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KEITH ZON DOOLIN

**SUPREME COURT
FILED**

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Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re

KEITH ZON DOOLIN

On Habeas Corpus.

No. S234285

(Related Nos. S197391, S054489)

**REPLY TO RESPONDENT'S OPPOSITION TO
MOTION FOR ORDER PERMITTING FOR-
MER COUNSEL FOR JOSEFINA SALDANA,
DECEASED, TO GRANT PETITIONER'S AT-
TORNEYS ACCESS TO ANY INFORMATION
IN HIS POSSESSION BEARING ON THEIR
CLIENT'S INNOCENCE; EXHIBIT A, 1a-20a**

Death Penalty Case

**TO: THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE, AND
ASSOCIATE JUSTICES**

On June 29, 2016, Petitioner filed a motion seeking an order permitting David Raymond Mugridge, former attorney for Josefina Sonia Saldana, aka Josefina Sonya Hernandez, deceased, to disclose to Petitioner's counsel any information in his knowledge or possession that bears on the innocence of their capital client. In 2001, Ms. Saldana was convicted of two murders and shortly thereafter committed suicide. Mr. Mugridge wishes to provide the exonerating evidence, but needs permission from this Court.

On August 11, 2016, Respondent filed an opposition to production of evidence relating to innocence, arguing that “this Court should deny the motion without prejudice because (a) it is premature to the extent it seeks third-party discovery from Mugridge at this stage of the proceedings and (b) it is misdirected to the extent it seeks an exception to the statutory duty to maintain client confidence.” (Opposition¹ at 2.) For the reasons set forth below, Petitioner disagrees.

I. THE MOTION IS NEITHER PREMATURE NOR MISDIRECTED

A. Petitioner is not seeking premature discovery.

In arguing that Petitioner’s motion is premature, Respondent misconstrues the request as one seeking discovery. Respondent argues that third-party discovery is premature until this Court issues an order to show cause. (Opposition at 4-5.) However, Petitioner is not seeking an order for third-party discovery. Discovery is the demand for production of documents, depositions of parties and potential witnesses, written interrogatories, etc.

Here, Petitioner is not making any demand for documents or evidence. Mr. Mugridge, on his own accord, is eager and willing to disclose information to Petitioner’s counsel that will, in his opinion, exculpate Petitioner, who otherwise might be executed for crimes he did not commit. The information sought is an integral part of Petitioner’s ongoing investigation. The only issue is Mr. Mugridge’s concern that his action might be a violation of the attorney-client privilege, and thus bring him in disfavor with this Court and the State Bar. Accordingly, he merely needs an assurance, permission, from this Court that his disclosure of information would not be a violation of his professional duty.

There is nothing to prevent this Court from issuing the order sought. In fact, Respondent is of the opinion that the attorney-client privilege is not a bar to Mr. Mugridge disclosing what he knows. As Respondent states, “Mugridge may claim the lawyer-client privilege only if Saldana still has a personal representative,” and “Mugridge does not de-

¹ Respondent’s opposition is entitled “Response to ‘Motion for Order Permitting Former counsel for Josefina Saldana, Deceased, to Grant Petitioner’s Attorneys Access to the Files and any Other Information in his Possession Bearing on Their Client’s Innocence.’” For the sake of brevity, it is referred to herein as “Opposition.”

clare that Saldana still has a personal representative, and it is unlikely that one still exists in light of the fact that Saldana died more than a decade ago.” (Opposition at 3-4.) Respondent thus concludes that “Mugridge’s suggestion that he cannot disclose information voluntarily due to the lawyer-client privilege appears to be incorrect.” (*Id.* at 4.)

B. Business and Professions Code § 6068 does not act as a bar to Mr. Mugridge disclosing evidence of Petitioner’s innocence.

Although Respondent believes the attorney-client privilege does not bar disclosure of information, Respondent nonetheless claims Mr. Mugridge is “still bound by the professional duty to maintain client confidences.” (*Ibid.*) Citing Business and Professions Code Section § 6068 (e)(1), Respondent argues that Mr. Mugridge has a professional duty to “maintain inviolate the confidences, and at every peril to himself or herself to preserve the secrets, of his or her client.” (Opposition at 4.) Petitioner disagrees, as the unique circumstances presented here fall within an exception in the Business and Professions Code, which states: “Notwithstanding paragraph (1), an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes *the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.*” (§ 6068 (e)(2), emphasis added.) Here, the “criminal act” which Mr. Mugridge seeks to prevent is the ongoing wrongful prosecution and incarceration of Petitioner by the state. The prosecutor and his agents committed acts of fraud upon the court by knowingly presenting materially false evidence against Petitioner in order to obtain a conviction and death judgment. Without an order from this Court allowing Mr. Mugridge to reveal the exculpatory information to Petitioner’s counsel, the prosecution’s ongoing fraud may very well “result in [the] death of, . . . , an individual,” Keith Doolin. (*Ibid.*)

As provided in the pending exhaustion petition (*In re Doolin*, Case No. S197391), filed October 24, 2011 and fully briefed on December 28, 2012, the prosecution engaged in multiple acts of misconduct and fraud upon the court. For example, the prosecution falsely represented that a potential suspect, Robert Joseph Murphy, was in custody at the time of

the crimes, thus undermining the defense's theory that someone other than Petitioner committed the offenses in question. (*See* PHC Claim 3, Case No. S197391 at 256-261.) The truth was that Murphy, who had been in jail for armed bank robbery, was released shortly before two of Petitioner's alleged victims, Marlene Mendibles and Inez Cantu-Espinoza, were shot and/or murdered. (*Id.* at 259.) Additionally, another victim, Stephanie Kachman, initially picked blue-eyed Murphy as her assailant when shown thousands of photographs of potential suspects. (PHC No. S197391 at 12, 257.) However, ten weeks after the assault, she identified Petitioner after the prosecution presented her with a suggestive photo lineup which did not include Murphy. (*Ibid.*) Kachman had earlier told police her assailant had blue eyes and was left-handed; Petitioner is right-handed with brown eyes.² (*Ibid.*) Thus, the prosecution's deception had a decided impact on the outcome of the case. (*Id.* at pp. 258-259.)

The prosecution also withheld the true record of prior arrests, convictions, and outstanding warrants of Peggy Tucker's boyfriend, Rick Arreola. (*Id.* at 262-265.) As Respondent notes, Arreola's testimony that he "saw [Tucker] enter a car defendant was driving on the night she was murdered" was material evidence connecting Petitioner to her murder. (Opposition at 2.) Although the prosecution provided Arreola's rap sheet showing that he had been arrested for burglary in 1995, they failed to disclose many of his other arrests (for petty theft, possession of drugs and stolen property), convictions, and outstanding warrants, one of which was still pending at the time of his trial testimony. (PHC Claim 3 at 263-264.) The prosecutor also remained silent as Arreola falsely testified about his criminal history. Thus, had the defense been provided with the true nature of Arreola's background,

² The jury was not aware of the prosecution's deception because Petitioner's inept trial attorney, Rudy Petilla, failed to point out these inconsistencies. (*Id.* at 237-238.) As noted in the pending habeas petitions, Petilla had a poor reputation among Fresno judges and lawyers, rushed this case to trial within just a couple months of his appointment because he wanted his case progress payments, and spent funds intended for experts and investigation to support his gambling habit. (*In re Doolin*, No. S197391, at 3-4, 59-64, 109-113, 117-122, 126-131, 315; *see also In re Doolin*, No. 234285.)

it would have served as powerful impeachment evidence and undermined his testimony regarding seeing Petitioner with Tucker prior to her death.

Additionally, as with Arreola, the prosecution withheld the true criminal record of the victims in the case, Alice Alva and Debbie Cruz. (PHC Claim 3 at 269-272.) The prosecution provided defense counsel with Alva's rape sheet, which noted only one arrest in 1994. (*Id.* at 269-270.) However, the truth was that Alva had about ten arrests in 1994 and 1995 alone, many of which were for drug possession. Similarly, Cruz's rap sheet furnished by the prosecution showed she had a 1995 conviction for narcotics but nothing else. (*Id.* at 271-272.) However, the truth was she had multiples arrests for possession and/or use of drugs in 1994 and 1995, including a pending case at the time of Petitioner's trial for drug possession. Had trial counsel known about the true nature of their criminal background, he could have more effectively attacked the reliability and credibility of the prosecution's witnesses and thus, the state's case against Petitioner.

Accordingly, because of the ongoing deception perpetuated by the prosecution against Petitioner, this Court should grant the requested relief so that the truth can finally be known. Contrary to Respondent's contention that Petitioner's "argument is misdirected because it would require an amendment to the statutory provisions of Business and Professions Code section 6068," as discussed above, such assertion is inaccurate. (Opposition at 6.)

C. Allowing Mr. Mugridge to reveal the confidences of his deceased client, Josefina Saldana, would not result in her "embarrassment or harm," as Respondent claims, because she is already a convicted multiple murderer.

