

Court finds that police coerced murder confession

By JAKE THOMAS
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SALEM — A Woodburn man's murder conviction has been overturned after the Oregon Court of Appeals determined that police coerced his confession, telling him members of his family, including his infant son, wouldn't be released from custody unless he admitted to the crime.

The court's 7-6 decision, issued Dec. 4, centers on Eloy Vasquez-Santiago, a 37-year-old illiterate migrant worker with an IQ of 53. In 2012, Vasquez-Santiago became a suspect in the murder of Maria Bolanos-Rivera, who had worked with him at a berry farm in Hillsboro.

After Bolanos-Rivera

went missing in August, Vasquez-Santiago abruptly left Woodburn with his common-law wife, infant, father and brother. His brother and father were later arrested in California on unrelated charges.

While in custody, they were contacted by Hillsboro police detectives investigating the murder. They told detectives that Vasquez-Santiago had admitted to killing Bolanos-Rivera, according to the court ruling. They also told detectives there was blood on Vasquez-Santiago's hands and on his father's van that he was using the day she went missing.

Vasquez-Santiago continued alone to Mexico after leaving his family in Califor-

nia. After learning his father and brother were in police custody, he contacted the detectives to secure their release. Vasquez-Santiago also mistakenly thought his infant son was in custody.

After turning himself in at the border, he was interrogated by the detectives who repeatedly told him prosecutors would look favorably on his case and his family would be more likely to be released if he confessed. The detectives never corrected his misunderstanding that his infant son was in custody and, instead, perpetuated it, the court ruling said.

"Defendant's family earned their living as migrant farmworkers, making the incapacitation of defendant's father

and brother as workers a significant economic stressor for the family," the court decision said. "Defendant's son was still breastfeeding, increasing the need for him to be reunited with his mother. At the time of the interview, defendant had barely slept for three days. Time and again, defendant was told that his family members' freedom — something essential for the family's economic well-being — turned on defendant confessing."

The court's decision also took into account Vasquez-Santiago's low IQ, which it noted that courts have associated with "subaverage intellectual functioning." The court found that the trial court was wrong in denying a motion by Vasquez-Santia-

go's attorney to throw out the confession. The appeals court reversed Vasquez-Santiago's conviction and remanded the case back to a lower court. It's not clear what the decision immediately means for Vasquez-Santiago. The public defense attorney who represented him declined to comment.

Kristina Edmunson, spokeswoman for the state Justice Department, said in a statement the office is reviewing whether to appeal the court's decision in consultation with the Washington County District Attorney's Office, which prosecuted the case.

The Washington County District Attorney's Office responded with a statement

that Vasquez-Santiago's confession was given "freely and voluntarily."

"This office is hopeful that the Oregon Supreme Court will review this case and provide further guidance in this area of the law," the statement said.

Ryan O'Connor, a Portland defense attorney, said in an email that the court "correctly recognizes the impact that coercive interrogation techniques have on suspects, particularly people with intellectual disabilities or mental illness." He also noted that the opinion is supported by state and federal court cases that've found that using threats or promises regarding a suspect's family are particularly coercive.

Dialysis: Chronic kidney disease now affects 15% of Americans

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Milton-Freewater is a chore, especially in bad weather. Over the past year, Briggs rose from sixth to fifth on the Pendleton waiting list. He figured spots only open for three reasons: someone dies, gets a transplant or moves.

According to the National Kidney Foundation, chronic kidney disease now affects 15% of Americans, thanks to an increasing prevalence of diabetes and obesity and an aging population.

"Kidney disease has been on the rise for three decades," said Dr. Christos Argyropoulos, a nephrologist from the University of New Mexico School of Medicine who is affiliated with the NKF. "More people need dialysis. Especially in rural areas, people are sometimes in a situation where they end up on a waiting list for a dialysis chair."

Reasons include a shortage of dialysis nurses willing to move to rural areas. As the population ages (including about 700,000 nurses predicted by the American Nursing Association to retire by 2024), an overall shortage of nurses looms.

So, access is an issue. Clinics can't simply add more hours unless they can also find more nurses.

