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AN EXONEREE'S INTERROGATION NIGHTMARE

CHRISTOPHER OCHOA*

I was charged and convicted for a murder I did not commit on May 5, 1989, but my nightmare began six months earlier on November 11, 1988. That day was a Friday, and it was the day that two detectives from the Austin Police Department—a female Hispanic detective and a male Caucasian detective named Bruce Boardman—walked into the Pizza Hut where I was working. They explained that they wanted to ask me some questions about a rape, murder, and robbery that had occurred at a different Pizza Hut on Reinli Street nearly three weeks earlier.

I later learned that was a lie. I was already a suspect of these crimes. But the detectives said they just wanted me to go with them to police headquarters and answer their questions. I believed them, even volunteering to drive there in my own car. But the detectives said they would take me there themselves and give me a ride back when it was over.

Upon arriving at headquarters, Boardman led me to a cubicle and asked one or two questions about the Reinli Street burglary. He then took me to an interrogation room, although at the time, I just saw it as a room with a big window, a table, and a couple of chairs. Boardman left, and a male Hispanic detective walked into the room. He looked me up and down like he was sizing me up. He introduced himself as Sergeant Hector Polanco and told me in Spanish that on the street they called him “the Boogeyman.”

Polanco asked me what I knew about the Reinli Street robbery. I told him I knew nothing about it. He yelled at me, pounded his fist on the table, and said that if I didn't tell him the truth, I would get the death penalty. If I knew who did it, he said, I needed to tell him who it was, otherwise I would

* In 1988, Christopher Ochoa was wrongfully convicted for the murder of Nancy DePriest, the manager of a local Pizza Hut in Austin, Texas. A coerced statement of confession, which he signed after two twelve-hour interrogations by police, was used against him at trial. He was sentenced to life in prison and had served twelve years before a confession by another inmate to the crime and DNA testing were used to prove his innocence. Mr. Ochoa was exonerated in 2002 and graduated from the University of Wisconsin Law School in 2006.

be the one charged with capital murder. I responded in the same way, that I had no idea who committed the rape, murder, and robbery.

Polanco walked out of the room and another detective walked in. He identified himself as Ed Balagia and politely apologized for his hotheaded partner. He said I could go home if I told him what I knew. I told him what I told Polanco: I didn't know anything about the murder. When Balagia walked out, I felt trapped, as if I could not leave. I was told as a kid that when a police officer tells me something, I need to obey them. So I stayed there.

Soon after Balagia left, Polanco walked back into the room. Again, he started yelling, screaming, and threatening me with the death penalty. He insisted that I knew something about the murder and that if I didn't cooperate, I would be executed in the death chamber. I kept telling him that I did not know anything, otherwise I would say something. He asked me where I was when the murder occurred. I told him I was at home asleep. He then asked if I had an alibi. I said no but that I did remember the phone ringing that morning. A manager from another Pizza Hut called my home phone, and one of my roommates answered in his room. Polanco refused to believe me, and said that if I insisted on lying, I would be charged with the death penalty. Again, Polanco left the room, and Balagia entered soon after.

This went on for some time. Polanco left, and Balagia entered; Balagia left, and Polanco entered. One time, though, when I was left alone in the room, the female Hispanic detective who picked me up at the Pizza Hut walked into the room. I thought she might have a little more compassion, so I asked her if I could have an attorney. She looked at me and angrily said that I could not have an attorney until I was officially charged. I didn't know any better, so I believed her. Until that day, I had never been in trouble with the law. I had never been to detention when I was in school. I was just a twenty-two year-old kid at the time. So when the detective said I couldn't have an attorney, I believed her.

She left the room, and Polanco came back in. He got right in my face, invading my personal space, and said if I kept denying that I knew anything about the robbery, I would get the death penalty. He grabbed my forearm, tapped me on the veins, and pointed to the spot where the needle was going to go when they executed me. He said he would make sure he was there to watch. At this point, I was really scared and almost begging him to believe me. I told him I didn't do anything. I fought back tears of fear. Polanco left, and Balagia came back.

Balagia asked me again to tell him what I knew. All I knew, I said, was what I saw on the news that day. Balagia walked out, and Polanco walked in, this time with a picture. He showed it to me and said that this was a cell

on death row. If I didn't tell them what I knew, he said, I would live in one of those cells until the day they executed me. I would never be able to hug my parents or family again. I told him what I had been repeating for hours: if I knew anything, I would certainly tell them, but I knew nothing about the crime. Polanco said he knew I couldn't have been involved. He said that he knew I had a clean record, but if I didn't tell them what I knew, I would still go to death row. Polanco left the room and came back a few minutes later with a picture of the victim's autopsy. I remember the photograph vividly. It was a picture of the victim's head, and I could see where the bullet went in. Polanco asked, "Don't you feel bad for her? You can help her by telling us what you know or telling us who did it." I told him I didn't know anything.

This went on for hours. At one point a detective said that the District Attorney was outside of the room and ready to charge me with capital murder. But if I cooperated with them, they would talk to the District Attorney and ask him not to charge me with capital murder. I told them I knew nothing. Again, I was left alone.

Every time they left me in the room, my fear grew. I was terrified that I would be executed for something I did not do. I was exhausted. I just wanted to go home. I had been in that room for what seemed like hours and hours, but I couldn't say how long for sure. There were no clocks on the walls. But still I felt that I could not leave. I trusted the officers, because I was taught that they were there to protect us. I could not believe that they intended to hurt me for something that I did not do, and yet that is what they were doing. I remembered what Polanco had said earlier that they knew that I couldn't have been involved. But then Polanco said that maybe I was involved, but because the crime was so bad, I was blocking it out somehow. He said maybe I would feel better if I just told him I did it. But I wasn't there!