Additionally, Respondent urges this Court not to grant the relief sought herein because doing so would dissuade clients from being forthright with their attorneys out of concern that such information may be revealed and lead to a harm to them or their family. (Opposition at 4.) In support of its argument, Respondent cites *Swidler & Berlin v. United States* (1998) 524 U.S. 399, 407, for the proposition that the attorney-client privilege survives the death of the client. (*Ibid.*) While it is true that *Swidler* found that, in general, the privilege should apply posthumously, this case is distinguishable in that a person's life is at

stake. As stated in the dissenting opinion of Justice O'Connor, with whom Justices Scalia and Thomas joined: "Although the attorney-client privilege ordinarily will survive the death of the client, I do not agree with the Court that it inevitably precludes disclosure of a deceased client's communications in criminal proceedings. In my view, *a criminal defendant's right to exculpatory evidence or a compelling law enforcement need for information may, where the testimony is not available from other sources, override a client's posthumous interest in confidentiality.*" (*Id.* at 411, emphasis added.) As Justice O'Connor further noted: "We have long recognized that 'the fundamental basis upon which all rules of evidence must rest – if they are to rest upon reason – is their adaptation to the successful development of the truth.' [Citation omitted.] In light of the heavy burden that they place on the search for truth, [citation], 'evidentiary privileges in litigation are not favored, and even those rooted in the Constitution must give way in proper circumstances,' [citation]. Consequently, we construe the scope of privileges narrowly." [Citation] (*Ibid.*) Indeed, "[a] number of exceptions to the privilege already qualify its protections," such as in cases where there is "a dispute between heirs over the decedent's will" and the privilege "give[s] way to the interest in settling the estate." (*Id.* at 414.) Thus, "[w]here the exoneration of an innocent criminal defendant or a compelling law enforcement interest is at stake, the harm of precluding critical evidence that is unavailable by any other means outweighs the potential disincentive to forthright communication." (*Id.* at 416, emphasis added.) Finally, as Justice O'Connor wisely observed, "the cost of silence," here Keith Doolin's very life, "warrants a narrow exception to the rule that the attorney-client privilege survives the death of the client." (*Ibid.*)

An exception is further warranted in Petitioner's case because any revelation by Mr. Mugridge of his dead client's confidences would not, as Respondent claims, cause her further "embarrassment or harm." (Opposition at 4.) To the contrary, the reputation of Josefina Sonia Saldana was that of a kidnapper and brutal murderer. Her crimes garnered intense television, radio and print media coverage, both in the U.S. and Mexico. There were numerous news articles, many front page, relating to her murder case, conviction and

suicide. These span 1998 through 2001. They describe her kidnapping and killing of an 8 1/2 months pregnant woman, disembowelment and cutting out the fetus, dismembering the body, scattering the body parts in both Mexico and California, and then bringing the dead fetus home. (See Ex. A 1a-20a, sampling of ten news articles regarding Saldana's murder case, attached hereto.) Given the horrific nature of Saldana's crimes and the amount of publicity the case garnered, it is highly unlikely a revelation by Mr. Mugridge that she additionally killed Peggy Tucker, a prostitute whom Petitioner was convicted of murdering, would cause further harm or embarrassment to her or her family. Indeed, one article described in detail how Saldana's family members helped her move the victim's body from the backyard³ of the house. (Ex. A, *Saldana kin describe blood, body testimony provides evidence against the suspected killer of Fresno Margarita Flores* at 5a-7a.)

The following are excerpts from ten articles that describe some of the horrific details of Ms. Saldana's murderous rampage:

ARREST MADE, BUT WOMAN STILL MISSING FRESNO WOMAN SUSPECTED OF LURING A PREGNANT MARGARITA FLORES FROM HER HOME

Fresno Bee, The (CA) - September 19, 1998

Page: A1

A Fresno woman was arrested Friday in the abduction of Margarita Flores, Fresno police said. But Flores, 8 1/2 months pregnant and severely ill, remains missing.

Josefina Sonia Saldana, 40, was booked in Fresno County Jail on kidnapping charges, police Lt. Jerry Davis said Friday night.

. . . .

Davis said at a news conference that Saldana kidnapped Flores "by luring her from her home under false pretenses."

(Ex. A at 1a-2a.)

³ Similarly, Peggy Tucker's body was found behind Saldana's house. Two years earlier Natalie Carrasco's body, whose murder officially remains unsolved, was found in front of Saldana's home. Ms. Carrasco's mother was of the belief that Saldana killed both Tucker and her daughter, and in fact was told by a detective that he believed Saldana had killed Natalie. (See PHC Claim 1, *In re Doolin*, Case No. S234285.)

TIMELINE

Fresno Bee, The (CA) - September 27, 1998

Page: A22

Monday, Sept. 14 A woman claiming to be from a charitable group calls Margarita Flores and offers her baby supplies about 9:30 a.m. Flores, 40, is 8 1/2 months pregnant and diabetic. . . . Later in the week, a witness recalls seeing Flores between 5 and 5:30 p.m. outside a Taco Bell restaurant in Chowchilla in a pickup truck driven by a woman. They appear to be struggling.

Tuesday, Sept. 15 Josefina Sonia Saldana, 40, arrives before noon at Valley Children's Hospital with a dead female fetus. . . . Farmworker Serafin Rodarte, who lives on Saldana's property in Fresno, sees what appears to be a woman's body behind Saldana's home. He does not tell police.

Wednesday, Sept. 16 Saldana leaves Fresno for Mexico

Thursday, Sept. 17 Relatives of Saldana tell authorities a woman's body had been seen on the Saldana property. Police find blood but no body. They question Rodarte. After seeing news reports about the disappearance, the witness of the Taco Bell sighting contacts police.

Friday, Sept. 18 Saldana returns from Mexico early in the morning. Police arrest her about 9:30 a.m. on a kidnapping charge. . . .

. . . .

Tuesday, Sept. 22 Police are notified after Rodarte misses his ride to work. Authorities find him hanged in his house behind Saldana's home. They also find suicide notes . . . in which Rodarte . . . says he had nothing to do with Flores' disappearance. Police rule his death a suicide. Authorities formally charge Saldana with kidnapping. . . .

(*Id.* at 3a.)

DETECTIVES USE TV ADS IN SEARCH

Fresno Bee, The (CA) - September 29, 1998

Page: A1

Fresno detectives hope a special report on a Spanish television network and an expanded focus on Southern California and across the Mexican border will help them find kidnap victim Margarita Flores.

. . . .

Investigators are hoping viewers will call with tips on the pregnant Fresno

woman who disappeared two weeks ago. Telemundo . . . reaches 60 U.S. markets and 85% of the nation's Hispanic viewers. . . .

Police Lt. Jerry Davis said the change was prompted by reports that Flores' accused kidnapper, Josefina Sonia Saldana, traveled to Mexico two days after Flores was seen leaving home with a woman who offered to give her free baby supplies.

Saldana is accused of kidnapping Flores on Sept. 14. The suspect brought a female fetus to Valley Children's Hospital the next day and on Sept. 16, drove to Baja California, returning Sept. 18, police said.

She was arrested that day and is being held on \$1 million bond at Fresno County Jail.

(*Id.* at 4a.)

SALDANA KIN DESCRIBE BLOOD, BODY TESTIMONY PROVIDES EVIDENCE AGAINST THE SUSPECTED KILLER OF FRESNAN MARGARITA FLORES

Fresno Bee, The (CA) - May 21, 1999

Page: A1

The husband and daughter of Josefina Sonia Saldana revealed grisly details Thursday of how they helped her attempt to move a woman's body in their back yard one day after she came home with a dead baby girl.

Detectives also testified that a terrified Margarita Flores, who spoke only Spanish, attempted to escape from Saldana at a Taco Bell drive through in Chowchilla. . . .

Flores, 40 years old and 8 1/2 months pregnant, disappeared Sept. 14. Pieces of her mutilated body were found on a hillside near Tijuana, Mexico about 20 days later.

Authorities believe Saldana kidnapped Flores and killed her to remove the fetus because Saldana couldn't have more children.

Saldana, 41, is charged with two counts of murder and kidnapping and could face the death penalty if convicted. She is being held on \$1 million bail.

Detective Benito Castellanos testified that the kitchen knives at Saldana's home were missing about the time the dead baby and the body were brought to the home.

Saldana's husband, Juan Carlos Sanchez, said he found blood drops on the kitchen floor and a bloody blouse in the house Sept. 14 but couldn't locate

his wife. . . .

He testified his wife came home about 2:30 a.m. the next day, Sept. 15, holding a dead baby girl. . . .

He and Saldana's mother and her husband took the fetus to Valley Children's Hospital, left it there, and returned home.

He washed out the pickup because there was "a lot of blood" in it, he said. . . .

The next day, his wife told him there was a body in the back yard.

"She wanted me to help her move the body," Sanchez said.

The body appeared to be that of a woman, because two smooth legs were poking out from under a serape, or Mexican blanket, he said.

. . . .

Saldana's daughter, Magdalena Bustos, tearfully testified that she joined Sanchez and Saldana in trying to move the body, but "it was too heavy."

The next day, about 2 p.m., Bustos and Saldana left in a red Ford Ranger pickup with a camper shell and headed for Tijuana, Mexico

Under intense questioning by Gunderson, Bustos said she had told investigators of a "bad smell" coming from the truck bed, and that she saw a large plastic bundle in there.

Bustos testified that her mother stopped on dirt roads five times on the way to Tijuana and disposed of plastic bags.

Later, she smelled pine cleanser odor coming from the back of the truck, she said.

She said on the trip to Mexico her mother said several times, "What have I done?"

A detective testified that after Saldana kidnapped Flores, the pregnant woman tried to escape but failed.

Fresno Detective Teri Terry said she interviewed a woman who was waiting in the drive-through line at a Taco Bell in Chowchilla, driving the car directly behind the red Ranger.

A pregnant Hispanic woman, believed to be Flores, got out of the Ranger and had a gash on her hand that appeared to be about an hour old.

. . . .

Saldana . . . tried to remove her from the van. Flores got into the driver's lap. Later, she tried to hide in the back of the van.

A man in another car came to assist, and while Flores “grabbed the seat in a bear hug,” Terry testified, Saldana and the man pried her loose and forced her into the red Ranger. Saldana then drove off with the passenger door still open, hitting a sign along the way.

(*Id.* at 5a-7a.)

JURY HEARS TWO TALES OF 2 WOMEN LAWYERS BEGIN THEIR STATEMENTS IN SALDANA MURDER TRIAL

Fresno Bee, The (CA) - January 23, 2001

Page: B1

Josefina Sonia Saldana murdered Margarita Flores to obtain her fetus, dismembered her victim and then scattered body parts in Southern California and Mexico.

. . . .

Prosecutor Blake Gunderson repeated two phrases to the jury of eight men and four women as he laid out his case.

“Dead body. Dead baby.”

Woven around the phrases was a description of a cold killer and the evidence that Gunderson hopes will convict Saldana, 43, of two murders -- those of Flores, 40, and her fetus.

The prosecutor described how, after Flores disappeared Sept. 14, 1998, Saldana took her daughter on a trip to Mexico on the pretense of visiting a doctor.

While the pair were driving, the daughter noticed a bundle wrapped in the back of the truck, he said.

“At least one stop she remembers her mom getting out of the truck and throwing something out the back,” Gunderson said.

He then told the jury of how police in Tijuana, Mexico, found a head and an arm outside of town and identified them as Flores’ remains, and how later a leg was found in north San Diego County.

Then, lowering his voice to a whisper, Gunderson said: “That was in fact the leg of Margarita Flores Ramirez.”

