

THE FIGHT TO SAVE IVAN CANTU'S LIFE

In 2001 Ivan Cantu was indicted, tried, convicted and sentenced to death for murder, despite that:

- His conviction was based largely on the testimony of a drug addict.
- Toll way records, phone records, personal testimonies and even police records prove Ivan could not have committed the crime.
- No prints or biological evidence collected at the crime scene were ever linked to Ivan.
- He lacked a credible motive for killing the victims.
- Numerous unexplained inconsistencies exist between the pretrial and trial investigations and statements made by witnesses and police.
- Much of the physical evidence has not been analyzed properly or has not been analyzed at all.
- Tip sheets name two other suspects as the killers.
- And much more.

Unbelievably, Ivan's defense counsel did not call one witness to testify. They did not hire any experts, forensic or otherwise, to disprove the state's expert witnesses. In total, Ivan spent just nine hours with his defense counsel in preparation for trial.

Given the many blatant injustices throughout this 10 year ordeal, a group of friends, family and concerned citizens are fighting to bring the truth to light and save Ivan's life.

To help you understand Ivan's innocence claim, three sections of the document will recount:

- Ivan's conviction and the trial evidence and testimony that lead to it.
- A reconstruction of events before, during the time of the crime and after it, based on Ivan's account, police records and interviews conducted post-trial.
- A long list of unexplained or unexplainable events, testimonies and evidence — almost none of which was brought up by Ivan's defense at trial.

We know that after you read all the pieces of this story, you too will wonder, why Ivan Cantu remains on death row. You will want to know what you can do about it, and we hope you will join the fight.

The Conviction

On Saturday November 4, 2000 drug dealer, James Mosqueda and his fiancée Amy Kitchen, were murdered in their home.

Police found a pair of bloodied jeans, a pair of blood-spotted socks, the keys to Kitchen's car, a box of .380 ammunition and a matching bullet hole at the apartment of Mosqueda's cousin, Ivan Cantu. Ivan's then girlfriend, Amy Boettcher testified that on the night of the murders Ivan told her he was going to Mosqueda's house to kill him. She testified that when he returned his face was bruised and bloodied from battling the victims. Forensic experts testified that the victims were beaten, kicked and tortured before their deaths. Boettcher testified that after Ivan committed the murders he took her to the crime scene, showed her the bodies and made her search for drugs.

Boettcher said Ivan gave her Kitchen's engagement ring, which she was seen wearing the night of the murders. Two days after the murders the murder weapon was located in the apartment of Ivan's former girlfriend, Tawny Svihovec, with a fingerprint smear that one expert testified as belonging to Ivan.

Ivan Cantu was arrested on November 8, 2000. He was indicted on two counts of capital murder, tried, convicted for the murder of James Mosqueda and sentenced to death on October 26, 2001. The indictment for Amy Kitchen's murder remains pending.

Reconstruction of Events

The Warning

It was around 8 pm on Thursday, November 2, 2000 when Ivan Cantu heard a knock at his apartment door. His girlfriend Amy Boettcher had left to go to a tanning salon.

The man at the door was dressed in a Dominos Pizza uniform. Ivan opened and the man stormed in brandishing a pistol and demanding to know the whereabouts of Ivan's cousin, James Mosqueda. The man said Mosqueda owed him \$250,000 for cocaine. People would get hurt if James did not pay up, the man said. Before fleeing the apartment, he ordered Ivan against the wall and fired a shot close to Ivan's head.

Mosqueda Afraid for His Life

A worried Ivan tried unsuccessfully to contact James throughout the next day at work as a loan officer at Country Wide Mortgage. He needed to warn James about the incident. After work, Ivan went to his second job at Souper Salads. When he returned home around 10:30 pm, he started calling James again, finally reaching him at 11:28 pm. After hearing what happened Mosqueda agreed that Ivan should come over and talk to him about it.

When Ivan arrived at James' apartment a short time later – they lived only a mile apart –Kitchen was on the phone with her mother, talking about their planned shopping trip for the next day.

