

Albuquerque Journal

Sunday, August 22, 2004

Victim of Abuse, or Murderer?

By Polly Summar, Journal Staff Writer

Janet Vigil, 61, lives in an 80-square-foot cell at the New Mexico Women's Correctional Facility in Grants, where she has been a prisoner for the last 15 years.

Her late husband, Estevan Vigil, who would be 64 if he were alive, lies in a small plot at the Santa Fe National Cemetery.

No one disputes the basic facts of why she's in prison and he's in a graveyard. On March 22, 1988, there was an altercation between the two at their home in the Northeast Heights, and Estevan Vigil was shot and killed.

Janet Vigil maintained it was an accident, but the jury didn't believe her. She was sentenced to life imprisonment for first-degree murder, 30 years in prison.

What is in dispute is whether Janet Vigil was a victim of domestic violence in the marriage – and whether she has served enough time.

Advocates on her behalf are appealing to Gov. Bill Richardson for clemency, making him the third governor to face the decision.

The process pits two families with longtime New Mexico roots and two powerful advocacy groups in the state against each other.

New Mexico Coalition Against Domestic Violence, with 37 shelters and service programs throughout the state as members, has taken up Janet Vigil's cause. New Mexico Survivors of Homicide, with 1,005 families as members, opposes any pardon or lessening of her sentence.

And Richardson, whose wife has taken an active role against domestic violence as head of a statewide advisory board, is in the process of hearing from both families.

Richardson's spokesman, Gilbert Gallegos, said the pardon application is going through a standard review process, including an investigation by the Adult Parole Board. The governor's staff is reviewing original court transcripts and other information presented by both sides.

"Gov. Richardson plans on meeting with Janet Vigil," said Gallegos, "as well as Estevan Vigil's family, about this application."

‘No evidence of abuse’

Estevan Vigil’s family and other supporters say there was no abuse in the marriage. “In 15 years, there has been no evidence of abuse,” said Donna McNevin, Estevan Vigil’s daughter from a previous marriage. “Why would it surface now?”

And Patti March, president of the homicide survivors organization, said, “We have many members where domestic violence was a factor in their situation. This is not one of them.”

On Janet Vigil’s side, domestic violence advocates say they have hired a private investigator who concluded that there was a long history of domestic violence in the Vigil marriage, based on interviews with friends and family members.

“Just because there are no police reports doesn’t mean it didn’t happen,” said Agnes Maldonado, director of the coalition. She said domestic violence victims often live in fear that calling the police will worsen the situation and increase the violence afterward.

“And we were able to find hospital records connected with the injuries she described.”

Each side accuses the other of having political clout, of “knowing someone.” But in the 15 years since Janet Vigil was incarcerated, both a Democrat and a Republican governor – Bruce King and Gary Johnson, respectively – have balked at granting her a pardon. When the local Las Mujeres de LULAC group, representing Vigil, learned that King was planning to deny her clemency, they withdrew the petition. Johnson officially denied her clemency.

Maldonado said her involvement in the case stems back three years, when she happened to learn of Janet Vigil’s situation. “People ask me, ‘Why this one?’ I don’t know what it was ... I went to visit her. Then I got all the court transcripts.”

And then she decided someone needed to represent Janet Vigil. Two years ago, Maldonado found an attorney, Dan Baca, who was willing to represent Vigil pro bono and, in the last few months, has gathered support from community leaders. Some 600 letters of support from people like Rep. Danice Picraux, D-Albuquerque, and Randy Sanchez, general manager of Coronado Shopping Center and Janet Vigil’s cousin, have been sent to the Governor’s Office.

The homicide survivors organization became involved in the Estevan Vigil case when contacted by his family in 2001, said March.

“Anyone who was murdered in New Mexico,” she said, “their family members are members of our group as long as you contact us.”

March said she is angry that Estevan Vigil’s family has to relive his death each time a new group of advocates petitions the governor on Janet Vigil’s behalf.

“Their premise is, ‘Always believe the victim no matter what you know.’ Their premise is wrong. They just want to see her released, and it just infuriates me. If you take a life, you should

lose your life.”

March’s son was murdered.

‘System failed her’

According to Janet Vigil’s testimony in court transcripts, the morning of March 22, 1988, her daughter, then 25, told her that her stepfather, Estevan Vigil, had tried to rape her the night before.

That morning at work, Janet Vigil asked her supervisor for an extra 15 minutes on her lunch hour, then went home. She said her plan was to talk with her husband about what had happened.

In the course of the dispute with her husband, she says, the couple struggled with a gun they kept in the bedroom. However, a ballistics report found that Estevan Vigil was more than 2 feet away from Janet Vigil when the gun was fired, shooting him through the heart. Janet Vigil maintained it was an accident, and her attorney, Leon Taylor, pleaded self-defense for her.

But the jury found her guilty of first-degree murder.

“Two things are certain,” said attorney Baca, reflecting on the trial. “The system failed her, and she’s been in prison long enough.”