. . . .

Flores was lured from her home on Sept. 14, 1998, by a woman promising to help with baby supplies.

“Margarita left to get this aid,” Gunderson said. “Margarita’s husband

didn't go with them. He expected them back in 20 to 30 minutes. Tragically, that didn't happen."

Later in the day, Flores attempted to escape from Saldana at a Taco Bell drive-through in Chowchilla. But the defendant persuaded others that Flores was on medication and persuaded two people to help get her back into Saldana's truck.

At 3 a.m. the next day, Saldana returned to her house.

"The defendant came home and she had a baby with her," Gunderson said. "The baby was dead."

As friends and family grieved for Saldana, who had told others it was her baby, they persuaded the defendant to take the dead child to the hospital.

"She seemed very calm," Gunderson said about Saldana as she carried a dead fetus to Valley Children's Hospital.

"She wasn't upset," he said. "She wasn't emotional. She didn't show any signs of caring about this dead baby."

(*Id.* at 8a-9a.)

SALDANA 'THREW OUT' PLASTIC BAG TEARFUL DAUGHTER SPEAKS OF SEEING WOMAN'S BODY IN YARD

Fresno Bee, The (CA) - February 2, 2001

Page: A1

Josefina Sonia Saldana's daughter testified Thursday that she helped her mother attempt to move a woman's body in their back yard and then took a trip to Mexico in which her mother tossed plastic bags from the bed of a pickup truck.

As the pair drove to Mexico, Maggie Bustos said, she and her mother wound up on a dirt road. She said Saldana stopped the truck, got out and headed to the back.

"She threw out a bag," Bustos said.

"Do you remember telling Detective Garcia that your mom may have done this as many as five times?" prosecutor Blake Gunderson said.

. . . .

Saldana is accused of dismembering Margarita Flores, 40, after kidnapping and murdering her to obtain her fetus. The prosecution contends that Saldana scattered Flores' remains throughout Southern California and Mexico.

. . . .

Bustos remembered a disturbing scene from the morning her mother came home with a dead baby.

“Can you tell us what you saw when you went to the back [yard]?” Gunderson asked.

“Mattresses,” Bustos replied as she bowed her head and sobbed.

“Was there anything else with the mattresses?” Gunderson gently pressed, his voice barely above a whisper.

. . . .

“A woman’s body,” Bustos mumbled as she choked back tears. She then described the body as naked with blood on it.”

Gunderson: “Did your mom ask you to do anything?”

“Yes.”

“What did your mom ask you to do?”

“Help her move it off our property,” Bustos said as she pushed aside her glasses and dabbed her eyes with tissue.

. . . .

Mata had testified about the days after Saldana entered a hospital emergency room carrying a dead fetus Sept. 15, 1998. A pregnant Flores was reported missing the previous day.

. . . .

Next on the stand was the defendant’s mother, Eudelia Saldana.

“What did Josie say she wanted to do with the baby?” Gunderson asked.

“Just bury it, I think,” the mother replied through an interpreter of Spanish.

(*Id.* at 10a-12a.)

*SALDANA’S HUSBAND TESTIFIES 23-YEAR-OLD TAKES THE STAND
IN FRESNO MURDER CASE, TELLING OF FINDING BLOODY
BLOUSE, KNIVES*

Fresno Bee, The (CA) - February 6, 2001

Page: B1

Josefina Sonia Saldana’s husband said he found a bloodied blouse and about a dozen missing kitchen knives at the couple’s home the same day Margarita Flores was reported missing.

Juan Carlos Sanchez testified for more than four hours Monday against his wife, accused of kidnapping and murdering a pregnant Flores, 40, to obtain

her fetus.

Sanchez, 23, was questioned about the events after he returned to his South Grace Avenue home from work about 5 p.m. on Sept. 14, 1998.

He said he became concerned when Saldana, who is 20 years his elder, was not home when he discovered the blood-stained blouse and missing cutlery.

Saldana finally arrived home at 3 a.m., the next morning, carrying a dead fetus, Sanchez said.

Under questioning by prosecutor Blake Gunderson, the husband said he argued with his wife about what they should do with the fetus.

Gunderson: "What did your wife want to do with the baby?"

Sanchez: "She did not want to take her to the hospital. She said that she wanted to leave her in the refrigerator."

Sanchez said his wife did not agree to take the baby to the hospital until 7 a.m.

The prosecution says that by the time the fetus was taken to the hospital, Flores had been abducted and murdered by Saldana. The prosecution says that after her trip to the hospital, Saldana dismembered Flores and scattered her remains in Southern California and Mexico.

. . . .

[T]here was a body in the back yard. Sanchez admitted he tried briefly to move the body, but then "I told her I couldn't help her with that."

(*Id.* at 13a-14a.)

SALDANA TEAMS SUM UP CASES JURY DELIBERATIONS COULD BEGIN TODAY AFTER DEFENSE AND PROSECUTION WRAP UP

Fresno Bee, The (CA) - March 13, 2001

Page: B1

The prosecution argued that it was reasonable to conclude that Saldana kidnapped a pregnant Flores to obtain her fetus, murdered her and scattered her body parts in Southern California and Mexico.

. . . .

Describing events at the Chowchilla Taco Bell on Sept. 14, 1998, Gunderson said, "Margarita flees from [Saldana's] truck" and into a stranger's van.

Saldana and another man tried to remove Flores from the van, Gunderson said. Wrapping his arms around an imaginary object, he recalled "the bear

hug that she managed to put on that seat.”

He called it a “desperate effort” to escape Saldana. “Ultimately, Margarita’s forced back into the truck . . . but she’s still fighting.”

(*Id.* at 15a-16a.)

SALDANA GUILTY OF MURDERS SHE FACES LIFE IN PRISON WITH NO PAROLE FOR KILLING FRESNO WOMAN, FETUS

Fresno Bee, The (CA) - March 23, 2001

Page: A1

Josefina Sonia Saldana kidnapped a pregnant mother of five and murdered her and her unborn child, a Fresno County Superior Court jury concluded Thursday afternoon.

“A despicable human being will be spending the rest of her life in prison,” prosecutor Blake Gunderson said of the woman convicted of killing Margarita Flores and the fetus that court documents refer to as “baby Flores.”

. . . .

During the trial, Gunderson argued that Saldana, 43, kidnapped Flores, 40, murdered her and her fetus and then scattered parts of her dismembered body in Southern California and Mexico.

. . . .

Key to his case was an episode at the Chowchilla Taco Bell, when Flores left Saldana’s truck and entered a stranger’s van on Sept. 14, 1998—the day before Saldana appeared at a hospital carrying Flores’ dead fetus. . . .

(*Id.* at 17a-18a.)

SALDANA LAWYER LEFT WITH DOUBTS DID KILLER BELIEVE HER OWN STORY, OR “WAS SHE JUST SUCH A GOOD LIAR?”

Fresno Bee, The (CA) - March 27, 2001

Page: B1

Josefina Sonia Saldana’s suicide jarred her lawyer, David Mugridge, with emotion: sadness, then anger and finally the need for some type of closure.

. . . .

What happened was a 2 1/2-year saga that involved four deaths -- the murder of Flores and her unborn child and the suicides of Saldana and Serafin Rodarte, who killed himself after being questioned by police in the case.

Thursday, a Fresno County Superior Court jury found Saldana, 43, guilty of

kidnapping a pregnant Flores, 40, and murdering her and her fetus in September 1998. Less than two days after the jury's verdict, Saldana hanged herself in her jail cell. . . .

(*Id.* at 19a-20a.)

As the above articles show, Saldana's crimes were gruesome beyond belief. Indeed, the prosecutor in Saldana's case described her as "a despicable human being." (Ex. A, *Saldana guilty of murders she faces life in prison with no parole for killing Fresno woman, fetus* at 17a.) Given her already sullied reputation, no adverse consequences could possibly come from having Saldana's attorney disclose her other crimes, at least one of which was falsely attributed to Petitioner.

In fact, such disclosure would be of service and comfort to Peggy Tucker's family because they would finally know the truth about what actually happened to her. It would also instill trust in our criminal justice system, as the public would feel confident that the courts will do all that is necessary to ensure that an innocent person is not executed.

II. THIS COURT SHOULD GRANT THE REQUESTED RELIEF OR, ALTERNATIVELY, AN ORDER TO SHOW CAUSE SHOULD ISSUE ON PETITIONER'S HABEAS CORPUS CLAIMS OF INNOCENCE

Should this Court decide against issuing an order allowing Mr. Mugridge to reveal evidence of Petitioner's innocence, then it should issue an order to show cause based upon the pending claims in the exhaustion petition. (*In re Doolin*, No. S197391; *see also In re Doolin*, No. 234285.) An order to show cause would be appropriate and not "premature" as Respondent claims because that case has been fully briefed since December 28, 2012. Because the claims therein relate to Petitioner's innocence, an evidentiary hearing should be granted so that all such evidence, including that in the possession and knowledge of Mr. Mugridge, may be presented.

Contrary to Respondent's suggestion that the evidence at trial, such as ballistics, pointed to Petitioner's guilt, this and virtually every other piece of evidence has been effectively challenged on habeas corpus. (*See Opposition* at 2.) For example, evidence in the pending exhaustion petition shows that the prosecution expert's testimony regarding cru-

cial evidence, e.g., ballistics, tire tread marks, DNA, etc., were in fact unreliable.⁴ (See PHC Claim 2, Case No. S197391, at 159-254.) Had Petitioner been appointed a competent and ethical trial attorney to challenge the prosecution's false evidence and argument, the jury would never have convicted him.

As provided in the pending habeas corpus petitions, the system failed Petitioner at every level – from the Fresno County Superior Court knowingly appointing him trial counsel with a poor reputation among the legal community; to that attorney betraying his client's trust by gambling throughout the trial with funds intended for experts and investigation; to the prosecution deliberately presenting false evidence, knowing perhaps full well that Petitioner's incompetent attorney would not meaningfully challenge them; and to a compromised trial judge who failed to disclose his personal history and bias against Petitioner and his family, who allowed the inept attorney to rush the capital case to trial within just a couple months of his appointment, and who ignored Petitioner's numerous requests for new counsel despite the fact that it was obvious to all that his attorney was ill-prepared. In fact, even when a respected member of the Fresno County capital defense panel, Katherine Hart, intervened, *pro bono*, and filed a motion on behalf of Petitioner for replacement counsel outlining trial counsel's incompetence and informing of a bankruptcy court's recent finding of fraud against said attorney, the judge was unmoved.