Terri White has her blood filtered at a clinic near her California home. It's when she travels that access to dialysis clinics sometimes becomes an issue.

Recently, White and her husband planned a trip to Pendleton to celebrate her grandson's third birthday with daughter Casey White-Zollman and son-in-law Casey Zollman. White called for an appointment at Davita Blue Mountain Kidney Center in Pendleton and learned the clinic had no openings. Widening the net, she called dialysis clinics in Hermiston, Milton-Freewater and Walla Walla, Washington. All were completely booked.

"It was extremely stress-



Terri White reads a book to her grandson, Ryder Zollman, during a recent visit to Pendleton to celebrate Ryder's birthday.

Contributed photo

ful," White said.

Finally, she scored an appointment in Kennewick, Washington, an hour away. The day before she arrived, a chair at Davita's Hermiston Dialysis Center opened up. White would have to twice drive about 40 miles to the clinic and back from Pendleton, but she would get cherished time with her grandson on his birthday.

Briggs and White got good news this month. Davita Regional Operations Manager Aleisa Saltegui said the company will add an extra shift in the first quarter

of 2020 that expands operating hours to 8 a.m. to 10 p.m. on Monday, Wednesday and Friday. Briggs now sits at the top of the waiting list. White has more chance of getting in on her visits to Pendleton.

Saltegui said the clinic averaged a roster of 21 patients from 2014 to 2018, but demand grew suddenly in 2019. Davita's Hermiston clinic, with a capacity of 60, averages 42 regular patients. Some are Pendleton residents hoping to eventually transfer to their hometown clinic.

Saltegui said the company keeps a close eye on

census changes and tries to recruit talent immediately to stay ahead of the game.

"In Pendleton, this was a new trend," she said. "This was unexpected."

While the company tries to act quickly when demand changes, hiring sometimes takes a while.

"Recruiting nurses can be competitive," Saltegui said. "Sometimes recruiting talent to rural areas can be more of a struggle."

However, a team of four is currently training to staff the new shift.

A national development

last summer may change the way patients receive dialysis, shifting them away from clinics like the one in Pendleton. In July, President Donald Trump signed an executive order to develop policies to encourage patients with end-stage kidney disease to dialyze at home rather than in clinics. Centers, where 88% of patients get dialysis, are more expensive. Medicare pays an average of about \$90,000 annually for each patient receiving dialysis at centers.

The order also pushes for earlier diagnosis of kidney disease and the streamlining of the kidney matching process. The order comes with lofty goals — reducing end-stage kidney disease by 25% by 2030 and having 80% of patients with newly diagnosed end-stage kidney disease receiving home dialysis or kidney transplants by 2025.

Reaction to the executive order is mixed.

Richard Knight, president of the American Association of Kidney Patients, calls the move a win for patients.

"We are totally behind the executive order and advocating to push it forward," said Knight, who underwent dialysis himself before getting a kidney transplant. "Home dialysis provides better outcomes."

He said one reason more patients don't choose home dialysis is fear, but "training helps the fear go away."

Argyropoulos, the nephrologist affiliated with the National Kidney Foundation, isn't convinced. He said Trump's goal regarding patients in home dialysis may be unrealistic. He points to Canada, which has reached 25% after a concerted effort.

Home hemodialysis isn't right for everyone either, he said. People with poor eyesight, cognitive impairment or frailty will struggle.

Knight hopes critics will give the strategy a chance.

"Instead of saying we can't do this and we can't do that, let's get started and see

where we can go," he said.

Davita, one of two industry giants in this country, watched its stock value drop after the executive order was announced, then rebound. Davita CEO Javier Rodriguez said in a news release the company is accelerating its role in providing education and technology for home dialysis patients.

Argyropoulos expects smaller clinics to start disappearing with the shift to home dialysis.

"Some clinics will close in the next few years because of the executive order the president signed," he said. "When you reduce the money flowing into the system, you effectively institute a pay cut."

White, who has a genetic condition called polycystic kidney disease, watches these new developments with interest. She used home dialysis for a while, but developed hernias from the process and had to stop. A transplant isn't an option because of a lung condition that reacts badly to anti-rejection drugs.

