

Conclusion

Anyone who knows Sean Casey knows he is not a criminal. He was accused of being involved in an unfortunate vehicular accident that could have happened to **anyone** reading this story. Mr. Casey is an honest and responsible individual. Absolutely nothing in his past shows otherwise. He is loved and respected by his family, friends, and colleagues. He has also made a significant contribution to not only his local community of Miami, but also to the community of nations of the Western Hemisphere. Sean's incarceration has been a tremendous loss for democracy, human rights, and a free press that he worked so hard to protect in every country of the Americas.

Many factors should be considered in understanding the injustice in this case.

These include:

- (1) The Miami Beach Police Department conducted a sloppy investigation and violated Mr. Casey's Fourth Amendment rights by deceiving him into signing a search release based on false pretenses and denying him the right to an attorney **after** being read his Miranda rights. This was affirmed by Judge Trawick. The fact remains that had the Third District Court of Appeal not reversed Judge Trawick's decision to suppress evidence, this case would have been dismissed in its entirety many years ago!
- (2) The State Attorney's Office has no evidence, not even circumstantial, that places Mr. Casey as the **operator** of the vehicle at the time of the accident, but rather evidence supports him more likely to be a passenger, if he even was in the vehicle. Not knowing what had happened in this case since his deposition in 2003, prominent accident reconstructionist, John Buchanan, was completely shocked at the outcome of this case

when updated by Sean Casey's mother, Genevieve Casey. During a telephone conversation with Mrs. Casey on October 4, 2007, he remarked, "Your son was **not** driving the car that morning. He should have gone to trial." Mr. Buchanan is adamant Sean is innocent in this case;

(3) There is **no** possible way to determine what Mr. Casey's blood alcohol content (BAC) was at the time of the accident. If it was too high, then police should never have interrogated him and coerced him into signing a search release until he was of sound mind. The police determined he was not impaired less than an hour after the accident, which puts into question the validity of the blood examination;

(4) There is absolutely **no** evidence that the driver of the vehicle was driving "recklessly." The driver was traveling with the flow of traffic at only a few miles per hour over the posted limit. It was a clear, sunny morning with no reason to take additional driving precautions. The vehicle changed lanes to pass a Metro bus that had just dropped off passengers. The driver appeared to have been in complete control of the vehicle and could not have anticipated that someone would be in the middle of the roadway as he changed lanes with his vision being blocked by the bus ahead of him. This accident could not have been avoided;

(5) The driver was not the "proximate cause" of the accident. The elderly pedestrian, who suffered from emphysema and high blood pressure became an active, independent cause of her own death when she decided to cross a busy three-lane roadway carrying heavy groceries that could have obstructed her vision of oncoming traffic. If it was not Mr. Casey's vehicle, most likely she would have been struck by the vehicle traveling in

the next lane. This accident was going to happen whether Mr. Casey was driving or not and whether the driver was intoxicated or not;

(6) The damage to Mr. Casey's vehicle shows no front bumper impact with the pedestrian, but rather damage to the front right panel by the tire that suggests the victim probably backed into his car to avoid being struck by a bus or vehicle in the right lane;

(7) Experts have determined that Sean Casey's memory loss is legitimate and he truly does not remember leaving the bar he was at and getting home. It is very possible he was slipped a "roofie" that caused this lapse of memory. If he was in the accident, he could suffer from "dissociative" or "hysterical" amnesia from witnessing such a sight. The State Attorney's Office never conducted its own psychological evaluation to refute this memory loss;

(8) Defense attorney Milton Hirsch and clinical therapist Michael Rappaport provided Mr. Casey with the unethical and criminal advice to flee the country to avoid being wrongly prosecuted. Mr. Hirsch further aided Sean maintain his fugitive status and obstructed justice by sending documents and affidavits abroad whose **only** purpose was to keep Mr. Casey from returning to the United States to face justice. Besides breaking the law by assisting and abetting a fugitive and obstructing justice, Mr. Hirsch was in clear violation of Rule 5.1 (Failure to Maintain Personal Integrity), Rule 4.3 (Failure to Avoid Conflicts of Interest), Rule 4.6 (Lack of Candor), and Rule 6.1 (False Statements, Fraud and Misrepresentation) of The Florida Bar. Sean deserved better counsel from his attorney and advice from his therapist, both of whom he trusted and held in high esteem;

(9) The State Attorney's Office failed to consider all the facts in this case that would exonerate Mr. Casey of the charges and fabricated information expressing blatant disregard of the truth to unfairly prejudice Mr. Casey. The Assistant State Attorney also unconstitutionally punished Sean by not offering a fair plea considering mitigating factors solely because he used his right to due process through a Speedy Trial demand;

