

XONR8 Theater: Luis Martinez, Sofia Nelson, Rafael Rosas

Characters:

- Justin Brooks
- Marilyn Mulero
- College law students
- Interviewer
- other guy 1
- other guy2
- Jacqueline Montanez

Lights slowly fade in from a dark setting, revealing Mr Justin Brooks facing the crowd standing in the middle front of two chairs, narrating the following.

Justin Brooks: About 20 years ago, I read a newspaper article about a women on death row. The article said that she was sentenced to death on a plea bargain and that made no sense to me, whatsoever, like how can someone be sentenced to death on a plea bargain? Plea bargain means you're negotiating for a lesser sentence, in exchange for you pleading guilty to giving up your right for a trial. So I went up to the prison and I met up with Ms. Mulero she was 21 years old and she was just really really confused, she didn't really understand what had happened to her. She told me she was innocent but her lawyer had told her the best thing to do was plea, to avoid the death penalty, so I took her case on.

Interviewer steps in. Justin Brooks and Interviewer shake hands and sit down.

Interviewer: Hello Mr Brooks, We would like to interview you about the California innocence Project, and more specifically about Marilyn Mulero.

Justin Brooks: Sure, I'm the director and founder of the Innocence Project, which I actually founded *because* of the Marilyn Mulero case.

Interviewer: So what exactly was the story the court used to prosecute and sentence Ms. Mulero?

JB: So there was a guy named Mudo who got shot. And he was close friends with Marilyn and Jacqueline Montanez and a lot of people of the neighborhood and they were upset because he was killed by Latin Kings, a gang in the neighborhood. So Marilyn, Madeline Mendoza and Jacqueline Montanez are all driving around in a car one night and they see some Latin Kings in the next car and so they stop on a traffic light and roll the window down and Jacqueline Montanez, who was fifteen at that time, starts talking to 'em and she pretends that they're down with the Latin Kings even though they're--- they were not gang members of the Maniac Latin Disciples, they didn't have female gang members in the 80's, 90's, but you

know, they live in the Maniac Latin Disciples neighborhood, they're friends with all of them, the MLD's. So they're kind of pretending they're Latin King girls, which they're not, but there are so many Latin Kings and MLD's in Chicago and nobody notices who anybody is. The other guys roll the windows down and they said

Other guys approach three girls, drink and share alcohol.

Other Guy 1: Hey, do you guys want to go down to the park and party?

JB: And they were like,

Three girls in unison: "Yeah!"

Walk to center stage. Then jacqueline makes her way to side of stage with other guy 1, as if going to "bathroom," then shoots him. Jacqueline does not return to CS until JB's pause. As all of this occurs, group of others standing to the side just pretends to continue to drink and socialize.

JB: So they all go to Humboldt Park which is a park on in the middle of a Puerto Rican neighborhood, its right on the border of the MLD and Latin King's territories. Jacqueline goes to a men's room with one of the guys, they're making out, he turns around to urinate and then she pulled a 25 caliber pistol out of the back of her pants and *(insert shooting gun sound)*. One bullet on the back of his head, and he goes down towards the toilet. Dead. She then walks outside and now there's two stories: one story is that she hands the gun to Marilyn, who then shoots the second guy. And thats the story that Marilyn confessed to and Jacqueline confessed to after they were interrogated all night long by multiple homicide detectives telling them they each better take credit for one of the shootings or they both could be executed. That's the confession story.

Slight Pause, as if in reflection or disbelief

JB: The real story, what happened was Jacqueline walked outside, and this is the story that is confirmed by Marilyn, Madeline and Jacki and the other guy says

Other Guy 2: Hey what happened to my homeboy?

JB: And she laughed and said

Jaqueline Montaneze: He's taking a shit",

JB: and then he turns around and she runs up behind him and BOOM (gun sound effect as JB says "BOOM"), pops him on the back of the head.

As JB describes this, Jacqueline shoots other guy 2. After this, three girls act shocked, surprised, and just run.

