

COMMENTARY Roy Black

## REFLECTING ON LOZANO: A TALE OF TWO CITIES

Lozano. Just the name conjures up a kaleidoscope of memories. A different time in my life. I still carry the scars of those battles. They so desperately wanted, no need, a conviction, they didn't even do it subtly. Just a few years before we had defended Luis Alvarez, which spawned two riots and they didn't want that again. I described Alvarez in the first chapter of my book, *Black's Law*, but Lozano was too hard to write. Until now.

Why now? On March 25, I participated in the 11th Judicial Circuit Centennial Symposium panel about the case. I agreed to do it without really thinking about what it would entail. Once I started it hit me. I read a small part of the file we created over the years. At one time it ran hundreds of banker boxes but there was only one left. The file was accumulated in the pre-electronic era and thus my hard drive was mostly empty. What I did read dredged up long forgotten details, some even at odds with my personal recollection.

First some background. I have the dubious distinction of representing someone involved in every riot in Miami during the 70's and 80's. Most of the time police officers charged with shootings or other misadventures. For some perverse



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reason I enjoyed representing street cops. When I was a PD I battled them everyday, but in the process I gained a grudging respect for the guys who worked the mean streets armed with only a handgun and a survival instinct. I estimate I defended around 100 cops all told.

William Lozano was one of these street cops. He was patrolling in Overtown on Jan. 16, 1989, ironically the Martin Luther King Jr. holiday. It was only six days prior to the super bowl and the world's press was in South Florida. Lozano saw two men on a motorcycle being chased by police cars. He walked into the street to get a better view and they tried to run him down. He fired killing the driver and the passenger died in the resulting crash. A Colombian policeman killing two African-American men in Overtown is a recipe for violence in Miami, and predictably three days of riots ensued. The press coined him an out-of-control gunslinger and he drowned in the media tsunami.

The case has to be put in the context of the time. This was the Miami of the 1980's.

Paradise Lost. Drug trafficking. Mariel boatlift. Haitian boat people. Drive-by shootings. Machine guns, cigarette boats and helicopters. It wasn't a melting pot but a seething cauldron of ethnic groups who despised each other. Lozano wasn't the cause of the riot, just the excuse.

Before it was over, the scope of the case was huge. There were two major trials: Eight weeks in Miami; and three weeks in Orlando. Two five-day evidentiary change of venue hearings, one in Miami and one in Tallahassee. There were five changes of venue. Ten appeals: the 1st District Court of Appeal two times; the 3rd District Court of Appeal three times; the 5th District Court of Appeal once; and the Florida Supreme Court four times. We were determined to win at any cost, literally, and it almost broke us. We weren't paid a dime until he was finally acquitted and we had to borrow money to keep the law firm afloat.

There was intense media interest in the case. Before the first trial we filed motions to move out of Miami, but the judge would not even give us a hearing. He had marching orders that the trial had to be in Miami. Local TV carried the trial live and CNN, which had just started, showed substan-

tial parts of it live.

How poisonous was it? The entire courthouse was cleared during jury deliberations. Two armored personnel carriers were stationed in front, snipers on the roof and men with body armor and machine guns in the stairwells. A no-fly zone. Just the type of atmosphere for a calm deliberate consideration of the evidence. Lozano was convicted of manslaughter. The sentencing hearing was carried live on local television to satisfy the unruly mob and Lozano was sentenced to seven years. The appellate court promptly reversed the conviction noting the atmosphere was more akin to an armed camp than the sober calm reflection needed for a trial.

A new judge ordered a change of venue to Orlando, 225 miles from Miami. Finally things were looking good until disaster struck again. On April 29, 1992, the Los Angeles police officers in the Rodney King case were acquitted. In the ensuing riots 53 people died, thousands more were injured, with property damages of roughly \$1 billion. In a knee-jerk response, our judge immediately changed the venue to Tallahassee because it had a larger population of African-Americans. The reason was fairly obvious. We challenged that several times fi-



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nally getting the trial sent back to Orlando, the bucolic home of Disney World, with the only threat coming from the Pirates of the Caribbean. After three weeks, on May 29, 1993, four-and-a-half years after the shooting, Lozano was finally acquitted.

What is it that Nietzsche said — if it doesn't kill you it makes you stronger? Well, it almost killed me. I know it is a cliché; but there is truth in it.

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