Her supporters believe she should have been offered a second-degree plea. With a second-degree sentence at that time, Baca said, she would have been given “a nine-year basic sentence with a one-year firearm enhancement, with day-for-day good time, and she would have been in there five years.” (Today, a second-degree sentence carries a minimum sentence of 15 years.)

Taylor, who is retired now and lives in Arkansas, said he doesn’t recall any discussion about a second-degree plea. In a phone interview, he recalls, “She said, ‘I didn’t do anything wrong; why should I plead?’”

Her case was appealed to the state Supreme Court, which upheld the verdict in 1990. The U.S. District Court upheld the state’s verdict in 1991 and denied a new trial.

Janet Vigil’s advocates say that, if her trial had been this year, the verdict would have been different.

“It wasn’t until the O.J. Simpson trial in 1995 that it was even widely called domestic violence,” said Maldonado, explaining there was no massive awareness of the problem.

Picraux said that, even in 1995, many of her fellow legislators were making jokes about domestic violence. “When we passed the law in 1995 which made domestic violence a crime in and of itself (Crimes Against Household Members), it took me two years to get it through,” she said.

“In the hearings on it ... they were making fun of it, saying, ‘Come on, he didn’t really mean to hurt her.’ It showed a disrespect for what it was like, for the person the violence is done against, a great lack of understanding and respect for the life of someone who is battered.”

But allegations of domestic violence are difficult for Estevan Vigil’s family to hear. “You have a living person that can say whatever they want to say because you have this other person who’s 6 feet under who can’t defend himself,” said McNevin, Estevan Vigil’s daughter.

“My family shouldn’t have to go through this every time there’s a new governor.”

McNevin said she’s angry, too, that, in the past 15 years, no reporter has ever asked her what kind of person her parent was, what he went through. Instead, she reads lengthy accounts of the victimization of Janet Vigil.

“My dad was very strict,” she said. “He grew up in poverty and went to the military and strived very hard to make a better life for his family. He made us cut the weeds, do the dishes, but he was a typical father trying to raise his children, give them discipline, make sure we didn’t go on drugs. He wasn’t the type of father you could sit on his lap and hug him. He was always striving for his family, to try to make things better. He was a very serious person.”

McNevin said she lived with her father and stepmother for about six months when she was 14 or 15. Her mother and Estevan Vigil were divorced when she was about 13, she said.

Janet and Estevan Vigil had no children together, but each had two sons and one daughter from previous marriages.

Domestic violence advocates say it’s not unusual for family members not to see the abuse or remember it. Toby Myers, a Houston-based expert witness for trials involving domestic violence, said family members’ perceptions often change after an alleged abuser’s death.

“Usually, after he’s dead and buried, they miss him. Once they’re missing him and he’s gone, it completely changes,” Myers said.

Estevan Vigil’s family and advocates believe that their public outcry was what prevented former Gov. Gary Johnson from pardoning Janet Vigil in 2001. “I don’t believe he had all the information” before that, said March, with the homicide survivors group.

But Johnson said, “That wasn’t what swayed my decision.”

Johnson said he had a State Police polygrapher give Vigil a test. He wouldn’t go into the specifics of the questions asked but said, “I think she was probably abused. I think I believe that. If she had told me what I considered the truth, I might have pardoned her.”

Was it difficult for him to make the decision not to pardon her, knowing that it meant she would serve another 18 years?

“No,” Johnson said. “What I asked for was the truth. My judgment was I didn’t get it.”

Does he think she’s a danger to society? “Not at all,” he said. “Not one bit.”

Deborah Tucker, founder and director of the National Training Center on Domestic and Sexual Violence, based in Austin, questions Johnson’s use of a lie detector. “Lie detector tests are so unproven, generally, and it’s possible to both pass and fail, whether or not you’re telling the truth, that we prohibited their use in Texas with victims.”

Many states ban the use of polygraph tests as evidence, but last month, the New Mexico Supreme Court ruled that the tests can continue to be used as evidence in courts here. Polygraph tests were not used in Janet Vigil’s 1989 trial.

Janet Vigil’s then-attorney, Taylor, recalls that she was not what he would consider a good witness. “When people are in a situation where they’re restricted in communication, subjected to dictatorial questioning, they get defensive,” he said. “They get petulant.”

In fact, Janet Vigil’s personality has caused her problems not only in the courtroom but in how Estevan Vigil’s family views her, even today.

They point to the prison nickname, “Mighty Mouse,” for the 4-foot, 7-inch Vigil, and McNevin still blames her for the divorce of her parents.

“She’s very smart, very conniving,” said McNevin. “She’s running the commissary system” at the prison (a job Vigil once had, but no longer does).

At a recent interview at the Grants prison, Vigil seemed guarded and cautious. She said she made a mistake in never calling 911 after an abuse incident.

“I believe I would not be here today if I had confided in someone,” she said. “I talked to a clergyman once, a Catholic priest. He said, ‘You go back. Forgive him, like Christ has forgiven all of us.’”

Copyright © 2004 *Albuquerque Journal*.