Mosqueda told Ivan he was afraid for his life. He asked Ivan if he could leave Honda Accord in the driveway so that it would appear that Mosqueda had company. In exchange, Mosqueda told Ivan he could use Kitchen's Mercedes or his Corvette. Ivan was hesitant at first but agreed and took the Mercedes but returned it immediately after discovering the tire was low. Ivan asked to take his own car back but James insisted that Ivan use the Corvette. Ivan reluctantly agreed and took the Corvette back to his apartment.

A Night of Partying and a Road trip

There at the apartment Ivan showered, dressed and went out for a night of partying with Boettcher. Many people saw the couple out that night. They used the Corvette to hop from party to party, drinking and doing drugs.

At 6:28 am Saturday morning Ivan and Boettcher returned the Corvette to James' apartment, meeting Kitchens outside the apartment to exchange keys and pick up Ivan's Honda.

Afterwards, Ivan and Boettcher returned to their own apartment to get a few hours sleep before starting their already-planned, eight-hour road trip to visit Boettcher's parents in Franklin, Arkansas. They left Dallas around 10:30 am that Saturday morning and didn't arrive in Franklin until late because they had pulled over to rest a few hours.

The trip had been planned weeks in advance. Ivan and Boettcher knew that Boettcher would have to be wearing an engagement ring for her parents to allow the couple to sleep in the same room. Boettcher had borrowed a ring from her old friend and ex-roommate, Riana. Boettcher was wearing the ring the night before, while partying.

Cell phone reception in Arkansas was unreliable. Little did Ivan know that his mother and friends were trying to reach him to tell him that Mosqueda and Kitchen had been discovered murdered at 4:28 pm on Saturday November 4th.

Safety Check and Search

Back in Dallas on Saturday evening, Ivan's mother told police at the crime scene she was worried because she had not heard from Ivan all day. She asked the police to perform a safety check at his apartment. A police officer inspected Ivan's empty apartment and called in the completion of the safety check at 7:48 pm.

Finally, early Sunday morning, the calls started coming through to Ivan in Franklin. Ivan spoke to his mother, Carlos Gonzales, his ex-girlfriend and friend, Tawny Svihovec, and Anthony Winn, the murder investigation's lead detective.

Relatives told Ivan that he was in danger and Ivan was afraid. He and Boettcher decided to stay in Arkansas until Tuesday, November 7. When they arrived, Boettcher refused to return to their apartment, saying she was afraid. So they went to Tawny Svihovec's apartment.

That night Ivan left Boettcher at Svihovec's and went to his apartment alone. There he discovered that the police had performed a search and had left a list of the items confiscated. It cited: a set of Mercedes keys, a full box of .380 caliber bullets, one bloodied pair of jeans size 34/32, a pair of white ankle socks with spots of blood on the soles, and a clump of blonde hair. The jeans and socks were found folded and placed in the kitchen trash can and the socks were turned inside out.

Ivan then took the search warrant from the apartment went back to Svihovec's. He called detective Winn and left a message to call him as soon as possible. Ivan talked with Svihovec for a while, and then she went to bed. Ivan then called his mother and asked that she meet him and Boettcher at IHop to talk things over.

Ivan's mother, his aunt Penny, Boettcher and Ivan met at the restaurant and talked for hours. While at the restaurant, four Dallas Police officers stopped in to eat. Boettcher stayed closely snuggled up to Ivan the whole time.

Weapon Found, Ivan Arrested

Ivan and Boettcher returned to Svihovec's apartment and Boettcher went to sleep on the love seat in the living room. Ivan took a shower and got dressed so he could go to the police station to talk with detective Winn. He woke Boettcher but she said that she wanted to keep sleeping. Svihovec got up and went to work, leaving Boettcher alone in her apartment for most of the day, Wednesday November 8th.

Ivan met his mother that morning to go to the police station. As they pulled into a bank parking lot to use the ATM, Ivan was arrested at gunpoint on an outstanding assault warrant. The police officers took Ivan to the Dallas County office and realizing there was no warrant, brought him to Colin County to speak to detective Winn. After being interviewed by detective Winn Ivan was arrested for capital murder.