(10) Judge Glick *illegally* initiated plea negotiations prior to jury selection and did not provide Sean Casey with reasonable time to consider the plea as established by Florida Rules of Criminal Procedure. Furthermore, the judge threatened Mr. Casey with a 50-year maximum sentence if he did not sign. The signing of the plea agreement *was* coerced and involuntary;

(11) A clear conflict of interest existed in which Mr. Hirsch did not want his unethical and criminal behavior to be disclosed at trial and his client's interest to proceed to trial. It is *very* possible that Mr. Hirsch used his influence and power in the legal community to get Judge Stanford Blake to pull Mr. Casey's case from Judge Schwartz's courtroom to Special Court where he knew Judge Glick, a long-time friend and former colleague, would stand by him and ensure Sean sign a plea agreement. Judge Glick's refusal to listen and view evidence of Mr. Hirsch's wrongdoing can only be seen as protecting his "friend." Mr. Hirsch admitted not knowing Judge Schwartz personally, and thus this case would probably have had a different ending if he had the original judge rule over the case;

(12) Likewise, it is possible that Milton Hirsch collaborated with the State Attorney's Office to "trap" Mr. Casey into signing the plea. The prosecutor would "win" the case

and Mr. Hirsch's behavior would be brushed under the table. It would be a "win-win" situation at Mr. Casey's expense and makes a mockery of justice;

(13) Assistant State Attorney Gail Levine knew absolutely nothing about Sean Casey's background, character, and contribution to society. She even had to ask him, "What do you do?" at a hearing **after** the case was closed.¹⁹² She also failed to acknowledge that a plea of 6-8 years was offered by a previous prosecutor. The State Attorney's Office never considered strong mitigating factors that warranted a downward departure from minimum sentencing guidelines; and

(14) If Mr. Casey was guilty, despite all the evidence and possible scenarios that show otherwise, this is a first-time offense, he has shown remorse since someone died, and there is absolutely **no** possibility of recurrence. Ms. Levine claimed that a defendant's past has nothing to do with determining an appropriate sentence, which completely contradicts standards established in Florida law that encourage considering a defendant's criminal history and possibility of recurrence.¹⁹³ As in *Van Bebber*, the State should have offered a much lighter sentence.

Although every case is different with unique circumstances, a review of only a few of the many sentences for similar convictions in the State of Florida over the past few years will show that Mr. Casey's sentence of 12½ years in State Prison is severe.¹⁹⁴ Even in Miami-Dade County, the same State Attorney's Office that convicted Sean has

¹⁹² Hr'g. Tr. 35:20, Jan. 8, 2007, **Exhibit 14**

¹⁹³ Levine: "Didn't I tell you...it wasn't about Sean's past, it was about Sean's crime?"
Mrs. Casey: "Yes. That's what you said."
[Hr'g. Tr. 85:1-4, Jan. 8, 2007, **Exhibit 14**]

¹⁹⁴ "Patrick Hoang was drunk when he led police on a high-speed pursuit last November [2004]. His car eventually hit a tree, killing a passenger...He was charged with DUI manslaughter, aggravated assault of a police officer, fleeing police, driving with a suspended license and lewd behavior...Hoang got 8 ½ years."

sentenced many other defendants to much lower sentences.¹⁹⁵ Many sentences also include alternative forms of punishment. An average person may think that the sentence is severe because Sean fled the jurisdiction, but that charge alone only carries a one-year statutory minimum, which Mr. Casey has already served, and others listed in Footnote 195 include Failure to Appear convictions.

It was mentioned earlier that there was an accident just four days before the accident in Mr. Casey's case at the same exact location. On March 8, 2001, Carlos

[St. Petersburg Times, Nov. 26, 2005, **Exhibit 65**]

"Kenneth Kubeck also hit a tree after speeding...killing his best friend. [He] walked home and cracked open a beer...Kubeck got two years."

[St. Petersburg Times, Nov. 26, 2005, **Exhibit 65**]

"Two men were convicted of DUI manslaughter [in Florida] for a drunk driving crash in which a U.S. Coast Guardsman was killed...Both were found to be at fault...The victim was a passenger...Both were sentenced to two years in prison..."

[MADDvocate, Spring 2006, **Exhibit 66**]

"Florida – A 58-year old man, who had two previous DUI convictions was sentenced to 7 years...for the July 2002 crash that killed a man...The offender's BAC was .29."

