May 14, 2022

Attn: Writer, Jaquira Diaz, Tin House - Subject Matter: True Story Wrongful Conviction/Actual Innocence Claim.
Rights and Permissions,
Nanci McCloskey
nanci@tinhouse.com
(503) 473-8663

From: Franziska Kaltenbach,
helpernestobehrens@gmail.com
Phone: (954) 258-1721
www.helpdna.org

Re: **After 25 years behind bars maintaining his innocence and through exhausting battles with the court system, Ernesto Behrens finally sees light at the end of the tunnel, after Forensic DNA Consultant Tiffany Roy inspected the State's sole inculpatory DNA evidence in this case and is now concern that there has been a substantial miscarriage of justice in Ernesto's case. Ms. Roy is equally concerned about the quality of the scientific analysis performed by the DNA Unit at the Broward County Sheriff's Office Crime Lab.**

Dear Ms. Diaz,

I am a personal friend of Ernesto Behrens. Ernesto is originally a Venezuelan Citizen who has been a Legal Resident in this Country since 1986 and is currently an inmate in the Florida Department of Corrections. He has been claiming actual innocence for the past 25 years, in Broward County Case No.: 98-5739CF10A.

Ernesto has been attacking his conviction and sentence in the court system diligently but without obtaining any relief. Because of his pro se status, he has not been able to obtain the necessary attention from the courts. I read a newspaper article back in 2019 from Miami New Times which referred to you as a Floridian writer. This is the reason I am writing to you today. I firmly believe that his case is the perfect case to uncover a hidden manifest injustice that takes place here in Florida and which has been going on for over 25 years. I also believe that through an important, dedicated and meticulous writer like you, a book with the right twist could help uncover Ernesto's manifest injustice and could be the proper venue to resolve his case. In my website, I have all the information that you might need to understand this case. This information is easily accessible. Unfortunately, I am a lay person, so I cannot help him professionally nor can I write. However, I did contact a DNA Consultant, Tiffany Roy, and she has been helping Ernesto Pro Bono in all the DNA Forensic aspects of the case. But I honestly need some good writer who could help me publish this anomaly.

BACKGROUND

In 2016, after a scandal became public on accusations against the Broward County Sheriff's Crime Laboratory--specifically on accusations of mishandling and misinterpreting DNA evidence that contains more than one person's DNA. I immediately contacted Forensic DNA Consultant Tiffany Roy who did help Ernesto Pro Bono in locating and obtaining all the DNA evidence and related information in his case.

On June 26, 2017 Ms. Brittany Shammas, a former staff writer at Miami New Times and currently working for the Washington Post wrote an article on him: **"Broward Judge Isn't Letting Defendant Challenge Bad DNA Evidence."** The reason for that article was because circuit court judge Andrew L. Siegel summarily denied his motion requesting DNA retesting without granting a hearing.

However, Ernesto kept demanding, through postconviction motions, for the State to produce all incriminating DNA evidence to be released to Ms. Roy for her own independent review over the DNA analysis and testing performed by BSO Crime Lab in his case. Then, after 4 years of patiently waiting for the State to produce such requested evidence. On September 1, 2020 the State provided all DNA related documents in their possession. However, the next day, on September 2, 2020, two days after the State filed its Response, Judge Andrew L. Siegel again quickly summarily denied his motion without allowing the necessary time for his DNA Consultant Tiffany Roy to be able to inspect and review the provided DNA documentation. And of course, the necessary time for her to work on her own independent written Report.

Nevertheless, between September 8 and 11, 2020, Ms. Roy was able to quickly inspect and review the State's provided DNA related documentation. Her preliminary conclusion states, in pertinent part:

"These results don't make sense given the report I've reviewed. A mixture of DNA was detected on the sheet, which was never reported..
And if DNA from item 9, the EVIDENCE ITEM green sheet, was found on item 50, the STANDARD from Ernesto Behrens, Broward County Crime Lab DNA Unit has a serious contamination issue, but it doesn't mean Ernesto Behrens committed a crime. We're looking for Behrens DNA on the evidence, not the evidence DNA on Behrens sample? Lane 9 is the lane with stain 1 from the fitted sheet in it. In these notes, a mixture is identified by "more than 2 bands… And also here in her allele table… The row of smaller numbers under the bigger numbers are the additional alleles present in the sample. The calculation performed on this sample to estimate the frequency was not for mixture samples."

After her alarming discovery, she immediately wrote to the Broward County Prosecutor's Integrity Unit the following correspondence:

"My name is Tiffany Roy and I'm a forensic DNA expert working in Broward and the surrounding counties. I have recently been provided documents which have caused me great concern that there has been a substantial miscarriage of justice in the case against Ernesto Behrens. I have reviewed the documents in the Behrens case completely pro bono based on concerns I have about the quality of the scientific analysis in the DNA Unit at Broward County Sheriff's Office Crime Lab DNA Unit."

On the other hand, after a long battle against Judge Andrew L. Siegel. With letters written to the Florida Governor Ron DeSantis, Ernesto was able to have the Fourth District Court of Appeal agree with his arguments against this judge and, fortunately, Judge Andrew L. Siegel was ultimately recused from his case after a final order from the District Court of Appeal was issued on November 3, 2020.

Unfortunately, the new Judge recently appointed to Ernesto's case, the Honorable Michael A. Usan has also recklessly disregarded his Pro Bono DNA Consultant Tiffany Roy's Independent Forensic DNA Report by simply rejecting her expertise and concerns, and totally ignored Ernesto's unambiguous claim of Innocence. Of course, without this Judge's order to retest the DNA evidence, it will be impossible for Ernesto to prove his innocence. To further complicate the circumstances of this case, the court issued an order prohibiting Ernesto from ever filing another pro se motion.

It is inconceivable to believe that all the trial Judges that have been presiding over Ernesto's case, have been so against allowing him to prove his innocence. Especially, when his Pro Bono DNA Consultant is welcome to perform all necessary testing free of charge. In other words, there is absolutely no economical burden whatsoever placed on the State of Florida when conducting retesting in Ernesto's case.

Ms. Diaz, it is because of all the above-mentioned facts and the passion for writing that you have, that Ms. Tiffany Roy recommended that I contact you. As you can easily see, Ernesto has been treated unjustly by Judge Andrew L. Siegel for the past 16 years and currently treated unfairly by the newly appointed Judge Michael A. Usan.

Although, more recently, Ernesto became in contact with the Innocence Project of Florida as well as the Broward County Prosecutor's Conviction Review Unit and he has completed their respective Petitions, he has not obtained any help from them yet. (Both of his Petitions are published on my website).

Ms. Diaz, it is with a deep respect and great sense of hope that I write to you today, asking if you could see a way to write or publish this ongoing miscarriage of justice in Ernesto's case. With your help and the help of your known writing skills, Ernesto sure could be having an

opportunity to have these judges reconsidering his case. Tiffany Roy, Ernesto and myself believe in equal justice for everyone. Just as you do too!

Thank you for reading and considering this plea for justice!

Sincerely yours,

Franziska Kaltenbach

PS: For more information visit my website at www.helpdna.org my friend constantly updates it.
Ms. Tiffany Roy's information is:
Phone Number: (978) 987-1773 Email: <tiffany.roy@gmail.com>
Feel free to contact her too.