Ivan telephoned Boettcher that afternoon, Wednesday November 8th, to tell her he had been arrested. Boettcher then called Svihovec at work and asked her to come home. Upon arriving home Boettcher informed Svihovec of Ivan's arrest. Ivan called back and talked to both of the women. By that point Boettcher had already made airplane reservations to Arkansas and asked Svihovec to bring her to the airport. Svihovec agreed, and then they decided to go out to dinner. They both got drunk at dinner. At the departure gate before boarding the plane Boettcher handed Svihovec some cash and said cryptically: "You need to check to see if Ivan left anything behind."

Back at home Svihovec flipped up the cushion on the love seat where Boettcher had been sleeping and found a handgun, a box of ammunition, money and drugs. She called Ivan's brother Erik over. Once he arrived at the apartment, Erik moved the gun and the box of ammunition into a small cabinet and closed the doors. He and Svihovec did the drugs and she spent the money the next day.

On Thursday November 9 in the afternoon, Svihovec informed police through her attorney that she had found a gun in her apartment. Detective Winn and another detective retrieved the gun. Svihovec told the detectives about the money and drugs and what had happened to them. The detectives told her not to worry.

On November 28, 2000 a second search warrant was issued to retrieve the bullet from the wall of Ivan's apartment. Boettcher came in from Arkansas and let the police in the apartment, then she packed up her things and left. The bullet from the wall matched that of the murder weapon found at Svihovec's.

Ivan was tried and convicted of one count of capital murder and sentenced to death. He arrived on death row on November 8, 2001.

The Unexplainable and the Unexplained

The Corvette

The prosecution claimed Ivan stole the Corvette after killing Mosqueda and Kitchen. Ivan never denied being in Mosqueda's Corvette. Mosqueda had asked Ivan to take it and leave his Honda in Mosqueda's driveway on the night of Friday November 3rd to appear that Mosqueda had company. Neighbors of Ivan's saw him in the trunk changing CD's and many saw him drive it on the night before the murders.

Ivan's account of returning the Corvette and exchanging keys with Kitchen at 6:28 am on Saturday morning match toll way records for the vehicle, which had an electronic toll tag. Boettcher's own testimony also placed them in the Corvette for the last time as the 6:28 am.

But toll way records also show that the Corvette was driven on the highway at 11:15 am on Saturday – nearly five hours after Ivan and Boettcher returned it to Mosqueda's home. Ivan and Boettcher had left for Arkansas at 10:30 am in Ivan's Honda Accord. Boettcher's testimony also confirms this. So who was driving the Corvette?

In addition, Mosqueda's Corvette was not detected by officer who reported the safety check over seven hours earlier at 7:48 pm Saturday. It wasn't found until seven hours later at 3:00 am Sunday November 5th in front of Ivan's apartment door. If the Corvette was not in front of Ivan's apartment at 7:48 pm Saturday during the safety check, then who brought the Corvette to Ivan's house after 7:48 pm? It could not have been Ivan since he was in Arkansas.

The Safety Check

Someone made a long distance call from Ivan's apartment at 7:53 pm, five minutes after the safety check was completed. During the pretrial testimony no one accounted for this call. During the trial the state alleged that Ivan's mother made the call. The defense did not question this whatsoever. A sworn affidavit by Ivan's mother testifies that she did not make a call from that apartment. No one ever investigated this number, called it or talked to the person it belonged to.

Crime Scene and Time of Death

Just inside the master bath, next to James and Amy's bedroom, there was a large pool of blood. There were no pictures taken of this and it was never brought up in court.

Bloodied jeans, socks and clump of hair found at Ivan's apartment but crime scene photographs revealed that a plastic cup and latex glove were also found in his trash can. Neither was logged into evidence or explained in court.

A single latex glove was found outside the crime scene and was thrown away by one of the officers.

The bloodied jeans were a size 34/32. At the time, Ivan wore a size 30/32.

