

Rodriguez, Miguel

13P

**SCREENED**  
By *clp* Date *3/18/2010*

3-29-95 Wed.

3:41pm

called for  
Ken Starr

202-879-5131 (K&E)

[had called ozc - not there]

[left voice mail msg]

4:30pm

Ken Starr Called (on squawk box w/ Azar)

- 4:48pm

① Leach. K&E ptr, Jay Lefkowitz, in w/ media -

Today's mts w/ Leach -

Micah Morrison (WST) - has been in AR --- talk'g

• Ken has asked Jay to call Micah (lunch) -

suggest in friendly word of advice - sit down  
at Denny's w/ HE, Jr. ---

• Leach - are you investig. Mena?

KS hemmed & hawed - ["on our radar screen" ---]

Alex has been go betw. w/ crazy guy Sherman --- poss.

be our guest on \_\_\_\_\_ (fill in the blank). Poss: Mena.

② Miguel -

• WASID sense - MR continues to be Miguel -

who specifically is calling? (he has gotten 3 calls) -

• He will call him now -

③ { My brief to [redacted], [redacted], [redacted] }  
FOIA: # none (URTS 116370), DocId: 70105792 Page 2

④ HE JGT staffing can wait.

4:55pm

Ken S. - called me back

Called MR - left conciliatory msg on  
voice mail - "we have rec'd no press inquiries in  
LR or WASH - will call you tomorrow to follow up."

January 17, 1995

The Honorable Kenneth W. Starr  
Office of the Independent Counsel  
Washington, D.C.

Dear Judge:

It is with much regret that I am forced to offer my resignation as Associate Independent Counsel.

As you are aware, I participated in review of the Foster documents matter. When this matter was proposed for closure, I met with various staff members and provided recommendations for further investigation and possible targets. I provided you with memoranda concerning my recommendations.

In addition, I participated in review of the Foster death matter. At meetings and via memoranda, I specifically indicated my disagreement that there existed "overwhelming" evidence that Foster committed suicide where he was found in Ft. Marcy Park. I proposed, at numerous meetings, various investigative steps. Upon approval, I commenced to undertake these investigative steps.

In my attempt to find answers to many remaining questions regarding Foster's death, I was able to uncover numerous investigative leads and new information. The leads and information included, among other facts and contacts, that on or about July 20, 1993 (1) there was a second parking area to Ft. Marcy Park; (2) there was a second entrance to Ft. Marcy Park; (3) the USPP knew of this second entrance and parking area; (4) the second entrance and parking area at Ft. Marcy Park was not secured or investigated by the USPP; (5) the second entrance and parking area at Ft. Marcy Park served as a post/beat for the USPP; (6) USPP officials, the USPP report, and the FBI failed to indicate the existence or awareness of the second entrance and parking area at Ft. Marcy Park; (7) there were maintenance roads and access roads at Ft. Marcy Park; (8) the USPP had a key to maintenance gates and access roads at Ft. Marcy Park; (9) prior to discovery of Foster's identity, persons with USPP Special Forces Branch experience and association were present at Ft. Marcy Park (the USPP Special Forces Branch handled special requests from the White House); (10) the existing FBI interview reports and USPP interview reports do not accurately reflect witness statements; (11) four emergency medical personnel identified, having refreshed their recollection with new photographic evidence, trauma each had observed on Foster's right neck area; and (12) blurred and obscured blow-ups of copies of (polaroid and 35mm) photographs have been offered and utilized. After uncovering this information, among other facts, my own conduct was questioned and I was internally investigated. I steadfastly maintained, and continue to maintain, that I, at all times, conducted myself as an experienced and trained prosecutor, with years of federal prosecutorial experience and federal grand jury experience.

On January 16, 1995, I expressed to Tuohey and Dash my sincere hope that my painstaking efforts to uncover the truth were not mischaracterized. Then, I told Tuohey and Dash that grand jury testimony had been fruitful and that I was fully prepared to continue grand jury inquiry into the many remaining questions surrounding Foster's death. Nevertheless,

Judge Starr  
January 17, 1995  
Page Two

on January 16, 1995, I was informed that all planned grand jury investigation would be cancelled, my conduct was under review and I was to be more closely monitored by Tuohey and an FBI agent. In effect, for raising the above questions, I was forced out of this job.

