDL "was a part of it" that was enough for him. When Bruce mentioned CH, Vargas immediately processed it in the co-D vein. [Bruce just listened. He didn't try to steer RV at this point.]

RV also said, even if CDL only witnessed it, why did he not tell police who did it? Why did he run? Even if they were just "together", CDL should've told police.

RV's friend on Dodd (actually, Rose told Bruce, a relative of his first wife) told RV that there was blood all over CDL when they pulled him from under the truck. RV attended the trial.

RV and his woman friend Rosa Garza (she lives with him) had no connection themselves to CH and didn't know of any between Wanda and him. They also didn't know she was dating the cop, Mayorga, though they may have "heard something about that."

Rosa claims to have been good friends with Wanda. Bruce didn't follow up at this point.

Rosa was encouraging Richard Vargas to give Bruce the name of the man he knew on Dodd St. who called the police to lead them to CDL under the truck, but Bruce (in act of showing good faith) said he only wanted RV to give the name if RV felt comfortable, which he didn't. (Rose then took Bruce aside and told him where that man had lived – a house on Dodd St., which enabled Bruce to get the address.) They had the impression that CDL was arrested on that street, Dodd, though he actually was arrested a couple of streets over.

Four plain clothes officers (males???) regularly kept RV up to date during the run up to trial, assuring him that they "exhausted all investigative leads, including re: CH." **They also told him that CH was in Nueces County jail on 2/4/83 – showing they knew the real CH all along.** [We have comprehensive records on CH, from sheriffs office (jail) and parole, and there is no record of him being in jail then; he was jailed a couple months later ...]

RV keeps a scrap book on his sister.

Lives in neat middle class (modular) home, with neat yard.

Wanted to know where Bruce got his info. Bruce told him the foia. RV would like to have summary of the case, trial transcript, CDL and CH death certificates, whatever we have. Bruce's idea was to email him saying we're working on it and want to visit him again in early December. JSL also encouraged Bruce to go back by, take temperature (is he turning angry, etc?) and to promise (i) cooperation, and (ii) we will consult him before reaching out to anyone else in family.

RV said we could do what we want vis-à-vis his mother and father, but he recommended

against visiting them because of how painful it would be. Same thing in regard to Wanda's daughter ("why would you want to talk to her; she was a little child; she barely remembers her mother"). (Becky Nesmith felt the same way, btw.)

RV visits Wanda's grave site from time to time.

60 minutes focused on fact that Wanda called dispatcher and said there's a man outside with a knife but was told to call back if he came inside – which she did, but it was too late. Evidently 5 minutes elapsed between the two calls. (This never came out at trial; police and prosecutor led jury to believe that Aguirre's warning prompted Wanda's first and ONLY call. RV suggested the 60 Minutes segment aired before trial. He says he used to have a copy of the tape but doesn't now; said there were several people in town who have it.

RV said he was offered money as part of the Shamrock settlement, but said he didn't want \$. Instead, he wanted DS to put in security glass for all of its employees. (Don't know if there was injunctive relief like this.)

Bruce told RV what we were doing and went through his (Bruce's) version of the case. Discussed things we've discovered. Without mentioning names of witnesses, Bruce told him of CH's confessions to people etc. Told him of flaws in police work; problems with eyewitness identification. Bruce told RV about his interview with the scene copy (Fowler) thought they "had put the needle in the right guy" because there was blood all over the money. But he (Fowler) was misinformed about what really happened. (This suggested to RV without saying it that perhaps he was misinformed, too. Bruce also told RV about the problems with eyewitness i.d. evidence when not back up with forensic evidence, and that you can't just hang your hat on eyewitness i.d. info.

By the end, RV was trying to rationalize some story in which CH did it, but CDL (perhaps being part of it) was arrested. He also was trying to figure out how maybe they put CH's shirt on CDL somehow. I (JSL) didn't really follow Bruce very well on this.

At this point, RV said he was very thankful Bruce had come to him. Said that God had sent Bruce to him. RV expressed reservations about the death penalty and said he always thought God had taken Wanda for a reason, and maybe that reason was to get rid of the death penalty.

Bruce told RV we'd spoken to Becky Nesmith (he was okay with that) and that we wanted him to know what we were doing before heard it from someone else.