The prosecution's blood spatter expert testified that both of the victims were beaten, kicked and tortured and that this was the only explanation for the blood spatter on the walls and ceiling. The medical examiner said years later that the victims suffered no trauma. But the medical examiner was not questioned by Ivan's defense at trial. According to him Mosqueda was shot while sleeping, Kitchen was awake.

Every police report lists the time of offense as sometime between 9:00 am to 4:15 pm on Saturday, November 4th. (The bodies were discovered at 4:28 pm on November 4th.) How does this make sense if the prosecution also claimed the murders occurred while Ivan was at Mosqueda's home at 11:30 pm Friday night, November 3rd?

An official determination of a time of death for the victims was actually never made. The prosecution only alleged the murders occurred at 11:30 pm on Friday night, because that was the only time it made sense given that Ivan admitted having gone over to talk to Mosqueda.

Investigative Binders

During testimony detective Winn was allowed to refer to his investigative binders to refresh his memory. The defense was denied access to these binders and while the testimony was going on, it was discovered that some documents that should have been turned over to the defense were not turned over - including a tip sheet naming two men as the actual killers. One of the two men named had an outstanding felony warrant for drugs when this call was made. No attempt was made to locate either of these men.

The defense had made the request to have the investigative binders made part of the appellate record and the judge so granted the request. Ivan and his defense teams have been trying to get these binders for years and the court will not turn them over.

The Fingerprint, the Gun and Other Physical Evidence

There was a partial fingerprint, or rather, a smear on the magazine of the murder weapon. There was no match on this print in the Automatic Fingerprint Information System (AFIS). Ivan's prints were in the system from a previous arrest.

This print/smear was not matched to anyone until a police officer was scheduled to testify about the print. The officer took Ivan's prints that morning and two hours later testified that the magazine "print" was Ivan's. No prints or biological evidence collected at the crime scene were ever linked to Ivan.

The owner of the murder weapon has ever been identified. The only question asked about the gun was if it had been reported stolen. Testimony proves that it was not reported stolen and we have no idea if the owner was ever contacted. This gun was never placed in Ivan's hand and the ownership of this gun is still a mystery. This information is protected by the ATF. The Dallas Police Department had to have had this information as they had the capability of obtaining the information; so did the defense. Is this information in the infamous investigative binders? Why didn't the defense obtain this information and find out how the gun got away from the owner, if it did?

Only Boettcher and her brother Jeff Boettcher said they saw Ivan with a gun. No one who testified ever saw Ivan with a gun or heard of him possessing one.

In court detective Winn testified that money and drugs were found with the weapon even though no police officer saw anything except the weapon and a box of ammunition. No other witness testified to anything other than bullets and a weapon being found. This false testimony helped prove the prosecution's theory that Ivan's motive was to steal drugs from Mosqueda, and linked Ivan to the crime scene.

Seven to eight sets of different prints were found inside Mosqueda's home and the police did not attempt to identify them, nor did Ivan's defense. This would have proven or disproven Boettcher's testimony that she assisted Ivan in searching the house for drugs.

No blood was found in any vehicle or in Ivan's apartment. Boettcher claimed Ivan was covered in blood after the killing. How is this possible?

Detective Winn and the prosecution halted testing on trace, fiber, hair, blood and no testing was ever done on the fingernail scrapings of either victim.

A bloodied shirt was found in the apartment of Ivan's brother Erik and placed into a plastic Ziploc bag and kept hidden by Ivan's mother. She brought this shirt to Ivan's wife Tammy in 2008 during the Federal Habeas appeal process. Ivan's lead attorney did not want anything to do with this evidence. Tammy hired a private investigator named Tina Church who instructed Tammy to send her the shirt for DNA testing. Tammy spent thousands on the testing but Church never sent it for testing, stole the money and destroyed the shirt.

James Mosqueda

James Mosqueda was a major drug dealer in Dallas (a fact proven at the trial).

Mosqueda's mother usually spent the night at Mosqueda's home every Friday night. On the night before the murders, he told his mother to not come over because he had company.