I regret that fundamental prosecutorial differences have apparently divided your "reporting" staff and me. Reasonable people frequently differ, but you, as Independent Counsel, obviously must pursue the path and direction with your "reporting" staff that makes you most comfortable. I no longer believe in the dynamics of the decision making process presently employed in your Washington, D.C. office.

With your consent, due to administrative and transfer constraints, my resignation will be effective March 6, 1995. While this date may seem distant, during February 1995 I intend to schedule leave to remove myself from the office. I will leave sooner if you request.

Very truly yours,

  
Miguel Rodriguez  
Assistant U.S. Attorney  
E.D. California



## GEORGETOWN UNIVERSITY LAW CENTER

Samuel Dash  
Professor of Law

TO: Honorable Kenneth W. Starr  
Independent Counsel, Whitewater

FROM: Professor Samuel Dash   
Ethics Counsel

RE: Miquel Rodriguez

DATE: February 6, 1995

This is in response to your request that I review and comment on Miguel Rodriguez's letter of resignation dated January 17, 1995 in my capacity as Ethics Counsel to you and your office.

My review of Miguel's letter has been aided by information I received earlier on his performance of his assignment from you to review the evidence upon which a previous finding was based by Special Counsel Fisk and his staff that the Foster death was a suicide, and to recommend to you whether on the basis of that evidence and any additional evidence, the cause and circumstances of Foster's death should be reinvestigated by you. This information included a report from Mark Tucoy on Miguel's conduct in the grand jury, a memorandum to file by Miguel dated December 9-29, 1994, and a detailed presentation by Miguel on his investigation to Mark and me at a meeting on January 16, 1995.

Of course, it is sad that Miguel believes, as his letter makes clear, that there has been some kind of conspiracy in your office in Washington against him and that he "was forced out of this job" because he raised a series of questions about the validity of the Fisk finding. It is this kind of unfounded suspicion leading him to act alone in distrust of other prosecutors and investigators in the office that underlines the problem Miguel has posed for your office.

You will recall that after I read Miguel's December memorandum detailing his factual findings to date and presenting his inferences and theories, I met with you and informed you that Miguel's memorandum caused me to seriously question his professional judgment and stability. Part of these concerns related to his reliability. Throughout his memorandum he made claims of factual discoveries by him which he charged had been overlooked by the Fisk investigation. This was factually not true. I was able to find in the Fisk report references to and evaluations of these same factual matters.

The most troublesome of Miguel's claims of neglect by the Fisk investigation was his "discovery" of photographic and eye-witness evidence of a bullet wound on Foster's neck, which, in his mind, supported a theory of homicide. He charged that "the neck area and original photographs had not been investigated by Fisk counsel." To the contrary, Special Counsel Fisk specifically referred in his report to the information suggesting a bullet wound in Foster's neck, and concluded, "These wounds did not exist. The autopsy results, the photographs taken at the scene, and the observations made by park police investigators conclusively show there were no such wounds." Fisk made this finding, after acknowledging, but rejecting because of the strong forensic evidence, the claims of two members of the Fairfax County EMS, George Gonzalez and Richard Arthur, that they believed they saw bullet wounds on Foster's face or neck.

In addition to questions about reliability raised by his memorandum, I had considerable trouble following the inferences and theories he jumped to from his evidence. In some cases they were simply reckless, and in others they were lacking in professional judgement.

On the basis of my report to you, you asked Mark and me to meet with Miguel to give him the opportunity to present to us the results of his investigation and where he believed it should go. You were supportive of Miguel's hard work and efforts, and wanted my experienced judgement after such a presentation on the merits and professionalism of his work. The meeting occurred in the afternoon of January 16, 1995. Miguel presented a detailed review of his investigation, using drawings and enlarged and enhanced photographs to support his presentation. Much of what he presented had been discussed in his memorandum. Some new information included his learning (what the Fisk investigation had earlier known) about a second parking lot and entrance to Ft. Marcy Park. He wanted to continue his grand jury investigation along all the lines he had reviewed, and particularly into the matter of the second entrance and parking lot and his belief that there was evidence of a wound in Foster's neck.