Eventually Polanco walked back into the room. He said they knew that my roommate Richard Danziger and I had been to the Pizza Hut where the rape, murder, and robbery had occurred. He said Richard had been asking a lot of questions. Polanco asked me if Richard had committed the crime. I told him I had no idea. He stormed out of the room and slammed the door behind him.

A little while later, Polanco came back and said that Richard was in the next room ready to put the blame on me. If he did blame me, Richard would walk free and I would get the death penalty. Polanco said that the white guy always gets the better end of the deal, and the brown guy gets stuck with the worst end. He said it was time to flip the script and cooperate before the white guy got to walk. I said I didn't know anything. Polanco walked out.

When he came back, Polanco said I must have been the lookout waiting for Richard in the getaway car. I told him no. I was not there, and I did not know anything about the crime or Richard's involvement. Polanco walked out again.

Polanco soon returned, saying he was getting tired of my bullshit. If I did not cooperate, I would be thrown in jail. He said I would be fresh meat for the other inmates. I imagined what that meant and gave up. I had been there so long, and I just wanted to go home. I asked Polanco what I would have to do or say to go home.

At that moment, Polanco changed. He said he was going to need a statement and called in Boardman, who had me initial and sign a card. Polanco brought in a typewriter, and sitting behind it, asked whether Richard had committed the crimes and told me about them after. I said yes, and Polanco started typing. Polanco asked me more leading questions about Richard's involvement, and I agreed with whatever he said. Polanco gave me the statement to sign. Polanco and Balagia told me I had to go face Richard in the next room, because by law Richard had a right to face his accuser.

When the statement was over, I asked if I could go home. Balagia explained that I couldn't quite go home yet because they needed some hair, blood, and semen samples to make sure I wasn't at the scene. Balagia and Polanco told me about a new test that they were doing to check whether someone was at the scene of the crime—a DNA test. I agreed to give them samples, and Balagia said we would have to go to a hospital together to get them.

As we drove to the hospital, I noticed it was already dark outside. Once the samples were taken, I asked to go home. But Balagia and Polanco said they were worried about my safety. After all, I had just signed a statement against Richard; they were worried he might come after me. Instead, they would put me up at a Holiday Inn. The police department would take care of the bill. I believed that they were trying to protect me, so I agreed. We went to the Holiday Inn, and they escorted me to my hotel room. As Balagia and Polanco were leaving, they said I could order room service but that I could not leave the room or call anybody. They reminded me about Richard. They told me they would come back for me on Monday.

I remained in the room, but I did call my other roommate, Roger Lewis. I told him what happened and that I was going to need a lawyer.

Balagia and Polanco came back on Monday morning to take me back to the police station. As we were walking towards the elevators, Polanco said, "Now we know you had something to do with the crime, because you called your roommate and asked for an attorney. Only guilty people ask for

attorneys.” What was going on? Why was this happening to me? My mind was in a fog.

When we arrived at the police station, the detectives immediately took me to another interrogation room. The questioning began all over again. Polanco said now he knew he was right. By this point I felt so defeated, and I just wanted Polanco to stop the questioning. Balagia was there too, and they both told me this statement would be tape recorded. So I regurgitated the same story from Friday. This time, though, they told me to say that I was outside the Pizza Hut waiting in the getaway car as Richard committed the crime. Next, they said they were going to give me a polygraph test to make sure I wasn't holding anything back. They escorted me to another room where a person hooked the machine wires to my body. He asked me questions about the crime, and I responded yes or no.

After the polygraph test, Polanco and Balagia left me alone for a long time. There were no clocks in the room, and my brain was mush. I did not know which way was left and which way was right. When Polanco and Balagia finally came back, they stared me down and told me that I had failed the polygraph test. Polanco said he now believed that I had actually been in the Pizza Hut with Richard. Balagia said I was the one who shot the victim. They said Richard must have been the mastermind and that I was so scared of him that I just went along with whatever he wanted to do. If I told him what happened, they promised to talk to the District Attorney and ask him to go lightly on me. Balagia said I would probably get 60 years, but with good time and good behavior, I would walk out of prison a healthy young man and go on with my life. If I didn't cooperate, though, I would get the death penalty. All I wanted was for the questioning to stop. I asked them what they wanted me to say.

Polanco got a tape recorder and started asking me questions. When we walked in the Pizza Hut, did I see anything on the floor? I said yes, guessing. What did I see? I guessed again, but Polanco got upset and stopped the tape recorder. I was not being honest, he said, and if I insisted on not being honest, he would have me charged with capital murder. He then asked me a series of leading questions, which I rephrased and repeated in the form of responses. If he ever asked me an open-ended question and I guessed wrong, Polanco would stop the tape, threaten me with the death penalty, and make me keep me guessing until I gave him the answer he wanted to hear. Then he would turn the tape back on. This went on for a long time. At one point, Balagia got so angry that he stood up and threw his chair at my head.

When that happened, all I could think was that the detectives were going to hurt me. After Balagia threw his chair, Polanco said they would just do it the easy way. He wrote a statement on a typewriter and then brought in

witnesses to watch me sign it. A couple of hours later, I was booked into the Travis County Jail.