Carlos Gonzales, Anthony Fonseca, Frank Perez and Jeff Boettcher

There are many uncharted avenues regarding suspicious persons surrounding James Mosqueda during the period of time preceding his death. Both evidence and testimony suggest that Mosqueda, Gonzales, Fonseca, Perez and Jeff Boettcher were all part of a lucrative drug business and money laundering scheme in Dallas. These connections have never been investigated.

Gonzales and Fonseca

The persons suspected of these murders are Carlos Gonzales and Anthony Fonseca. Gonzales was a major drug competitor of Mosqueda and Fonseca was Gonzales' right hand man. Fonseca was arrested at the Dallas Police station for possession of cocaine while being interrogated for the murders. Conveniently, Gonzales made sure to alibi himself before the news got out. He claimed to be out of town visiting his sick mother. However he was found at his home the next day by Ivan's mother. Fonseca had taken over the debt on Ivan's Ford Mustang. He also had a key to Ivan's apartment and Ivan's car keys on his key ring.

Frank Perez

A man named Frank Perez had been living with Mosqueda and Kitchen at the time of the murders. He had moved in only two weeks prior and was a business associate of Mosqueda's. Despite this fact, he testified to not having a key to the house. Coincidentally on the night of the murders, Perez was out washing clothes and had spent the night with a friend.

After the crime, the room where Perez slept was the only room in the house that was not tidy. The pillows from his bed were found on Mosqueda and Kitchen's bed covered in blood next to Mosqueda's head and feet.

On Saturday morning Perez had called Mosqueda from his office to inquire why Mosqueda had not arrived at the office for a business meeting. He could not get a hold of Mosqueda. Yet, Perez did not return to Mosqueda's house to look for him.

Perez went to the house after police arrived, demanding that all of the receipts, checks and business documents be turned over to him, "So I can keep the business going." The parents of the victims asked him to leave the home.

Jeff Boettcher

Amy Boettcher's brother Jeff Boettcher had a key to Ivan's apartment because he had been staying with Ivan and Amy Boettcher weeks before the murders. Jeff Boettcher testified that he saw Ivan with a gun and that Ivan asked him to help him kill Mosqueda and Kitchen. He also testified that Ivan gave him a place to stay, helped him pay some of his bills and was very good to him and his sister.

Amy Boettcher, the Prosecution's Main Witness

The prosecution's main witness, Amy Boettcher, gave four different statements to the police. Ivan's appellate defense teams and wife Tammy have been denied access to every statement she gave.

Boettcher testified at trial that she was still a drug abuser. She appeared to be having withdrawal symptoms while on the stand.

She testified that Ivan told her as he was leaving to go to James's house on Friday night, "I am going to kill James and Amy." Instead of calling the police, she called her step father in Arkansas to confirm their trip the next morning.

When Boettcher left Ivan on the evening of Thursday November 2nd to go to the tanning salon, it was her first and only time. Later it was discovered the tanning salon was closed at the time she left the house. Where did she go?

Boettcher testified that Ivan walked in the door covered in blood and his face swollen because Mosqueda had hit Ivan in the face with a baseball bat. No bat was found, nor looked for, and she did not testify to this until asked during cross examination.

Every witness said that they did not notice anything wrong with Ivan's face while out the night of the murders.

Boettcher testified that Ivan forced her to return to the crime scene to see the bodies and search the house for drugs. She could not and did not say anything about the crime scene that was not obvious in the photographs.

Boettcher testified that Ivan gave her the driver's licenses belonging to Mosqueda and Kitchen and had her put them into a paper bag to later throw away. She also testified that Ivan told her to place the jeans and socks in the same bag. The jeans and socks were found instead lying exposed in the trash can. If she was so afraid of Ivan, then why defy him and not put them in a bag?

Boettcher testified that Ivan took the engagement ring off Kitchen's finger after he killed her, and proposed to her with it. She testified that Ivan then threw the ring, a Rolex watch and other items out of the car on the highway on their way to and from Arkansas. People testified seeing her wearing a ring the night of the murders while they were out partying. No one specifically identified this as Kitchen's ring.