During the course of his presentation, I challenged some of his inferences as unsupported by his evidence. For example, he had concluded that the gun found in Foster's hand was a "stranger" gun, unconnected with the Foster family. He offered no evidence to support this conclusion, which was contradicted by evidence of the gun's connection to Foster contained in the Fisk report. Also, to prove what had by this time become a conviction on his part that Foster had been wounded in the neck, Miguel produced an enlarged and enhanced blow up of what he claimed to be an original polaroid photograph of Foster's head, neck, and shoulder area. He insisted that a reddish oval mark on the right side of Foster's neck was either a bullet hole or a wound from a stun gun. I have had experience examining such photos in homicide cases, and I looked

very closely at the marks on the Photograph Miguel referred to, and they appeared to me to represent dried blood caked on the neck. In no way could I identify a bullet hole or any other kind of wound.

In fairness to Miguel, I suggested that he have the blown up photograph examined by a forensic photography expert. Similarly, even though Mark and I questioned the validity of some of Miguel's conclusions or inferences, we agreed that he should follow up the investigatory leads he wanted to pursue, including the second entrance and parking lot, the source of the gun, the wound he believed to exist on Foster's neck, and a number of other matters he had presented. Contrary to what Miguel stated in his letter, the grand jury investigation was not canceled and he was not "forced out" of his investigation. Quite the opposite, as I have just stated, Mark and I urged him to continue his grand jury investigation.

Because of doubts I expressed on some of his inferences and judgments, and concerns Mark expressed on the manner Miguel had treated certain witnesses before the grand jury, Mark informed Miguel that he was going to supervise Miguel's continued investigation more closely, and wanted Miguel to work with a new FBI agent that had been assigned to the investigation. Mark also informed Miguel that because of the need to evaluate what should next be presented to the grand jury, only the next day's session of the grand jury would be canceled. Miguel was told that The subsequent sessions would still take place for the presentation of witnesses.

Miguel reacted to this information negatively, expressing doubts about his ability to further his investigation, and demonstrating a suspicion as to the motives of Mark, the new FBI agent and others in the office that I found to be unnatural and clearly unjustified by what had occurred at the meeting. This attitude was emphasized when Miguel declared that the "wound" on Foster's neck will never be established. I asked him why he believed this - because he would be unable to prove it - or because he would be prevented from proving it?. He replied that he would not be allowed to prove it. This amazing assertion led me to express to him my complete disbelief that either you or Mark would engage in a cover up of an investigation and prevent him from doing his job. I assured him that he would be supported by the office to complete his investigation expeditiously, and that your decision in this matter would be made solely on the evidence and its strength.

Ken Starr

- ✓ 1. Miguel Rodgriguez (3/29)
2. Lisa Foster - April 7 - his schedule
3. Webb Hubbell - April 10 - how to confront

game plan  
input fm all attys and agents  
my approach  
    Bittman - DOJ  
    HE  
FBI analysis  
who is good guy and bad guy

4. Staffing -

Lederer - ADFA...

Tucker

Agents: 1 more regular

2 - 1071 issue

Attorneys: No

HE - meet w/ SC

GW

G. Kelley

5. Overall game plan/ staffing....

Tucker

Call George Kelly

1. HE - Colloton

Staffing; where we are; new team mtg; input fm old

2. HE - Colloton - Garielle

3. Hanson  
White  
Kumura

3/27/95

Miguel Rodriguez  
(916) 554-2700

Miguel would like for you to call and give him guidance regarding the numerous press inquiries he has received. He says he is curious and upset about the kinds of questions they are asking him.

*I left a message on Miguel's voice mail.*

*The best time to talk to Brett + Alex about this is just before the conf. call.*

ME Zhang  
p. 10

MR Mann  
before  
talk to witness?  
Set up issue  
to capture



**MEMORANDUM**

**Date:** October 19, 1995  
**From:** Hickman Ewing  
**To:** Foster File  
**Subject:** Miscellaneous Thoughts

---

The officers at Foster's body did not find any car keys. Later, car keys were found in Foster's pocket at the morgue. It was concluded that he had driven to the park. But, if they found no car keys on his person initially, does that indicate that Foster had either left his keys in the car, or that somebody else had his keys.

To cover the situation, keys were either placed in his pocket later, or the officers reported erroneously that they recovered the keys from his body later.

10-18-95

Terry Eastland - asked Alex -

10-18-95

3:52pm

Alex -

202-514-8745

Left msg