

In the Colorado Court of Appeals  
2 East 14<sup>th</sup> Avenue, Suite 300  
Denver, CO 80203

Filed June 17, 2007

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Appeal from the District Court, County of Arapahoe  
District Court Case No. 98CR808  
Honorable Timothy L. Fasing

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Case Number:  
05CA2434

THE PEOPLE OF THE STATE OF COLORADO,  
Plaintiff-Appellee,

v.

IVAN ALEXANDER GONZALES-QUEVEDO,  
Defendant-Appellant.

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REPORTER'S TRANSCRIPT  
October 6, 2005

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The jury trial in this matter was held at Arapahoe County Justice Center, Division 407, before the HONORABLE TIMOTHY L. FASING, DISTRICT COURT JUDGE, and commencing at 9:35 a.m.

[First Degree Murder and related charges]

APPEARANCES:

For the People:	John A. Hower, Esq. Reg. No. 10946
	Daniel D. Plattner, Esq. Reg. No. 3187
For the Defendant:	Ingrid DeFranco, Esq. Reg No. 31206
	John Pineau, Esq. Reg. No. 24736

## CROSS-EXAMINATION

BY MR. PINEAU:

Q. Mr. Booher, how are you this morning, or this afternoon?

A. Just fine, thanks.

Q. Isn't it true, at the time that you were involved with Mr. Gonzales, you were a paid informant for the government?

A. Yes. . . .

Q. And as such, you received money from the government? You were paid by them, is that right?

A. That's right.

Q. And what you would do in order to earn that money was to seek out and find people and ask them to provide you with drugs; is that right?

A. That's correct.

Q. And if they brought those drugs to you, then you would buy them, correct?

A. That's correct.

Q. Then you would turn them in to the government; is that correct?

A. That's correct.

Q. And after you turned them in, that's when you would be paid by the government, depending on how many people you turned in and how much drugs you were able to buy, is that correct?

A. That's correct.

Q. This involved, by necessity, then, you had to participate in criminal activity, the selling of drugs; is that right? The selling and buying of drugs?

A. Yes, buying. . . .

Q. In fact, you understand that you were even entered into a contract that allowed you to -- with the government -- that allowed you to engage in illicit acts; is that right?

A. That's right.

Q. And to deliver illegal drugs, correct?

A. That's correct. . . .

Q. You have also testified that you've been involved in reversals.

A. We tried reversals.

Q. . . . that's where you tell people that you have drugs, and if they're interested in the drugs, well, you tell people that you have drugs and then you try to interest them in buying the drugs; is that right?

A. That's correct.

Q. And if you are able to convince them or sell them on the drugs, and they go through with the purchase, then you turn them in to the government, correct?

A. That's correct.

Q. And the reason you got into this trade was, in 1996, you were arrested for trading guns and money, correct.

A. That's correct.

Q. At that time, you were here in the country illegally?

A. Uh-huh. That's correct.

Q. And you were involved with a friend in trading guns and money in Texas; is that right?

A. Yes. . .

Q. And the government gave you the option to provide evidence against your friend or the person that you're involved with in this criminal activity, correct?

A. Correct. . . .

Q. They dismissed the case against you, correct?

A. Against me.

Q. And they did other things as well, correct?

A. Like what?

Q. Well, they didn't affect your immigration.

A. Well, yes. They fixed temporary permit to stay in the country.

Q. As long as you cooperated?

A. Exactly.

Q. And in this case here, Mr. Gonzales' case, you've been paid for the information that you provided, correct?

A. Correct. . . .

Q. . . . you've been paid as much as 2,300 or said that you've been paid as much as \$2,300 for the information you provided in Ivan's case, correct?

A. No. Drawn – I don't get more than 2,000 in one time. The only thing we do with Ivan is one buy and that was \$500. . . .

Q. Take a look at the binder that you have in front of you . . . look at page 2,930 and do you see that letter, the letter from the US Department of Justice?

A. Yes.

Q. Indicates in the first bullet point the amount paid to you in regard to Mr. Gonzales's case is \$2,300?

A. Yes, I do.

Q. And that the amount you paid – received total from the DA is over \$35,000; is that right?

A. Well, that's for the whole case. . . .

Q. At points, as much as – more than 60 percent of your employment or your income, has been based on your informing activities, correct?

A. In that time, yes? . . . .

Q. And at some point . . . you requested additional assistance; isn't that correct? You needed money for relocating; is that right? . . . .

A. I was – I did. . . .

Q. And you made it clear that, if you weren't helped, that you would take it out on the government. If you weren't assisted in this, you would take it out on the government, and then even made threats to the detective you were telling this to, that if you weren't assisted, that a homicide may occur, and then you advised the detective that they would have to then go investigate that homicide. Do you recall that?