Boettcher was alone the entire day at Svihovec's house before the gun and ammunition were found under Svihovec's love seat. She gave money to Svihovec before escaping to Arkansas and suggested Svihovec make sure Ivan didn't "leave anything behind."

On November 28, 2000 when Boettcher returned to Dallas to let the police in to retrieve the bullet from the wall in Ivan's and her apartment, she had an active warrant out for her arrest for a probation violation in Tarrant County. She was on probation for DUI and had not been reporting or making her monthly probation payments. This warrant, the overdue payments and the problems with her probation were wiped clean that day.

It took days after returning to Arkansas after the murders to tell someone what Ivan purportedly did. Boettcher and her stepfather, an ex-police officer, called Svihovec numerous times begging for Svihovec to meet them in Arkansas, saying Svihovec was in grave danger. Ivan was already in jail. Who was there to be afraid of?

At trial Boettcher testified that she was deathly afraid of Ivan and this is why she did not call the police or try to leave him after he committed the murders—even though she would have had many opportunities to do so, including at the IHop where the four police officers sat nearby.

A message for Boettcher on her stepfather's answering machine said: "Amy honey, this is Anthony, you need anything let me know." Boettcher testified that she did not know Anthony Fonseca or Carlos Gonzales except through Ivan. But Boettcher worked at a strip club called Baby Dolls and Gonzales was the club manager the same time she was employed there.

The Medical Examiner's Opinion

During the trial only the prosecution interrogated the medical examiner. The defense passed without asking one question.

However, the medical examiner stated the following in a post-trial interview:

- Mosqueda was killed while he was sleeping. This disputes the prosecution's theory that Ivan went to talk to him and killed him.
- Mosqueda and Kitchen were most likely not killed at the same time. Mosqueda was killed first.
- Kitchen was shot in the doorway of the master bath, then on the bed.
- Her body was drug across Mosqueda's and she was placed on the floor, face down.
- Neither victim was beaten. There was no trauma to either victim.
- The blood spatter could not be derived from anything but gunshots. (This disputes the prosecution's claim that both victims were beaten and tortured before being shot.)
- The person responsible for these murders had to have been covered in blood. (No blood was ever found on Ivan or in any vehicle driven by him.)
- As per protocol a medical examiner in Texas; they are not required to determine the time of death.

- It is very possible that Kitchen was alive when Ivan said he returned the Corvette and handed her the keys at 6:28 am that morning.

Ivan's Poor Defense

Ivan's defense team did not call one witness nor did they hire one expert to defend Ivan. The lead attorney, Matthew Goeller told the jury at least four times that Ivan was guilty. Why wouldn't a jury convict a man if the defense is telling them he is guilty?

There should have been a full investigation completed prior to trial with forensics experts to disprove the state's expert witnesses. Ivan's counsel spent a total of only nine hours with him to prepare for his defense.

Svihovec, Ivan's ex-girlfriend who found the murder weapon and ammunition, was never called to testify for either side. The prosecution talked to her before the trial and tried to get her to say that Ivan beat her. She refused to admit to this lie. The prosecutors dismissed her and told her to not talk to the defense. Svihovec did seek out Ivan's defense team and she did talk to them. She said that these men were not trying to help or defend Ivan and that they dismissed her desire to help.

If the murder weapon, drugs and money were found at Svihovec's apartment, why wasn't she called to testify?

Conclusion

Ivan has been through the appeals process and has not been successful. He now has a wonderful appellate attorney who is fighting hard to stop the state sanctioned murder of Ivan Cantu. All that Ivan, his wife, family and friends has ever asked was a fair chance to prove Ivan's innocence. If the trial attorneys had done their jobs and actually defended Ivan, many are convinced that he would not have been convicted of either murder and would be a free and successful man today.

Ivan has been given an execution date of August 30, 2011. We are literally running out of time. Please find it in your hearts to help us save Ivan's life.

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