

JASON JANUARY, P.C.
ATTORNEY AT LAW

Tel 214/646-6688
Fax 214/203-1460

3030 L.B.J. FREEWAY
Suite 130
DALLAS, TEXAS 75234-7748

e-mail:
Jason@JanuaryLaw.com

February 18, 2019

State Senator Juan "Chuy" Hinojosa
PO Box 12068
Capitol Building
Austin, Texas 78711

Re: **SB 130**

Dear Senator Hinojosa:

I write to express my concerns regarding SB 130.

I am an attorney licensed to practice in the State of Texas. My bar card number is 10571980. I have been licensed since 1985.

From 1985 until 2000, I was an Assistant District Attorney for Dallas County, Texas. Most of my work in the District Attorney's Office was devoted to serious felony cases. I participated actively in over twelve (12) capital murder trials. I was the lead prosecutor in the State's case against Charles Don Flores. At trial, I was assisted by another assistant district attorney, Greg Davis.

I have followed for many years now the continuing efforts of Mr. Flores to contest his sentence and conviction.

Mr. Flores has used many, many and varied different lines of argument in his efforts to overturn his conviction and sentence over many years. The latest line of argument centers around his complaints regarding the fact that one witness requested to be hypnotized in order to help her relax and recall as much information as possible.

I would very much like to correct the intentional misstatement of the facts of the case and trial that is now being stated by Mr. Flores and his attorneys and supporters in order to mislead others and support his efforts to overturn his conviction and sentence.

In furtherance of their efforts to have the conviction/sentence overturned, Mr. Flores and his supporters are erroneously stating that the entire case of the prosecution rested solely upon the testimony of only the one witness who had been hypnotized and that after hypnosis the witness changed her story.

The characterization of the case by Flores and his supports above is completely false and intentionally extremely misleading.

The truth of the matter is that the State of Texas had ample evidence independent of the one witness to convict Mr. Flores of capital murder. Further, the witness in question never changed any of her testimony.

The fact that there was ample independent evidence to convict Mr. Flores of capital murder was fully addressed and recited in Judge Hector Garcia's Findings of Fact and Conclusions of Law delivered on October 3, 2018. I AM ENCLOSING A COPY OF THIS DOCUMENT FOR YOUR REVIEW.

Please see the section titled "Evidence Supporting Applicant's Guilt Absent Barganier's Identification that begins on page 60" of the above-referenced Court document.

You don't have to take my word for what actually transpired at the trial- you can read for yourself in the Court's document referenced above that ample independent evidence was presented that would have convicted Mr. Flores for this crime. If anyone reads or knows the true facts of this case, they will see that there is more than ample independent evidence of the guilt of Mr. Flores.

Among the items listed as evidence supporting the guilt of Flores in the above-referenced document:

1. There were 4-5 independent witnesses that placed Flores in the distinctive Volkswagen and with co-defendant Childs up to minutes before the crime. These witnesses described a drug deal involving Flores and the fact that Flores wanted more money that he learned was located at the victim's home;
2. Several more witnesses saw the same distinctive Volkswagen at the crime scene;
3. Several more witnesses saw that two men exited the distinctive Volkswagen at the crime scene. These men were dressed consistent with how several witnesses saw Flores dressed immediately before the murder;
4. **Mr. Flores himself confessed to his armed presence and participation in the robbery and murder scene to multiple witnesses!**
5. After the murder, Flores was witnessed destroying (burning) the distinctive Volkswagen. Flores fled from the witness and shot a gun at the witness!
6. Flores fled from authorities in an effort to avoid apprehension on multiple occasions;
7. Flores fled to Mexico shortly after the murder;
8. While returning from Mexico, Flores had a physical fight with two police officers in Kyle Texas and used a false identification in order to avoid apprehension;
9. Flores led FBI on a dangerous high-speed chase as described in the Court's document referenced above.

For Flores and his supporters to say that the only evidence in the case was one witness is absurd and intentionally false.

The next-door neighbor never changed her testimony. She was merely having difficulty identifying one of the two men she saw that morning. All of her testimony was fully consistent with all of the other witnesses that saw the distinct vehicle with two distinctly dressed men at the murder scene.

The use of hypnosis in law enforcement can be very valuable. It is important to know that the rules for this type of testimony already require many safeguards in order to be admissible by well-established law. One of the main factors is the existence of corroborating evidence. Here, there was overwhelming corroborating evidence.

To throw out the “baby with the bathwater” by excluding all hypnotically-refreshed testimony might very well result in a miscarriage of justice in the future for a victim/victim’s family.

As you can see by the facts of the Flores case, the hypnosis part of the evidence was merely additional to the mountain of evidence – including confessions- that the State already had to convict Mr. Flores.

If you have any questions or comments, please feel free to contact me any time.

Thank you for your time.

Very truly yours,

/s/ Jason January

Jason January