Thus given that Petitioner, who up until this case had never been charged nor convicted of a crime, has been denied for the past 20 years the opportunity to fully and fairly present his case and prove his innocence, the interest of justice compels this Court to grant the requested relief.

⁴ As previously noted, Petitioner's inept lawyer failed to hire his own experts to challenge the prosecution's unreliable assertions about the evidence because he conducted virtually no investigation on the case and spent funds intended for experts to support his gambling habit. (*In re Doolin*, No. S197391, at 3-4, 59-64, 109-113, 117-122, 126-131, 315; *see also In re Doolin*, No. 234285.)

CONCLUSION

Accordingly, this Court is moved to authorize David Raymond Mugridge to make available to the undersigned all files and information in his possession that bear on Petitioner's innocence, or grant other appropriate relief.

Dated: August 23, 2016

Respectfully submitted,

ROBERT R. BRYAN
PAMALA SAYASANE

By:


ROBERT R. BRYAN

Attorneys for Petitioner,
Keith Zon Doolin

DECLARATION OF SERVICE BY MAIL

I, ROBERT R. BRYAN, declare that I am over 18 years of age, not a party to the within cause; my business address is 1955 Broadway, Suite 605, San Francisco, California 94109. Today I served a copy of the attached **Reply to Opposition to Motion for Order Permitting Former Counsel for Josefina Saldana, Deceased, To Grant Petitioner's Attorneys Access To Any Information In His Possession Bearing On Their Client's Innocence; Exhibit A, 1a-20a**, upon the following by mailing same in an envelope, postage prepaid, addressed as follows:

Amanda D. Cary, Esq.
Deputy Attorney General
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Fresno, California 93721

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No. 13400, 4-EY-25
San Quentin State Prison
San Quentin, California 94974

David R Mugridge, Esq.
1221 Van Ness Ave., Suite 500
Fresno, California 93721

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 23rd day of August 2016 at San Francisco, California.


ROBERT R. BRYAN
Attorney for Petitioner,
Keith Zon Doolin

ARREST MADE, BUT WOMAN STILL MISSING FRESNO WOMAN SUSPECTED OF LURING A PREGNANT MARGARITA FLORES FROM HER HOME.

Fresno Bee, The (CA) - September 19, 1998

- Author/Byline: PABLO LOPEZ & LOUIS GALVAN THE FRESNO BEE
- Edition: HOME
- Section: TELEGRAPH
- Page: A1
- Readability: 6-8 grade level (Lexile: 1030)

A Fresno woman was arrested Friday in the abduction of Margarita Flores, Fresno police said. But Flores, 8-1/2 months pregnant and severely ill, remains missing.

Josefina Sonia Saldana, 40, was booked in Fresno County Jail on kidnapping charges, police Lt. Jerry Davis said Friday night.

The arrest solves one piece of the puzzle, Davis said. By divulging Saldana's name, he hopes someone will help police find Flores, who needs medical attention for high blood pressure, diabetes and cancer.

Tips can be kept confidential.

Flores, 40, has been missing since Monday afternoon when, according to her husband, Eleadora Cruz, she left home with a female stranger who had offered to provide the couple with baby furniture and a year's supply of diapers.

Flores' family believes she is being held captive until she gives birth so her kidnappers can sell the baby.

Davis said at a news conference that Saldana kidnapped Flores "by luring her from her home under false pretenses."

Detectives have found no motive for the kidnapping and no reason to believe Flores is dead. "But it's a long way from being over," said Davis, who praised witnesses who have already helped police.

Saldana was arrested Friday morning after witnesses, familiar with the case through news accounts, told police that Saldana was seen at Flores' home. Saldana was also reported to have been with the victim in a vehicle, Davis said.

The witnesses provided information about the vehicle, which led to the arrest of Saldana in a southeast Fresno neighborhood, Davis said.

"They said they saw [Saldana] struggle with Flores, who was trying to get away," Davis said. "They also said Flores was being held by force in the suspect's vehicle."

Detectives have impounded the vehicle, hoping to find clues to Flores' disappearance.

After news of the arrest, Eleadora Cruz stood outside his home, weary and wondering about his wife.

"I hope they find her alive," he told reporters who converged on his tiny home on Van Ness Avenue near Belmont Avenue.

Cruz said he didn't know Saldana and preferred not to talk about the case, saying the strain has taken a toll on him, his relatives and his friends.

"Yes, the arrest gives us hope," he said.

Relatives Friday afternoon voiced their opinions about the case.

"Someone has to be holding her against her will," said Carmen Flores, 61, the missing woman's mother. "Why else would she not come home or telephone us and let us know where she is?"

"She can't be being held for money. We are a poor family. We don't have any money. It has to be the baby they are after."

Carmen Flores, who lives in Tijuana, Mexico, arrived in Fresno Thursday night to help take care of her missing daughter's five children, who range in age from 2 to 10.

According to Cruz, the mystery woman told them she worked for a newly formed nonprofit organization that helped low-income families.

Cruz said the woman told him she would take his wife from their home to a warehouse to pick up the furniture and diapers. She said they

would be back in about 20 minutes.

They never returned.

Cruz said his wife, who was due to give birth within days of her disappearance, is a diabetic who needs injections six times a day. She also is suffering from uterine cancer, he said.

Flores didn't take medication or her purse with her when she left the house with the other woman.

Cruz said he does not have any evidence that his wife was kidnapped for her unborn baby, but said that he is leaning toward that conclusion.

"We don't have any enemies," he said. "We don't owe anybody anything, we are not involved in drug trafficking, and we don't have much money."

Lt. John Fries, a spokesman for the Fresno Police Department, said nothing has been ruled out in their investigation of the woman's disappearance.

"We are all aware we are dealing with some very unusual circumstances," he said.

The case has been assigned to one of the department's most experienced missing persons investigators, Desiree Perry, and Detective Louie Galindo.

Asked to comment about the family's theory, several people in child- and infant-related businesses and organizations said no black market for babies exists in Fresno.

"I never have even heard of anything like that at all," said Ed Hurlbutt, executive director of the Fresno/Madera Right to Life organization. "You hear of that overseas, but never here."

A social worker at a child adoption agency concurred.

"It's beyond me to understand anything like that," said Judy Luft of Infant of Prague Adoption Services. "It's not like anything I ever heard of."

Meanwhile, friends and family of Margarita Flores have not given up hope.

"I still have my faith in God that He will return her home to me," her mother said. "I'm staying here until she returns."

Cruz said about 2,000 posters about his missing wife have been printed and are being distributed throughout the Central Valley.

Using a network of farmworker friends to help distribute them, Cruz's brother, Juan, said posters have already been put in the communities of Madera, Mendota, Kerman, Fowler, Parlier, Oakhurst and Coarsegold. Flores' husband said every day that passes without word about his wife has been torturous for him and the children.

The eldest children - two boys and a girl from Margarita Flores' previous marriage - are aware their mother is missing and arrangements have been made for them to receive professional counseling, he said.

The two other children, Carlos Cruz, 4, and Jorge Cruz, 2, however, are too young to be told what is going on, he said.

"Carlos has been having trouble sleeping and asks about his mother all the time," he said. "We tell him she went away for a little while, but will be home soon."

"Jorge cries for her a lot. He and his mother are very close." Bee staff writer Michael Krikorian contributed to this report.

• Caption: MARY A. LOMMORI - THE FRESNO BEE Eleadora Cruz, husband of Margarita Flores, takes care of one the couple's sons, Carlos, 4, Friday morning. Later, upon hearing of an arrest in his wife's case, Cruz said: "The arrest gives us hope. Carmen Flores, mother of Margarita Flores, arrived in Fresno from Tijuana, Mexico, to help take care of her daughter's children. Flores said she thinks Margarita is being held against her will. Margarita Flores, a diabetic with uterine cancer, has been missing since Monday afternoon. She is expecting a child.

• Record: 1998262011

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TIMELINE

Fresno Bee, The (CA) - September 27, 1998

- Edition: HOME
- Section: TELEGRAPH
- Page: A22
- Readability: 6-9 grade level (Lexile: 1050)

Monday, Sept. 14 A woman claiming to be from a charitable group calls Margarita Flores and offers her baby supplies about 9:30 a.m. Flores, 40, is 8-1/2 months pregnant and diabetic. The woman arrives at Flores' southeast Fresno home about 1:30 p.m. and drives off with Flores, saying the two will return in 20 minutes. When they do not return, Flores' husband, Heliodoro Cruz, spends a few hours conducting a search with his brother, then reports the disappearance to police about 7 p.m. Later in the week, a witness recalls seeing Flores between 5 and 5:30 p.m. outside a Taco Bell restaurant in Chowchilla in a pickup truck driven by a woman. They appear to be struggling.

Tuesday, Sept. 15 Josefina Sonia Saldana, 40, arrives before noon at Valley Children's Hospital with a dead female fetus. Saldana says she delivered it unattended in Tulare County. Hospital employees notify the Madera County Coroner's Office. Farmworker Serafin Rodarte, who lives on Saldana's property in Fresno, sees what appears to be a woman's body behind Saldana's home. He does not tell police.

Wednesday, Sept. 16 Saldana leaves Fresno for Mexico in her 1994 Ford Ranger pickup.

Thursday, Sept. 17 Relatives of Saldana tell authorities a woman's body had been seen on the Saldana property. Police find blood but no body. They question Rodarte. After seeing news reports about the disappearance, the witness of the Taco Bell sighting contacts police.

Friday, Sept. 18 Saldana returns from Mexico early in the morning. Police arrest her about 9:30 a.m. on a kidnapping charge. Saldana, demanding a lawyer, refuses to answer questions. Police impound her truck. Relatives of Flores begin searching around Saldana's home.

Monday, Sept. 21 Police announce they will seek a court order to test Saldana to determine whether she had given birth. Police question Rodarte again.