Marilyn and Madeline are freaked out, they're all wasted and smoking weed, they've been drinking and they all just ran. So the three girls run, and what happened is that the investigation starts. In fact, Rodriguez, a girl who had the drug problem on the street, she got busted for cocaine possession that night, and the police had asked her if she knew about the shooting and she claimed that these girls were celebrating it. That led to the arrest of Marilyn, Jacqueline and Madeline, and they kept them up all night and they gave those statements. There was only one eyewitness to the crime and that was Jacki Serrano, and Serrano claimed she was looking out the window of her apartment and she saw the tall girl, and Jacqueline is a lot taller than Marilyn, the tall girl walk out of the bathroom and handed the gun to the short girl who shot a guy. Now when we finally tracked Serrano down she admitted that she hadn't seen it, she was the girlfriend of one of the victims. And if you sit at her apartment then you know her whole story is bullshit, she was 500 feet away, there is no way you could see the bathroom when the murder happened in front of.

But, you know unfortunately what happened is Marilyn first went with a public defender she had a very good public defender but a lot of defendants unfortunately, think public defenders aren't real lawyers, she fired her excellent public defender, hired this guy with a little office in the neighborhood who has no idea what he's doing they give him a 10 thousand dollar retainer, and he just walks in and pleas her straight up to double homicide, where she gets conspiracy for the death in the bathroom and she gets murder as the shooter for shooting outside the bathroom and so she gets sentenced to death for it. That is the basic story.

I: how did this lead to the Innocence Project?

JB: I told my law students about the case and four volunteered to work on the case with me. And we spent the next three or four years uncovering evidence about her innocence. *(As JB goes through this monologue, team of college law students shuffles through papers and laptops "uncovering" said evidence)*

JB: On the first day we were working on the case we went to the crime scene and stood where the one eyewitness was looking out her window, and we realized that it was absolutely impossible to even see the crime scene, and, we tracked down the trial lawyer, we found out he quit practicing law, and he was now a priest. actually he was studying to be a priest at the time, but now he's a priest. and so there was absolutely no investigation on her case. <As JB begins this portion of his monologue, title from this link http://articles.chicagotribune.com/1998-11-25/news/9811250177_1_sentenced-parole-rival-gang-members) is displayed on powerpoint> I discovered the real shooter was Jaqueline Montanez,

JB: Jacqueline Montanez committed both the murders, and fortunately I was able to get Marilyn's death sentence reversed by going to the court of appeal and arguing that her lawyer

was totally incompetent in the way he did the sentencing process, but the court never allowed her to withdraw her guilty plea. so, i went back and got a new sentencing, and I also got a new jury to sentence her to life in prison, since thats the only choice they have with someone on death row, they can only sentence someone to life, and they sentenced her to life and that was about sixteen years ago and I've been working on the case for 20 years, including most recently I just lost an argument with the Illinois governor to give her clemency. Last year i lost an argument with the United States Supreme Court to withdraw her guilty plea. For 20 years ive been trying to get the court to undo the guilty plea so I can take the case to trial, and try and prove her innocence. And, she is factually innocent.

I: Was the fact that the eyewitness' location during the crime, the fact that the location did not give her a clear eye view, was that ever brought up to the trial or the court?

JB: No because there never was a trial. See, that's the thing about the plea bargain, Marilyn never had a trial. If this case had a trial there is no way she would've been convicted because the eyewitness was just total nonsense

Pause to show reflection

JB: Even if she wasn't innocent I don't think this should happen in America. I don't think people should be sentenced to death without trial and it just bothers me as a lawyer that there's this little due process in America. It takes a lot to shock me after working on hundreds of homicide cases. But this case still shocks me, that a 21 year old kid, who doesn't speak English fluently could be so railroaded through the system and just be so taken advantage of, it really just makes me ashamed to be honest, as an American. You know we try to hold ourselves up as having high ideals, how fair it is, how our courts are the best in the world. But this case proves that isn't true.

JB: That's why I started the [California] Innocence Project; I started it for Marilyn Mulero.

Narrator: Marilyn Mulero is still in prison. Justin Brooks is still working to free her. He is thinking of presenting her case as a human rights violation in the United Nations