[MADDvocate, Summer 2004, **Exhibit 67**]

"Florida – A female DUI offender...struck a man [who] died...[She] was sentenced to 7 years in prison."

[MADDvocate, Summer 2003, **Exhibit 67**]

"Florida – a 39-year old drunk driver pleaded no contest...in the death of a friend. He was sentenced to 30 days in jail and 300 hours of community service."

[MADDvocate, Summer 2003, **Exhibit 67**]

¹⁹⁵ Name	DC#	Offense	Conviction	Sentence
Ruiz, Miguel	B04126	DUI manslaughter, Leaving the Scene of Accident, DL Violation	12/14/06	1.6 years
Torres, Javier	B04022	DUI manslaughter, Driving w/o License, Aggravated Assault	9/8/06	4 years
Ovalle, Jose	B04521	DUI manslaughter, Failure to Appear, Driving w/o License Unauth. Poss/Use of DL,	5/8/07	2 years
Perez, Daniel	B03893	DUI manslaughter, DUI with Serious Bodily injury, Vehicular Homicide-No Aid	9/28/06	3.6 years
Sandoval, Joseph	B02753	DUI Manslaughter, Homicide Neg. Manslaughter	5/12/05	4 years
Perez, Victor	B03479	DUI Manslaughter, Driv w/o License, Vehicular Homicide-No Aid, Leaving Crash with Death	3/23/06	5 years

Garcia Figueroa stole a Jeep Wrangler and drove down Harding Avenue when he struck and killed 27-year old Sergio Adrian Mascherini who was riding his bicycle. Mr. Figueroa continued driving, crashing into another car on the 1300 block of Collins Avenue. "A high-speed chase between police and the Jeep ensued on Washington Avenue, weaving through traffic and across a concrete median, and sending pedestrians running for safety."¹⁹⁶ Eventually, Figueroa slammed into two parked cars on 11th Street and Michigan Avenue. He was thrown from the car and taken to Jackson Memorial Hospital where he was later arrested. Blood exams taken at the hospital showed he was under the influence of drugs and alcohol. Mr. Figueroa was charged with Grand Theft Auto, DUI manslaughter, Driving Without a License, Leaving Crash with Death, and Fleeing Police on High-Speed Chase with No Regard for Life. He was released on \$50,000 bond. He was appointed a Public Defender and went to trial on August 9, 2002. He was found guilty by jury and sentenced to 8 years in State Prison, all sentences running concurrent, which is a downward departure of minimum sentencing guidelines.¹⁹⁷ It is nothing less than *outrageous* that the same State Attorney's Office offered *nothing* less than 12½ years to Sean Casey.¹⁹⁸ Mr. Figueroa had more charges against him and was facing much more time than Mr. Casey and he was found guilty by his peers at trial, which never happened in Sean's case.

Carlos Garcia Figueroa stole a vehicle and went on a high-speed chase with police through the heavily congested streets of Miami Beach at nighttime when extra

¹⁹⁶ The Miami Herald, "Hit-and-run killer leads police in car chase," Mar. 11, 2001, **Exhibit 68**

¹⁹⁷ Inmate Population Information Detail for Carlos Figueroa, **Exhibit 69**

¹⁹⁸ Inmate Population Information Detail for Sean Casey, **Exhibit 70**

caution should have been taken while driving, putting many lives in danger and showing a “willful” and “wanton” recklessness and disregard of human life. Sean Casey did none of this. There is *no* evidence Mr. Casey was even the driver, and if he was, the accident was unavoidable and could have happened to anyone. Sean was not found guilty by a jury of his peers, but was pressured to sign a plea agreement by a judge who was threatening a statutory maximum of 50 years and his own attorney who had his own personal interests in having him sign the plea to avoid having his criminal behavior revealed. How can the State in good consciousness send Sean Casey to prison for 12½ years and Carlos Figueroa for 8 years?

In the Figueroa case, the victim was a young man with a loving family. In this case, the victim was an elderly female with no immediate family. The only living relative is Martha Sukkert, a niece living in Phoenix, Arizona. In July 2001, Ms. Sukkert signed a release excluding Sean Casey from any and all responsibility and liability in this accident.¹⁹⁹ Many others have expressed their support of Mr. Casey throughout this tragic ordeal, including many directors of the Inter American Press Association (IAPA), comprised of the publishers of the leading newspapers and magazines of the Western Hemisphere, who know that Sean's time will be better served outside of prison.

¹⁹⁹ Executed Release and Probate Court's Approval, Jul. 31, 2002, **Exhibit 71**