A. I don't recall that.

Q. Really? Could you take a look at page 2,310? Two Thousand three hundred and ten. . . . And do you now remember that, telling the officer that you spoke to Detective Piel, that if you – they didn't assist, you would take it out on the government? Do you recall that now?

A. I don't recall that, but if it's here.

Q. If it's here, that must have happened?

A. Happened.

Q. And that if you made statements to the effect that, if they didn't assist, that you made statements to the effect that a homicide may occur, and advised that the detective would have to investigate that homicide if you weren't helped. Do you see that?

A. What can I say this? The thing is - -

Q. So if Detective Piel wrote that, you don't have a recollection of it?

A. I don't recall.

Q. If he does recall that, then you don't -- you don't doubt him. If he were to recall that this occurred; is that right?

A. That's what I said, yes.

Q. And in your course of conduct, you don't work as much as an informant anymore, as much as you used to, right?

A. No more.

Q. In fact, because you had problems with the DEA, specifically Agent Olejia.

A. Olejia. . . .

Q. Ultimately, you thought that he was cheating you? Not being straight with you?

A. No. That was him -- that was another officer.

Q. Another officer wasn't being straight with you?

A. Exactly.

Q. And as a consequence, you felt that you had been mistreated and not paid adequately by them.

A. Exactly.

Q. So you wouldn't work for them anymore?

A. No more.

Q. And in addition, you reported that that officer . . . you reported that same DEA officer as a drug user themselves?

A. That's correct.

Q. So the very handler that you had from the DEA, you turned him in for using drugs, is that right?

A. That's right.

Q. And as a response, I assume he's been prosecuted?

A. No.

Q. No. . . .

Q. And in response, you're not working for them anymore; is that right?

A. That's correct.

Q. They don't believe you're honest, correct?

A. That's correct. . . .

Q. In terms of your responsibility with the government at that time, as you've already testified, you came here illegally in 1996, correct?

A. That's correct.

Q. INS issued a warrant for your arrest?

A. Yes

Q. And there the government allowed you to stay here legally if you worked as an informant, correct?

A. That's correct.

Q. and then the government quashed the warrant for your arrest as long as you continue to work as an informant, correct?

A. That's correct. Yes, that's correct. . . .

Q. If you didn't cooperate in this case, that certainly wouldn't be -- wouldn't help you stay in this country correct?

A. That is correct.

Q. And you're in a spot? For example, I mean, deportation would be a hardship on you, correct?

A. Well, let me tell you something --

Q. Well --

A. If I can --

Q. -- I'm just asking, yes or no. Would deportation be a hardship if it were imposed?

A. It is.

Q. And that's for good rea -- you have children, correct?

A. Yea, I do.

Q. You've just had -- you have very young children?

A. Yes.

Q. A wife?

A. Girlfriend.



Q. Girlfriend. So you have a family here, so deportation would be a hardship, not just on you, it would be a hardship on your family as well?

A. Yes.

Q. Understood. Okay. Back in 1999, in February, you had an opportunity to testify in court on Mr. Gonzales' case. Do you recall that?

A. Yes. . . .

Q. And in that testimony, that was back in February of 1999, you were not able to identify Mr. Gonzales?

A. No. I don't see him.

Q. Pardon?

A. I didn't see him.

Q. You did not see him?

A. Until when I finished testifying, I saw him. But when they asked me for him, I don't see him.

Q. But you were asked to identify him in the room, and he was in the room, and you weren't able to identify him in 1999?

A. That is correct. . . .

Q. I assume that, in your line of work at that time, you were testifying more frequently than the average person; is that right?

A. Well, I testified twice.

Q. But you'd been on the stand before, correct?

A. One time, yes.

Q. You've been on the stand more since then?

A. No. . . .

Q. I'm talking about everywhere. Testifying in all courts.

A. In all courts?

Q. Yes.

A. Maybe two times. . . .

Q. Well, I guess you've been able to make, according to the U.S. Justice Department records, about \$35,000 turning various people in, and you've only had to show yourself and state your claim, your accusation, in open court two times. Is that correct?

A. That is correct. . . .

Q. That report there, you worked with, Mr. Olejia, I think we --

A. Olejia.

Q. -- in the past, correct? And he indicates on that page, 2947, paragraph 7, that you reported that Gonzales showed you a .45-caliber handgun which was located under the driver's side seat of Gonzales' vehicle, right?

A. Right.

Q. There's no other mention of any other conduct with that weapon, right?

A. Right

Q. You didn't allege anything else other than that you claimed that he had showed you a forty-five, correct?

A. Yeah, but he --

Q. Hold on. You didn't allege anything else other than saying that he showed you a .45-caliber?

A. I told him that he going to --

Q. I'm asking you to -- we can get to the next step. I'm just asking if that's true or not, that you didn't tell Detective or Special Agent Olejia that he did anything other than show you this weapon, correct?