Three days a week, she sits in her dialysis chair watching television, looking at her iPad or cheerfully shooting the breeze with other patients. Since she sits in the first chair, they call her the greeter.

"This is my lifestyle now," she said. "I have to make the best of it."

She reads of new developments in process — an implantable artificial kidney, wearable artificial kidneys and the use of pig kidneys.

As for Briggs, he's nervous about home dialysis, but considering it for the future. Because of his own health challenges, he's developed empathy for others and acceptance of his circumstances.

"I can't change it," he said. "For whatever reason, this is the plan for me."

He rejoices in the small victories, such as the soon-to-be switch to the Pendleton clinic, saying, "It feels like Christmas."

Police: Change affects what types of question officers can ask during traffic stops

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He said the ruling could eventually cause a decline in DUI enforcement.

The ruling follows a criminal case involving the Beaverton Police Department.

An officer lawfully pulled over defendant Mario Arreola-Botello for failing to signal during both a lane change and turn. While Arreola-Botello was searching for paperwork, the officer asked about the presence of weapons and drugs in the vehicle, and if he would consent to a search.

Arreola-Botello — who primarily spoke Spanish, according to the ruling — agreed to the search. The officer found a baggie of methamphetamine, and an arrest ensued.

Arreola-Botello was eventually charged with possession of methamphetamine, despite his attorney motioning to suppress the evidence obtained during the search and later appealing the conviction — the argument

being that the questions leading up to the search were irrelevant to the traffic stop at hand and lacked constitutional justification.

The Oregon Court of Appeals rejected the argument set forth by attorney Joshua Crowther, but this ruling overturned that decision, and it forms part of the move around various studies that show people of color are more likely to have their vehicles searched during traffic stops.

"Our conclusion today — that all questioning must be reasonably related to the purpose for the traffic stop — will ensure that an officer's questions are not based on such biases," the ruling states.

Days after the ruling was issued, the Oregon Criminal Justice Commission released traffic stop data from 12 of the state's largest law enforcement agencies. The report showed that people in minority groups are slightly more likely to be cited during a traffic stop than white people. The Portland Police



Staff photo by Ben Lonergan

Some law enforcement agencies are changing how officers conduct traffic stops following an Oregon Supreme Court ruling that changes what questions an officer can ask after pulling someone over.

Bureau was twice as likely to search black people than white, according to the data.

Data on medium and smaller agencies will come out in the next two years, according to the commission.

Edmiston said he felt the Hermiston Police Department drives away from bias.

"We really proud of the fact that we have a force that is proportional to the community," Edmiston said.

According to 2018 Census Bureau estimates, Hermiston's Hispanic or Latino population is at 36.7%.

He said that almost 26% of officers with the department are bilingual.

Kara Davis, assistant director of Intermountain Defenders Inc. in Pendleton, said the ruling could reduce discrimination. She said sometimes it's something related to another culture or a lower class that can draw an officer's attention.

"It's not the people we consider 'good people' in our society," she said. "They're not going to ask a random lawyer if they have weapons on them."

She said back when she took on possession cases, about half of them started with traffic stops.

"I wouldn't say that the average traffic stop leads to a criminal case, but a lot of criminal cases lead to traffic stops," she said.

And she doesn't think that's going to stop, because the ruling doesn't affect an officer who requests a search based on reasonable suspicion — the smell of alcohol on someone's breath, or the sight of packaged drugs on the passenger

seat, for instance.

"I wish the public knew they had the right to say no to anything the officer requests voluntarily," she said. "People get nervous around police officers. That if they say no, they'll look guilty."

Pendleton Police Chief Stuart Roberts said rulings like this one could cause a "prevailing attitude of defiance."

"I don't think it's going to change the way we do business significantly," he said.

Roberts added that officers at the police department are trained to identify signs of potential misconduct before requesting a search during a traffic stop.

Because of Pendleton's size, he said, officers are usually already acquainted with the offender population and who might have drug paraphernalia or an outstanding warrant already.

"It's different in a large urban area," he said. "That's a luxury we have, living in a smaller population."