



CALIFORNIA

## Vicente Benavides spent 25 years on death row. Now he's suing over 'false evidence'



Vicente Benavides, left, with his attorney, Ron Kaye. (Alene Tchekmedyan / Los Angeles Times)

BY ALENE TCHEKMEDYIAN | STAFF WRITER

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Vicente Benavides spent almost 25 years on death row before the California Supreme Court, citing false evidence, [overturned his conviction](#) in the sodomy and murder of his girlfriend's toddler.

Now, he is suing Kern County and the city of Delano, alleging that prosecutors and investigators built a case on coerced witness statements and fabricated autopsy results

that medical experts have called “anatomically impossible,” according to a 98-page lawsuit he filed Wednesday in federal court.

“The theory of the prosecution was completely contrived based on false evidence and the jury, first and foremost, was deceived,” said Ron Kaye, an attorney representing Benavides. “They were led to believe that this good, hardworking man was this profound predator. They were lied to, they were duped — and the prosecution permitted this to happen.”

At a news conference downtown, Benavides said he always maintained his innocence and loved the toddler as if she were his own daughter. As he recalled how long he spent behind bars, he paused to hold back tears, covering his mouth with his hand.

“Up until the present, I continue suffering from the injustice that I lived through and the pain that I must carry with me the rest of my life,” he said through a Spanish interpreter.

Representatives of Kern County and the city of Delano could not immediately be reached for comment.

The case dates back to 1991, when Benavides, a former farmworker who is now 69, was babysitting the 21-month-old Consuelo Verdugo when her mother went to work.

Consuelo’s 9-year-old sister had gone to play with a friend and somehow, the toddler also ended up outside the Delano apartment. Benavides told authorities he discovered the girl injured near a carport.

Her mother, a nurse’s aide who had left for work about 40 minutes earlier, returned home right away and took the girl to the Delano Regional Medical Center. Consuelo was treated there, along with two other medical centers, before she died.

James Dibdin, a coroner with the Kern County medical examiner's office who is named as a defendant in the lawsuit, determined that Consuelo died of "blunt force penetrating injury of the anus."

The lawsuit, however, says every medical expert who supported that conclusion and testified against Benavides at trial has since recanted their testimony that Consuelo was sexually abused.

One UCLA physician who treated Consuelo said that if he had been given all of the girl's medical records, he would have concluded that the pathologist's cause of death was "anatomically impossible," the lawsuit states. Another doctor who reviewed Consuelo's medical records said the coroner's conclusion was so unlikely that it reaches "the point of being absurd," the lawsuit states.

The complaint says the injuries were actually the result of repeated failed efforts to insert an adult-sized catheter, rectal temperature taking, the use of a paralytic medication and physical examination. A nurse who saw Consuelo when she was first brought in for treatment said no one at the hospital noted any vaginal or anal trauma.

When reached by phone Wednesday, Dibdin said that before he conducted the autopsy, he was told by the coroner's office that it had been established that the child had been sexually assaulted.

"My testimony was based on the theory that that was correct, so I don't have any beef with the court saying my testimony was not correct," he said. "If I hadn't been told the child had been sexually assaulted, I wouldn't have gone to court and said the child had been sexually assaulted."

He said he had not been served with a lawsuit.

"I just did the job I was told to do," he said. "If it turns out the information I was given was false I can't do anything about that."

The complaint points to a history of misconduct by the pathologist who conducted the autopsy, alleging that Dibdin was fired from at least four coroner jobs across the U.S. and in Australia for various reasons, including giving erroneous causes of death.

"Kern County knew this," said Salomon Zavala, another attorney representing Benavides. "They hired someone with that type of history."

Dibdin told The Times that he's not aware of any court in any of those jurisdictions ever finding that he got a cause of death wrong.

The complaint quotes a San Bernardino County coroner who indicated Dibdin conducts "bad autopsies" and generally gives "no foundation" for his cause of death.

"He does autopsies as fast as possible for monetary purposes," he said, according to the complaint. "He's dangerous to have him work on an autopsy with you."

A pathologist in Riverside County described Dibdin as a "disaster waiting to happen," the complaint states.

"He does fast autopsies and shoots from the hip," the pathologist said, according to the lawsuit.

The complaint also alleges that prosecutors failed to turn over exculpatory evidence and coerced witnesses, including Consuelo's older sister Cristina, into incriminating Benavides.

Cristina reported that Consuelo had run into the front door of the house, fell down and lost consciousness, the lawsuit states. Their mother told police she didn't know what

happened, but she was confident Benavides did not hurt her child.

Investigators with the Delano Police Department and the Kern County district attorney's office removed Cristina from her home and questioned her about sex abuse after she said neither she nor her sister had been abused, the lawsuit said.

When she told officers that she thought Benavides was telling the truth, they replied that "as police officers," they thought she was wrong and suggested she didn't believe herself, the lawsuit states.

They asked the same question repeatedly: Did she believe him? Eventually, the lawsuit states, she said she didn't know, and she ultimately answered the question with: "No? No."

"Rather than reviewing the evidence, rather than giving the case the attention it deserves, they embraced a theory that was false," Kaye said. "They had so little concern for his humanity that they pushed forward for conviction with blinders on."

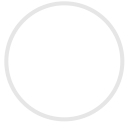
Benavides' case was not an isolated incident, his attorneys said. The complaint alleges that more than 30 child sexual abuse convictions Kern County prosecutors secured in the 1980s were subsequently overturned.

Benavides, a father to two other children, spent much of his time in prison writing letters to family members who never gave up on him, Kaye said. Even so, Kaye said, Benavides suffers from post-traumatic stress and nightmares. His parents died while he was incarcerated.

He was freed last year after the state Supreme Court overturned his conviction in what was an extremely rare move, given that in 2005, the high court had upheld his conviction. Prosecutors chose not to refile the case, Kaye said.

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Alene Tchekmedyian covers the Los Angeles County Sheriff's Department. She previously wrote about the county's criminal courts and breaking news throughout California. Before joining The Times in 2016, she reported on crime and policing for the Glendale News-Press and Burbank Leader. She grew up in Huntington Beach and graduated from UCLA.

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