Tuesday, Sept. 22 Police are notified after Rodarte misses his ride to work. Authorities find him hanged in his house behind Saldana's home. They also find suicide notes in which Rodarte says goodbye to his family and says he had nothing to do with Flores' disappearance. Police rule his death a suicide. Authorities formally charge Saldana with kidnapping.

Wednesday, Sept. 23 Saldana pleads innocent at a preliminary hearing. She is ordered to undergo medical tests to determine whether she had been pregnant.

Thursday, Sept. 24 Police issue a description of Saldana's truck and ask anyone who had seen it the previous week to call Fresno detectives.

Friday, Sept. 25 Police release a picture of the pickup and say they are still awaiting results of a blood test to determine the parentage of the fetus.

Source: Fresno Police Department

- *Index terms: MISSING WOMAN MARGARITA FLORES TIMELINE*
- *Record: 1998270052*
- *Copyright: Copyright (c) 1998 The Fresno Bee*

DETECTIVES USE TV ADS IN SEARCH

Fresno Bee, The (CA) - September 29, 1998

- Author/Byline: LOUIS GALVAN THE FRESNO BEE
- Edition: HOME
- Section: TELEGRAPH
- Page: A1
- Readability: >12 grade level (Lexile: 1360)

Fresno detectives hope a special report on a Spanish television network and an expanded focus on Southern California and across the Mexican border will help them find kidnap victim Margarita Flores.

Telemundo Group Inc., which has a Valley affiliate, KMSG Channel 59, and police are working on a news account to be broadcast this week on both sides of the border.

Investigators are hoping viewers will call with tips on the pregnant Fresno woman who disappeared two weeks ago. Telemundo, recently purchased by Sony, reaches 60 U.S. markets and 85% of the nation's Hispanic viewers. The local affiliate is owned by Sanger Telecasters Inc.

Police Lt. Jerry Davis said the change was prompted by reports that Flores' accused kidnapper, Josefina Sonia Saldana, traveled to Mexico two days after Flores was seen leaving home with a woman who offered to give her free baby supplies.

Saldana is accused of kidnapping Flores on Sept. 14. The suspect brought a female fetus to Valley Children's Hospital the next day and, on Sept. 16, drove to Baja California, returning Sept. 18, police said.

She was arrested that day and is being held on \$1 million bond at Fresno County Jail. Saldana has pleaded innocent to the charge; a preliminary hearing is set for Oct. 8.

Davis said investigators are keeping in close contact with Southern California law enforcement agencies in areas where Saldana might have traveled during her trip to Mexico.

Investigators also are working with the state Department of Justice office in San Diego, which has a staff of liaison officers assigned to work with Mexican authorities on criminal investigations, Davis said.

Fresno detectives also are in regular contact with the FBI, he said.

New information, whether it comes from TV viewers or others sources, would assist Fresno detectives who are reviewing the reports gathered to date and reinterviewing witnesses.

Police and Flores' relatives have little hope of finding her alive, but a search group made up of Flores' family, friends and volunteers continues to gather each morning at Calwa Park on Church Avenue between Cedar and Maple avenues. They then fan out to distribute posters of the missing woman and to search fields, canals, orchards and other areas.

Jose Cruz, a nephew of Flores, said about two dozen people searched two areas Monday, along Highway 180 west of Fresno, and along Highway 41 north of Herndon to Valley Children's Hospital in southern Madera County.

Cruz also thanked those who patronized two car washes during the weekend to raise money to support the search efforts. Nearly \$1,300 was raised, he said.

- Caption: Margarita Flores disappeared with a woman who offered to give her free baby supplies and diapers.

- Record: 1998272003
- Copyright: Copyright (c) 1998 The Fresno Bee

SALDANA KIN DESCRIBE BLOOD, BODY TESTIMONY PROVIDES EVIDENCE AGAINST THE SUSPECTED KILLER OF FRESNAN MARGARITA FLORES.

Fresno Bee, The (CA) - May 21, 1999

- Author/Byline: LEWIS GRISWOLD THE FRESNO BEE
- Edition: HOME
- Section: TELEGRAPH
- Page: A1
- Readability: 7-9 grade level (Lexile: 1070)

The husband and daughter of Josefina Sonia Saldana revealed grisly details Thursday of how they helped her attempt to move a woman's body in their back yard one day after she came home with a dead baby girl.

Detectives also testified that a terrified Margarita Flores, who spoke only Spanish, attempted to escape from Saldana at a Taco Bell drive-through in Chowchilla. They said Saldana persuaded strangers to pry Flores out of a van where she sought refuge and force her back into Saldana's truck.

The testimony disturbed Flores' family members.

"I feel bad for my sister," said Arturo Flores of Los Angeles. "I can't think clearly. I'm real sad."

Flores, 40 years old and 8-1/2 months pregnant, disappeared Sept. 14. Pieces of her mutilated body were found on a hillside near Tijuana, Mexico about 20 days later.

Authorities believe Saldana kidnapped Flores and killed her to remove the fetus because Saldana couldn't have more children.

Saldana, 41, is charged with two counts of murder and kidnapping and could face the death penalty if convicted.

She is being held on \$1 million bail.

Evidence was presented Thursday for the first time in public at a preliminary hearing, at which Saldana, wearing a brown suit, sat with her lawyer David Mugridge.

The two-day hearing continues today in Fresno, and Judge Edward Sarkisian Jr. could order Saldana to stand trial.

Detective Benito Castellanos testified that the kitchen knives at Saldana's home were missing about the time the dead baby and the body were brought to the home.

Saldana's husband, Juan Carlos Sanchez, said he found blood drops on the kitchen floor and a bloody blouse in the house Sept. 14 but couldn't locate his wife. Testifying in Spanish through a translator, Sanchez said he went to the nearest hospital to look for Saldana, who he believed was pregnant, fearing that something had happened to her. He didn't find her.

He testified his wife came home about 2:30 a.m. the next day, Sept. 15, holding a dead baby girl. She said she had given birth to the baby in the family's truck near Bakersfield, he testified. She told family members the baby "couldn't breathe" when it was born.

He and Saldana's mother and her husband took the fetus to Valley Children's Hospital, left it there, and returned home.

He washed out the pickup because there was "a lot of blood" in it, he said.

He said his wife wanted to wash it out. but he wouldn't let her because he thought she had just had a baby and wanted her to relax.

The next day, his wife told him there was a body in the back yard.

"She wanted me to help her move the body," Sanchez said.

The body appeared to be that of a woman, because two smooth legs were poking out from under a serape, or Mexican blanket, he said. Sanchez said he didn't look at the body.

He told his wife to call the police, but she said, "Not yet."

When he asked her why she wouldn't call police, she answered, "because she didn't want to spend all her life in jail for something she had not done."

His wife said she thought she might have killed the person, Sanchez said.

Prosecutor Blake Gunderson asked Sanchez, "Did she say, "I can't remember, I think I killed her'?"

Sanchez replied, "Yes."

He admitted helping move the body "a little bit," but said he refused his wife's requests and left the house.

Chief Deputy District Attorney James Oppliger said Sanchez isn't being charged with a crime because "he's not a responsible party. Mere presence at the scene of a crime is not a crime."

Saldana's daughter, Magdalena Bustos, tearfully testified that she joined Sanchez and Saldana in trying to move the body, but "it was too heavy."

The next day, about 2 p.m., Bustos and Saldana left in a red Ford Ranger pickup with a camper shell and headed for Tijuana, Mexico for a doctor's appointment.

Under intense questioning by Gunderson, Bustos said she had told investigators of a "bad smell" coming from the truck bed, and that she saw a large plastic bundle in there.

Bustos testified that her mother stopped on dirt roads five times on the way to Tijuana and disposed of plastic bags.

Later, she smelled pine cleanser odor coming from the back of the truck, she said.

She said on the trip to Mexico her mother said several times, "What have I done?"

A detective testified that after Saldana kidnapped Flores, the pregnant woman tried to escape but failed.

Fresno Detective Teri Terry said she interviewed a woman who was waiting in the drive-through line at a Taco Bell in Chowchilla, driving the car directly behind the red Ranger.

A pregnant Hispanic woman, believed to be Flores, got out of the Ranger and had a gash on her hand that appeared to be about an hour old.

"The woman looked afraid and came up and wanted to get in the car," Terry said the driver told her. Flores entered the woman's van and motioned for her to drive off, but the car was stuck in line.

Flores spoke only Spanish, and the van driver spoke only English.

Saldana then got out of the Ranger and spoke to the driver of the van, telling her that the pregnant woman was on medication and "could get violent."

Saldana, speaking to Flores in Spanish and English, tried to remove her from the van. Flores got into the driver's lap. Later, she tried to hide in the back of the van.

A man in another car came to assist, and while Flores "grabbed the seat in a bear hug," Terry testified, Saldana and the man pried her loose and forced her into the red Ranger. Saldana then drove off with the passenger door still open, hitting a sign along the way.

The story caused relatives of Flores to cringe, and Flores' mother left the courtroom twice in tears.

"It opens up the old wounds," said Glory Gonzalez, a family friend. "Hearing about it makes it visual to us, and it hurts."

Ending the day's testimony, Detective Albert Murrietta said he interviewed a doctor in Tijuana that Saldana visited Sept. 17.

The doctor said Saldana, whom he hadn't seen since 1995, wanted him to perform a surgical procedure on her in which he would scrape the lining of the uterus.

She said she wanted it done that day because it was urgent, Murrietta testified. "I asked if it would make it appear that she just aborted or given birth to a child," Murrietta testified. He said "yes."

• Caption: RICHARD DARBY - THE FRESNO BEE Josefina Saldana listens to testimony during a preliminary hearing Thursday. Margarita Flores

• Index terms: MULTIPLE DEATH COURT MURDER CHILD WOMAN

• Record: 1999141061

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The neighbor, Serafin Rodarte, had told police he saw a woman's body outside Saldana's home.

Flores was reported missing from her home Sept. 14, 1998. A day later, Saldana arrived at Valley Children's Hospital in Madera County carrying a dead female fetus, police reported. She told hospital workers she had given birth and rushed to the hospital.

Police arrested Saldana three days later after she reportedly returned to Fresno from Tijuana, Mexico. Tijuana authorities found human body parts on a hillside just outside town. Two weeks later, Oct. 7, 1998, police identified the remains as those of Flores.

Saldana's trial is expected to last about three months, the attorneys said in court Friday.