A. No. I told him that he point to me. That's all.

Q. But he then just failed to report that felony menacing, correct?

A. He (the detective) was drunk.

Q. Maybe he was drunk. Because he had that drug problem.

A. He got a problem,

Q. And evidently an alcohol problem as well?

A. Yes.

Q. Yes. Okay. And you, in this, you see in this, you're saying that it was underneath the driver's side seat, this weapon; is that right?

A. Yes.

Q. And you've also stated that it was under the passenger seat, correct?

A. I was in the passenger seat. Why you don't understand, sir? At that time, I don't speak English like I do now . . . .

Q. Well, let's see if there's an indication that you misunderstood the question or the answer.

A. Exactly.

Q. Take a look at page 4926 in that other binder. Yes, that's right. That other binder.

A. Yes, I see that.

Q. Your answer, in regard to the gun, was it in a black case? Where was it located? Answer, "under the seat of the passenger seat of the minivan." . . . .

Q. And in terms of your statements in regard to the number of people that Ivan claimed to have killed that day, you reported, for example, that he killed one person and one ran away; is that right?

A. He said he killed two.

Q. Take a look at, in the transcript, the one that's to your left, 4923. This one, that's right. . . .

A. I got it.

Q. You've got it? Okay. If you look at the center of the page, your testimony is – you say he killed two people, He's killed one and one run.

A. Yes, sir. . . .

Q. So I under, you've also said that he said that there were two killed, correct?

A. Yes, correct.

Q. Right, Two total dead? Two?

A. Yes. . . .

Q. And you also described that Ivan and his cousin killed three and a fourth one got away. Never said that?

A. No.

Q. Take a look at page, motions hearing, 33 or motions hearing. January 20, 1999. . . . And your testimony was, "he say I kill two people, my cousin killed another one and one left."

A. That's right.

Q. That would be a total of three killed and one got away; that right?

A. Yes. . . .

Q. You know he has friends and family in the area, correct?

A. Correct.

Q. In fact, according to you, he trusted you so little that, just days before, he pointed a .45 at you?

A. That's correct.

Q. And now, just days later, he's calling you confiding a murder, right? . . . .

A. Correct. . . .

Q. Now I think there was a part where you testified to very quickly on direct and that was when you called Officer Torpin. He indicated that he was at the scene of the crime . . . . and you responded by saying that, "I know who did it," and hung up, correct?

A. That is correct.

Q. In fact, I think you stated before that you said, "I know who did it. How much you going to pay me?" and hung up?

A. Yes, sir. . . .

Q. So you hung up to heighten the expectation in Officer Torpin's mind; is that right?

A. I don't know.

Q. To raise the tension a little bit, add some drama to it, perhaps?

A. You can think whatever you want, sir.

Q. To put yourself in a better bargaining position?

A. No.

Q. No. But it is clear, though, that Officer Torpin told you he already knew about this homicide, correct?

A. Correct. He verified. He said yes.

Q. That was the very first time you contacted him? He knew about the homicide, correct?

A. Yes, that's correct.

Q. And at that time, because of your other activities with Mr. Gonzales, you knew about Mr. Gonzales' minivan, right?

A. Correct.

Q. You knew what it looked like?

A. Right.

Q. In fact, the license plate --

A. That's right.

Q. -- testified, knew that he had went to Manzanilla's, right?

A. Right.

Q. Knew about a - - that he had a room at La Quinta?

A. That's correct.

Q. Now you've made a written statement. You made a written statement in this case right that same day - -

A. Yes. . . .

Q. You've testified that that is your handwriting, and that you wrote this, correct?

A. That's correct.

Q. You're aware that Officer Torpin says that he wrote it. That's his handwriting?

A. No. He helped me on spelling. . . .

Q. So he went through it, and where you had difficulty, he took the pen from you and he wrote in the word for you?

A. Yes, right.

Q. And he gave it back to you, and you finished writing it?

A. He tell me, I don't recall, he tell me how to put it, because he does. I just put my initials next to it.

Q. Do you see any point in this statement where the handwriting changes from one person to another person besides the signature?

A. Like I said, I don't recall. . . .

STATE OF COLORAD )

) ss. REPORTER'S CERTIFICATE

COUNTY OF DENVER)

I, Carol F. Blake, Registered Professional Reporter and Notary Public within the state of Colorado, do hereby certify that the foregoing proceedings were taken in shorthand by me at the time and place herein set forth and were thereafter reduced to typewritten form, and that the foregoing constitutes a true and correct transcript.

I further certify that I am not related to, employed by, nor of counsel for any of the parties or attorneys herein, nor otherwise interested in the result of the within action.

I witness whereof, I have affixed my signature this 13<sup>th</sup> day of February, 2006.

My commission expires 08/08/09.

s/ Carol Blake

Carol F. Blake  
Registered Professional Reporter  
and Notary Public