Judge Gary Austin, who is presiding over the trial, asked the jury commissioner to subpoena 2,500 possible jurors. They expect about 500 to 600 to show up for jury selection.

The reporter can be reached at mbaker @fresnobee.com or 441-6295.

• Caption: Josefina Saldana Heliodoro Cruz, husband of Margarita Flores, on suggestions by Josefina Saldana's lawyer that Flores intended to sell her baby

• Index terms: 12/11/2000

• Record: 2000344004

• Copyright: Copyright (c) 2000 The Fresno Bee

JURY HEARS TWO TALES OF 2 WOMEN LAWYERS BEGIN THEIR STATEMENTS IN SALDANA MURDER TRIAL.

Fresno Bee, The (CA) - January 23, 2001

- Author/Byline: Michael Baker THE FRESNO BEE
- Edition: FINAL
- Section: LOCAL NEWS
- Page: B1
- Readability: 7-9 grade level (Lexile: 1060)

Josefina Sonia Saldana murdered Margarita Flores to obtain her fetus, dismembered her victim and then scattered body parts in Southern California and Mexico.

Or, Saldana was mixed up in a \$10,000 baby-for-sale transaction that ended in tragedy when Flores died after an induced delivery to which she consented. Someone else dismembered Flores.

Two very different, yet equally disturbing, stories about two women, told by lawyers making opening statements Monday in Saldana's murder trial.

Prosecutor Blake Gunderson repeated two phrases to the jury of eight men and four women as he laid out his case.

"Dead body. Dead baby."

Woven around the phrases was a description of a cold killer and the evidence that Gunderson hopes will convict Saldana, 43, of two murders -- those of Flores, 40, and her fetus.

The prosecutor described how, after Flores disappeared Sept. 14, 1998, Saldana took her daughter on a trip to Mexico on the pretense of visiting a doctor.

While the pair were driving, the daughter noticed a bundle wrapped in the back of the truck, he said.

"At at least one stop she remembers her mom getting out of the truck and throwing something out the back," Gunderson said.

He then told the jury of how police in Tijuana, Mexico, found a head and an arm outside of town and identified them as Flores' remains, and how later a leg was found in north San Diego County.

Then, lowering his voice to a whisper, Gunderson said: "That was in fact the leg of Margarita Flores Ramirez."

Saldana's counsel, Steve Smith, told of a different relationship between his client and Flores.

Flores was not murdered, Smith said, referring to his client as Sonia throughout his statement.

"From the outset, we will demonstrate that this was not a kidnapping or a murder in any sense," Smith said.

"We will show you that a secret deal existed between Sonia and Flores, where Flores agreed to prematurely deliver her baby and adopt it to Sonia for a fee," he said. "That fee was approximately \$10,000."

Saldana had neither the strength nor skill to take apart a body, Smith said. Scientific evidence will lead "to the inference that Serafin Rodarte, and not Sonia, was responsible for dismembering Flores" -- pointing a finger at a neighbor who committed suicide.

As the lawyers dramatically outlined their opposing theories to the Fresno County Superior Court jury, the courtroom was void of family and friends of the defendant or alleged victim.

As Gunderson and Smith, who is co-counsel on the defense team, spoke, Saldana sat next to her lead lawyer, David Mugridge, showing little emotion.

Gunderson began his statement by telling of the similarities between Saldana and Flores.

Both are Hispanic. Both are in their early 40s. Both have children. Both are telling friends and family they are pregnant. But there was one big difference.

"One of those women wasn't telling the truth to family and friends ... and it was the defendant," he said.

The prosecutor then began with his version of what happened during a five-day period in September 1998, beginning when Flores left her home and never returned:

Flores was lured from her home on Sept. 14, 1998, by a woman promising to help with baby supplies.

"Margarita left to get this aid," Gunderson said. "Margarita's husband didn't go with them. He expected them back in 20 to 30 minutes. Tragically, that didn't happen."

Later in the day, Flores attempted to escape from Saldana at a Taco Bell drive-through in Chowchilla. But the defendant persuaded others that Flores was on medication and persuaded two people to help get her back into Saldana's truck.

At 3 a.m. the next day, Saldana returned to her house.

"The defendant came home and she had a baby with her," Gunderson said. "The baby was dead."

As friends and family grieved for Saldana, who had told others it was her baby, they persuaded the defendant to take the dead child to the hospital.

"She seemed very calm," Gunderson said about Saldana as she carried a dead fetus to Valley Children's Hospital.

"She wasn't upset," he said. "She wasn't emotional. She didn't show any signs of caring about this dead baby."

The next day, Saldana headed to Mexico, Gunderson said. Upon Saldana's return to Fresno on Sept. 18, 1998, she was arrested.

Gunderson then turned to how police started putting together the gruesome story that ended with: "Dead body. Dead baby."

He told how police used fingerprints and DNA to establish the identity of body parts. How forensic evidence will show that bloody clothes found at Saldana's house and blood in the back of her pickup will link her to the crime of murdering Flores and her fetus.

Smith began his statement by reminding the jury to wait until both sides have presented their evidence before judging his client and that Saldana is presumed innocent until proved guilty.

Flores was a willing partner who was never kidnapped but died tragically after an induced delivery to which she consented, Smith told the jury.

Smith said Flores was motivated to sell her baby because she was financially burdened and receiving welfare assistance. Saldana pretended to be pregnant to hide the scam.

Smith said that bank account records will be used to verify that the two had agreed to the transaction and how, to pay the remainder of the fee, Saldana had agreed to give her truck to Flores.

Flores agreed to take herbal supplements to facilitate an early labor, from which she died, Smith said.

"You will see from medical records that Flores had diabetes as a result of being pregnant and that this could have provided an explanation about her conduct in Chowchilla as well as a potential factor in her death," Smith said.

The defense lawyer then turned to Serafin Rodarte, who committed suicide just after Saldana's arrest and the day before he was scheduled to take a polygraph.

Smith said Saldana suffered a stroke in 1995 that caused a deterioration in her strength and an impairment of her motor skills, while Rodarte "was a big man ... that had experience with knives and butchering."

An expert will discuss "the mixtures of brute force and fine motor skill that it would have taken to dismember Ms. Flores," Smith said.

The prosecution will begin presenting witnesses today.

The reporter can be reached at mbaker@fresnobee.com or 441-6295.

- *Index terms:* 1/23/2001
- *Record:* 2001023015
- *Copyright:* Copyright (c) 2001 The Fresno Bee

SALDANA 'THREW OUT' PLASTIC BAG TEARFUL DAUGHTER SPEAKS OF SEEING WOMAN'S BODY IN YARD.

Fresno Bee, The (CA) - February 2, 2001

- Author/Byline: Michael Baker THE FRESNO BEE
- Edition: FINAL
- Section: MAIN NEWS
- Page: A1
- Readability: 6-7 grade level (Lexile: 960)

Josefina Sonia Saldana's daughter testified Thursday that she helped her mother attempt to move a woman's body in their back yard and then took a trip to Mexico in which her mother tossed plastic bags from the bed of a pickup truck.

As the pair drove to Mexico, Maggie Bustos said, she and her mother wound up on a dirt road. She said Saldana stopped the truck, got out and headed to the back.

"She threw out a bag," Bustos said.

"Do you remember telling Detective Garcia that your mom may have done this as many as five times?" prosecutor Blake Gunderson said.

"I don't remember," Bustos said as she lowered her eyes, focusing on events from two years ago, when she was 16 years old.

Saldana is accused of dismembering Margarita Flores, 40, after kidnapping and murdering her to obtain her fetus. The prosecution contends that Saldana scattered Flores' remains throughout Southern California and Mexico.

The defense says Flores died after a baby-for-sale transaction and an induced labor to which Flores consented. Someone else, they say, dismembered Flores.

Bustos' eyes were filled with tears throughout the testimony against her mother. Before recounting the incidents during the trip to Mexico, Bustos remembered a disturbing scene from the morning her mother came home with a dead baby.

"Can you tell us what you saw when you went to the back [yard]?" Gunderson asked.

"Mattresses," Bustos replied as she bowed her head and sobbed.

"Was there anything else with the mattresses?" Gunderson gently pressed, his voice barely above a whisper.

"Yes."

"What else was there?"

An inaudible response.

Judge Gary Austin asked the 18-year-old Bustos to please repeat the answer.

"A woman's body," Bustos mumbled as she choked back tears. She then described the body as naked with blood on it.

Gunderson: "Did your mom ask you to do anything?"

"Yes."

"What did your mom ask you to do?"

"Help her move it off our property," Bustos said as she pushed aside her glasses and dabbed her eyes with tissue.

Saldana looked down, her chin trembling.

"We tried to put the body in the truck," Bustos said. "We couldn't lift it. We just moved it back."

"Did you walk inside, or did you run inside?" Gunderson asked.

"I can't remember," Bustos said.

"When you went inside, were you upset?"

"Yes."

"Were you scared?"

"Yes."

"When you went inside, what did you do?"

"Took a shower."

"Did you do anything else?"

"Cried," Bustos said as she shivered.

Thursday was filled with emotional testimony as three of Saldana's family members testified as prosecution witnesses.

At the beginning of the day, Saldana's sister, Marta Mata, took the stand to resume cross-examination that was halted for more than two days when Saldana began shaking uncontrollably and almost fell over.

After tests from doctors concluded that Saldana had not suffered a stroke, the trial resumed Thursday morning. Still apparently experiencing effects of the episode, which her lawyer said caused at least temporary paralysis, Saldana entered court favoring her left side while dragging her right foot on the ground.

Mata had testified about the days after Saldana entered a hospital emergency room carrying a dead fetus Sept. 15, 1998. A pregnant Flores was reported missing the previous day.

During Thursday's cross-examination by Saldana's lawyer, Steve Smith, Mata answered more questions regarding conversations with her sister.

At one point, Mata began crying and swiveled in her chair, placing her back to the courtroom audience.

Austin called for a recess, and Mata bolted from the witness stand and headed straight out the door into a private hallway used by court personnel and jurors.

Saldana bowed her head, began shaking and placed her left palm over her eyes.

Next on the stand was the defendant's mother, Eudelia Saldana.

While Josefina Saldana occasionally would look toward her mother, Eudelia's gaze never stopped on her daughter. Throughout her testimony, Eudelia Saldana tucked her chin against her left clavicle in the opposite direction of her daughter.

Gunderson questioned the mother about a conversation before Saldana took the dead child to Valley Children's Hospital.

"What did Josie say she wanted to do with the baby?" Gunderson asked.

"Just bury it, I think," the mother replied through an interpreter of Spanish.

"Did you ever tell Josie, 'The baby shouldn't be treated like a pet?'"

"I don't remember what I might have asked. It's been a long time. I don't remember."

"Did you ever tell Josie that 'if you don't take the baby to the hospital,' you would take it yourself?"

"I might have said that, but I don't remember," Eudelia Saldana said.

On cross-examination by Smith, she said she was concerned about her daughter and the baby. Smith got an affirmative answer when he asked whether Eudelia Saldana suggested taking the child to a "baby hospital."

The majority of Thursday's testimony came from Bustos, who spent more than two hours on the stand, flanked by her own lawyer, Leslie Westmoreland.

Austin appointed Westmoreland to represent Bustos on a possible Fifth Amendment claim. Bustos never exercised her right against self-incrimination.

The cross-examination of Bustos is expected to take the bulk of time in court today.

Bustos said Thursday that after she tried to help her mother move the woman's body in the back yard, she went to school but returned home early because she could not concentrate.

Upon arriving home, Saldana said she wanted to go to Mexico to visit her doctor, Bustos said.

Bustos said she then got into the truck with her mother driving but saw something in the pickup bed.

"A black plastic," she explained without elaborating, except to say there was a bad smell.

Gunderson then asked whether Bustos remembered telling a detective she thought it might be the dead woman bundled in the plastic.

"I don't remember telling him that," Bustos said.

The reporter can be reached at mbaker@fresnobee.com or 441-6295.

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SALDANA'S HUSBAND TESTIFIES 23-YEAR-OLD TAKES THE STAND IN FRESNO MURDER CASE, TELLING OF FINDING BLOODY BLOUSE, KNIVES.

Fresno Bee, The (CA) - February 6, 2001

- Author/Byline: Michael Baker THE FRESNO BEE
- Edition: FINAL
- Section: LOCAL NEWS
- Page: B1
- Readability: 7-9 grade level (Lexile: 1070)

Josefina Sonia Saldana's husband said he found a bloodied blouse and about a dozen missing kitchen knives at the couple's home the same day Margarita Flores was reported missing.

Juan Carlos Sanchez testified for more than four hours Monday against his wife, accused of kidnapping and murdering a pregnant Flores, 40, to obtain her fetus.

Sanchez, 23, was questioned about the events after he returned to his South Grace Avenue home from work about 5 p.m. on Sept. 14, 1998.

He said he became concerned when Saldana, who is 20 years his elder, was not home when he discovered the blood-stained blouse and missing cutlery.

Saldana finally arrived home at 3 a.m., the next morning, carrying a dead fetus, Sanchez said.

Under questioning by prosecutor Blake Gunderson, the husband said he argued with his wife about what they should do with the fetus.

Gunderson: "What did your wife want to do with the baby?"

Sanchez: "She did not want to take her to the hospital. She said that she wanted to leave her in the refrigerator."

Sanchez said his wife did not agree to take the baby to the hospital until 7 a.m.

The prosecution says that by the time the fetus was taken to the hospital, Flores had been abducted and murdered by Saldana. The prosecution says that after her trip to the hospital, Saldana dismembered Flores and scattered her remains in Southern California and Mexico.

The defense says Flores died after a baby-for-sale transaction gone bad and an induced labor to which Flores consented. Someone else, they say, dismembered Flores.

Sanchez said he was upset that Saldana asked him to move a body in the couple's back yard after they returned from Valley Children's Hospital.

Why didn't he call police? Gunderson asked.

Sanchez: "My wife didn't allow me to [call the police]. ... She took the phone from me."

"She couldn't remember what she had done, what had happened the day before," he continued. "She told me that maybe they had had a fight, but she couldn't remember."

Why did Saldana ask Sanchez and her then-16-year-old daughter to help move the body? Gunderson asked.

Sanchez: "She thought that she had done it. That's why she wanted us to help her."

Saldana's lawyer, David Mugridge, questioned Sanchez's memory of why Saldana didn't want him to call police. Mugridge read Sanchez's answer from a previous court hearing: "Because she didn't want to spend all of her life in jail for something she had not done."

Sanchez said he answered truthfully at the May 1999 hearing.

Sanchez's memory of events in September 1998 were at the core of questioning by Mugridge, who at the beginning of the cross-examination asked Saldana's husband whether his recollection was better now than it was two years ago.

Sanchez said he could not remember whether he told a defense investigator about the refrigerator comment and said "I think so" when

asked whether he told police about the conversation.

Sanchez said his memory is better on some subjects because "I've thought about what was happening." When pressed by Mugridge, Sanchez could not name specifically what his recollection was better about.

During all of Monday's testimony, Sanchez showed little outward emotion and only glanced a couple of times toward his wife. Sanchez said his wife has begun divorce proceedings, but he is not sure whether they are final.

Through Sanchez's testimony, details were revealed about Serafin Rodarte, a neighbor of Saldana's who committed suicide after being questioned by police.

"He was a bit nervous," Sanchez told Mugridge.

Sanchez said his wife and Rodarte told him there was a body in the back yard. Sanchez admitted he tried briefly to move the body, but then "I told her I couldn't help her with that."

Sanchez said he went to his brother's house in Parlier.

Why not call police from Parlier? Gunderson asked.

Sanchez: "I was confused. I didn't know what to do. I had never been in a case like this."

During Mugridge's cross-examination, Sanchez said he did not know what 911 was for, did not know how to call police and did not know whether other phones in the house he shared with Saldana were available.

Mugridge will continue his cross-examination this morning.

The reporter can be reached at mbaker@fresnobee.com or 441-6295.

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SALDANA TEAMS SUM UP CASES JURY DELIBERATIONS COULD BEGIN TODAY AFTER DEFENSE AND PROSECUTION WRAP UP.

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- Section: LOCAL NEWS
- Page: B1
- Readability: 9-12 grade level (Lexile: 1150)

The prosecution and defense both urged jurors Monday to pick the reasonable interpretation of what happened between accused murderer Josefina Sonia Saldana and alleged victim Margarita Flores in September 1998.

The dilemma for the jury is that each side said its story was the reasonable one, as closing arguments began the eighth week of Saldana's trial.

The prosecution argued that it was reasonable to conclude that Saldana kidnapped a pregnant Flores to obtain her fetus, murdered her and scattered her body parts in Southern California and Mexico.

"Just because this case, in many ways, was a circumstantial-evidence case doesn't mean it's a bad case," prosecutor Blake Gunderson began his argument.

The defense countered that the prosecutor's conclusions are illogical. "If it doesn't make any sense, you must find for the defense," Saldana's lawyer, David Mugridge, rhymed.

The defense maintains Saldana and Flores agreed to a baby-sale transaction, that Flores induced her own labor and died after she parted company with Saldana.

As the lawyers presented their theories, Saldana alternated her gaze between jurors and a Bible she held in her lap. Her mouth would move slightly as she silently read verses.

In the afternoon, Flores' husband, Heliodoro Cruz, arrived in court and sat with friends and family. Listening to the arguments, Cruz, who speaks limited English, watched without expression as the lawyers paced before the jury.

The alleged crime of kidnapping became a focus for both lawyers.

Gunderson argued that felony murder, which maintains that a killing -- whether intentional or unintentional -- during the commission of certain crimes, including kidnapping, is considered first-degree murder.

He spent about an hour weaving testimony into a calm narrative.

Describing events at the Chowchilla Taco Bell on Sept. 14, 1998, Gunderson said, "Margarita flees from [Saldana's] truck" and into a stranger's van.

Saldana and another man tried to remove Flores from the van, Gunderson said. Wrapping his arms around an imaginary object, he recalled "the bear hug that she managed to put on that seat."

He called it a "desperate effort" to escape Saldana. "Ultimately, Margarita's forced back into the truck ... but she's still fighting."

Gesturing to describe a scene, Gunderson said, "During [Saldana's] attempt to drive off, this car door is open sufficiently that it swings and hits this sign ... Saldana then leaves, running two stop signs."

Mugridge spent most of his time attacking the prosecutor's version of the Taco Bell episode.

"Why did Sonia take Margarita to a public place like a Taco Bell in Chowchilla?" Mugridge said. "That just defies logic."

"Margarita did not even try to get out until food was ordered and drinks were delivered," Mugridge said, noting that the pair had been in the drive-through line for about 20 minutes.

Mugridge repeated his client's testimony that Flores was suffering a diabetic episode -- an alternate reason for her behavior.

"Why didn't she try to escape earlier?" he asked. "It's unreasonable to presume ... that she believed she was in danger, that she was

being kidnapped."

Besides the kidnapping charge, Gunderson recalled witnesses who said Flores never would have agreed to give up her baby.

Further, Gunderson reiterated testimony from Fresno County's chief forensic pathologist, Venu Gopal, who concluded that Flores' death was a homicide and that she suffered some wounds before her death.

Besides focusing on the Chowchilla incident, Mugridge spent time linking Saldana and Flores.

Flores had lied, he said, claiming she was due to give birth in late September or early October 1998, when she actually was due in December. But Saldana knew of the lie.

"How did she know the lie that was being put forth by Margarita unless she had talked to Margarita?" Mugridge said. "They were in this together."

Mugridge also explained an alternative guilty verdict for the jury if it did not find felony murder.

In Saldana's case, Mugridge explained, the jury could reach a conclusion of involuntary manslaughter if it thinks it was "a dumb act by the defendant assisting somebody in the birth of a baby in the back of a pickup without experience ... without skill."

Mugridge is expected to finish his closing argument today and be followed by Gunderson's rebuttal.

Afterward, the jury will begin its deliberations.

The reporter can be reached at mbaker@fresnobee.com or 441- 6295.

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SALDANA GUILTY OF MURDERS SHE FACES LIFE IN PRISON WITH NO PAROLE FOR KILLING FRESNO WOMAN, FETUS.

Fresno Bee, The (CA) - March 23, 2001

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- Readability: 6-8 grade level (Lexile: 1040)

Josefina Sonia Saldana kidnapped a pregnant mother of five and murdered her and her unborn child, a Fresno County Superior Court jury concluded Thursday afternoon.

"A despicable human being will be spending the rest of her life in prison," prosecutor Blake Gunderson said of the woman convicted of killing Margarita Flores and the fetus that court documents refer to as "baby Flores."

Hours after the verdict, Flores' husband, Heliodoro Cruz, said: "This is something I've been waiting for for a long time."

Cruz, 42, was working in Fowler when he was notified the jury was ready. He did not make it to court, but learned of the verdicts when contacted by a relative.

His eyes welling with tears, he said life for him and his family has been very difficult since his wife's death 2 1/2 years ago.

"I miss her very much," he said. "Where do we go now? We go forth. I want my wife to be remembered. She was an excellent mother. Now I have to continue to take care of our children."

After nearly seven days of deliberations, the jury found Saldana guilty of two counts of felony first-degree murder, kidnapping and a special-circumstance allegation of multiple murders.

The mandatory penalty will be life in prison without the possibility of parole.

The eight male and four female jurors entered the courtroom at 3:01 p.m., avoiding eye contact with Saldana and scanning the courtroom crowd.

Defense lawyer David Mugridge said he and Saldana prayed before and after the verdicts.

As the verdicts were read, Saldana looked straight ahead and appeared shocked. None of her family was present. During the trial, Saldana's mother, daughter and former husband all testified against her.

At one point, Saldana closed her eyes tightly, creases forming at her temples. Two hard swallows and Saldana opened her eyes as a convicted murderer.

With the lines around her mouth appearing more pronounced, Saldana rose halfway as the jury exited the courtroom, then collapsed back into her chair.

Bailiffs placed Saldana in a wheelchair, handcuffed her left wrist to an armrest and pushed her from the courtroom and back to Fresno County Jail to await an April 19 sentencing hearing.

As the court clerk read the verdict, interpreters whispered to Flores' mother, Carmen Flores, and sister-in-law, Rosie Flores.

One of them clutched the mother's arm as she confirmed in Spanish that her daughter's killer would spend the rest of her life in prison. The mother nodded her head slowly but showed no other emotion.

Gunderson spoke briefly with Flores' relatives after court adjourned. He hugged Carmen Flores before she and her daughter were escorted out a back exit to shield them from reporters waiting in the hall.

"They don't want to talk to anyone right now," said District Attorney investigator Pete Chavez as he led the pair from the courthouse.

During the trial, Gunderson argued that Saldana, 43, kidnapped Flores, 40, murdered her and her fetus and then scattered parts of her dismembered body in Southern California and Mexico.

Saldana testified that she and Flores agreed to a baby-sale transaction and that Flores induced her own labor and died after she left

Saldana's company. Defense lawyers argued that a renter on Saldana's property, Serafin Rodarte, killed and dismembered Flores. Rodarte committed suicide after Saldana's arrest on Sept. 18, 1998.

It was a story the jury ultimately did not buy, said foreman Carl M. Jones, who spoke with The Bee after the verdict.

"The bottom line was that she told a very good story, very convincing to us," Jones said. "But the more we looked at it ... we were just able to shoot holes in it right and left."

Jones said the jury took its first vote on the second day of deliberations. The result: 8-4, leaning toward guilty. Those who thought Saldana was not guilty -- Jones admitted to being one of them -- gave her testimony credibility.

"It sounded so convincing," he said. "She had an answer for everything. She had obviously been well-prepared."

But the more that jurors mulled over Saldana's testimony and compared it with what other witnesses said, the more they questioned the defendant's credibility.

"It was just lie after lie," Jones said. "Being a liar doesn't make you a killer, but it really hurts your credibility."

Jones said the jury quickly understood the importance of the kidnapping aspect of the case in making its decision.

Gunderson had argued Saldana was guilty of felony murder because Flores and the fetus died during the commission of a kidnapping. Under the law, whether the death was intentional or unintentional did not matter for a first-degree murder conviction.

Key to his case was an episode at the Chowchilla Taco Bell, when Flores left Saldana's truck and entered a stranger's van on Sept. 14, 1998 -- the day before Saldana appeared at a hospital carrying Flores' dead fetus. Gunderson said the incident proved kidnapping.

"We were convinced that the Taco Bell incident was a kidnapping and some people were even convinced that it happened before that," Jones said.

"You have to live with your decision," he said. "You have to get to sleep at night. We're confident, in the end, that we made the right decision based on the law."

Gunderson and defense lawyers Mugridge and Steve Smith praised jurors for their work and diligence.

"They asked some very pointed questions that showed they were very knowledgeable about the law; we have justice in this case," Mugridge said. "If there was a quick verdict -- in a day or so -- then I would be a little more shocked."

Mugridge said he expects to appeal the verdict and had some problems with the investigation of his client.

The lawyer insisted that police detectives and prosecutors hypothesized how Flores died and searched for clues to prove it, rather than examining all the evidence neutrally.

"I accept the fact that the jury came to a verdict, but I don't understand this case myself," Mugridge said. "I don't know the facts. I don't know if Serafin became involved or to what extent. Josefina continues to express her innocence and her sorrow at what's taken place."

Gunderson scoffed at that suggestion, calling it and Saldana's version of the truth "sheer and utter nonsense."

"The defendant's testimony sealed it because her story was so unbelievable," he said.

Lead investigator Solomon Wells, a detective with the Fresno Police Department, said he believed that justice was done.

"I'm glad it's over," he said. "I thought I would have felt some instant relief, but I haven't. It's almost like leaving behind something familiar."

Gunderson said he has no regrets about the District Attorney's Office deciding to drop the death penalty before trial and instead pushing for a sentence of life in prison.

"I still think it was the appropriate decision to make," he said.

Flores' husband was not upset by the prosecution's decision not to seek the death penalty. "Like I have said before, I don't believe anyone has the right to take another person's life," Cruz said. "Only God has that right."

Staff writer Matthew Kreamer contributed to this report. The reporters can be reached at mbaker@fresnobee.com, lgalvan@fresnobee.com, mkreamer@fresnobee.com or 441-6330.

• Caption: CRAIG KOHLRUSS - THE FRESNO BEE Speaking in Spanish with interpretation by his family pastor, Ramon Pecina, left, Heliodoro Cruz gives a statement to the media at Sanger High School after hearing the verdict in the Josefina Saldana murder case

SALDANA LAWYER LEFT WITH DOUBTS DID KILLER BELIEVE HER OWN STORY, OR 'WAS SHE JUST SUCH A GOOD LIAR?'

Fresno Bee, The (CA) - March 27, 2001

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- Section: LOCAL NEWS
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- Readability: 9-12 grade level (Lexile: 1140)

Josefina Sonia Saldana's suicide jarred her lawyer, David Mugridge, with emotion: sadness, then anger and finally the need for some type of closure.

And with all that, Mugridge is saddled with the same nagging question he had when all this began: "She may have been a murderer, and I leave that decision to the jury's verdict," Mugridge said. "I don't dispute the verdict, but I still don't know if we know the truth."

While many say they know the truth, that Saldana was a killer, Mugridge saw something much more complicated than a person convicted of murdering Margarita Flores and her unborn child.

Often pausing to regain his composure and thumbing a stack of family photos of Saldana during a Monday morning interview in his office, Mugridge said he did want something to come from his client's death.

"I think there are a lot of Sonia Saldanas out there on the streets walking around that are kind of fragile persons," he said.

"If any good can come out of this, we will all start looking around seeing if there is somebody out there that needs a little attention and love, a little bit of God's peace in their heart. Maybe this would prevent some things like this from happening."

What happened was a 2 1/2-year saga that involved four deaths -- the murder of Flores and her unborn child and the suicides of Saldana and Serafin Rodarte, who killed himself after being questioned by police in the case.

Thursday, a Fresno County Superior Court jury found Saldana, 43, guilty of kidnapping a pregnant Flores, 40, and murdering her and her fetus in September 1998. Less than two days after the jury's verdict, Saldana hanged herself in her jail cell.

Many, including Flores' husband, Heliodoro Cruz, see the act as a final admission of guilt. But in an interview Saturday, Cruz said he took no joy from Saldana's suicide and called her final years a great tragedy.

Mugridge concurred with Cruz and offered the Flores family his sympathy: "I really feel sorry for Mr. Cruz's family because I think there are some unanswered questions that we're entitled to know that we'll never know."

Saldana, Mugridge said, "continued right down until the moment before the verdict came in to tell me that she was innocent of the crime and yet she knew that nobody would believe her."

She stood by her story that she and Flores had a baby-sale agreement, that Flores induced her own labor and then died after she left Saldana's side.

"I don't know if that is a product of her own mental problems ... or if it was real," Mugridge said. "I don't know ... Was it really true, or was it true in her mind, or was she just such a good liar?"

The lawyer wanted people to understand what was clear about his client: her religious faith and the feelings she had toward her family. "Nobody is a completely evil, malignant person," he said.

Mugridge displayed more than a dozen sketches Saldana drew while in jail, the latest from October. All had a religious theme; some were related to Bible verses.

"I saw in her a very fully religious person, which was kind of confusing to me in light of the crimes that she was accused of and I think that we can reasonably conclude that she committed at this point."

It was for the love of her family -- including a son and two daughters -- that Saldana told her lawyers to withdraw her plea of not guilty by reason of insanity, Mugridge said.

"She would rather die in prison than go to a state mental hospital," he said. "She didn't want her family to have to suffer that. She was still in her own way a very kind and loving person, and I am not trying to soften at all the horrific things she has done."

Mugridge said Saldana was in death, much as she was in life -- complicated, confused and troubled. Her suicide, he said, did nothing to clear the mystery of Saldana herself or the wake of tragedy she left behind.

"I am sorry at the very end that Sonia gave up and did what she did," he said. "The nature of the crime in this case is horrible. It is a nightmare that everybody that has been involved with this case is going to have to live with forever."

The reporter can be reached at mbaker@fresnobee.com or 441- 6295.

• **Caption:** Josefina Sonia Saldana drew this sketch while in jail. Josefina Sonia Saldana hanged herself in her Fresno jail cell. KURT HEGRE -- FRESNO BEE David Mugridge, a lawyer for Josefina Saldana, speaks about his client who hanged herself Saturday.

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