In Search of Juvenile Justice
At 16, Mario Rocha was convicted of murder as an adult. A nun has fought nine years to free him. To her, it's about more than one boy.
By Ann M. Simmons
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Sister Janet Harris swore she would never do it again.

Three decades ago, her dogged gumshoe work helped win a retrial and an acquittal for a young gangbanger convicted of attempted murder during a supermarket heist. Harris' efforts took almost two years and left her emotionally drained.

But when Harris learned the details of the case of Mario Rocha, a 16-year-old Highland Park youth convicted of murder and attempted murder, she couldn't help but launch into amateur detective mode once again.

"Well, God has boxed me in," Harris remembered thinking. "He said that even if I fail, I have no choice."

For nine years, the dedication, zeal and self-acknowledged pestering of the 75-year-old Roman Catholic nun have spurred a campaign to free Rocha. The case has galvanized members of California's Catholic community, prompted filmmakers to make a documentary on juvenile justice, and attracted the pro bono commitment of the high-powered law firm Latham and Watkins.

Petitions filed by the firm have persuaded an appeals court to hear new oral arguments in Rocha's case. A hearing is scheduled for today.

Harris was drawn to the case by creative writing assignments Rocha completed in a juvenile hall where she worked as chaplain. She met Rocha not long after the events of Feb. 16, 1996.

That night in Highland Park, a fight erupted after some gang members crashed a party, witnesses told police. Fisticuffs exploded into gunshots. A bullet struck Martin Aceves, 17, in the chest. Witnesses testified that he had been trying to break up the brawl.

Aceves was an honors student at Cathedral High School in Monterey Hills who had just been accepted to Cal State Northridge.

Friends and school officials remember Aceves as an outgoing sports enthusiast who kept stats for the basketball team and dreamed of becoming a sportscaster. School officials said he left behind a son, born five months after his death.
"It was a monumental loss for the school," said Oscar Leong, Cathedral's director of admissions and development. "Everybody loved this kid. Everybody knew who Martin was."

Another partygoer, Anthony John Moscato, then 20, was shot in the hand as he tried to flee.

A few days later, police broke down the door to the Rocha family's Highland Park apartment. They pulled out Virginia Rocha and arrested her sons Mario and Danny. Eventually, Danny was released, but Mario, who had attended the party with his brother, was charged with murder.

"I didn't know what to do," Virginia Rocha recalled. "I was crazy. We thought [Mario] was going to come, because I knew he was innocent."

At juvenile hall, Rocha was selected at random for the writing class Harris had started. As she watched from the back of the classroom and listened to the young men read their work, Rocha stood out.

"He had a kind of quietness and calmness and maturity about him that resonated with others and they respected," Harris said. She remembered how one boy said his aim was to "model myself after Mario."

Rocha was polite, nonconfrontational and, surprising for juvenile hall, deferential to authority, she said. He was the youngest of three sons to Mexican immigrants, a factory worker father and janitor mother.

Virginia Rocha said her son had always been a good student and a well-behaved boy.

"He was always with me," she recalled. "He was never in trouble."

Rocha, who is being held at the state prison at Calipatria, could not be reached for an interview.

His writing blossomed while awaiting trial, his supporters say. He wrote essays about violence, street gangs and wasted lives; poetry about poverty, loneliness and love.

"I gained a feeling that reminded me of when I used to paint and draw with my mother as a child," Rocha wrote. "It was a feeling of freedom, controlling the art's destiny — a free will to produce what my spirit desired."

Harris didn't worry about a conviction. She had worked with young offenders for three decades and thought she knew the type well. In her role as chaplain, she met with Rocha and others every Sunday. He just didn't strike her as a killer, and she thought the jury would see that, too.

What few details she knew of the case didn't seem strong enough for a conviction. She didn't even write the court on Rocha's behalf or attend the trial. "That's how confident I was," Harris said.
The jurors heard witnesses who placed Rocha at the scene and described how he aimed and fired a gun. They also listened as the prosecutor painted Rocha as a gang thug.

Rocha, a first-time offender, was convicted and was sentenced to 29 years to life for the attempted murder of Moscato and 35 years to life for the murder of Aceves. Anthony Guzman and Raymond Rivera, Highland Park gang members in their 20s, were also convicted of the crimes.

Harris was stunned. After Rocha was sent to prison, she studied the 13-volume trial transcript, hounded the prosecutor, found new witnesses — missed or ignored by Rocha's trial attorney — and put together a booklet summarizing the case. She wrote and phoned lawyers, legislators, reporters — anyone who might listen. For almost two years, no one did.

"Lawyers would commit, and then something would come up," she said.

A break came in late 1998, when Harris managed to win the attention of Belinda Smith Walker, a former corporate lawyer who mentored female juvenile offenders, and happened to be married to a then-partner at Latham and Watkins.

This enabled Harris to get her foot in the door at the 72-story downtown Library Tower that Latham calls home, to make a verbal pitch. As is her custom, the slender, soft-spoken nun — a New York native and member of the Sisters of the Presentation of the Blessed Virgin Mary — arrived in lay dress.

She had been given no guarantees, but the first thing she did was thank attorney Bob Long for taking the case. "He hadn't even made the final commitment," recalled Harris, whose infectious energy belies her age.

Long said that although Latham had a strong reputation for pro bono work, it had limited experience in criminal defense. Undeterred, Harris recounted the case and described the young man she had met at juvenile hall.

"I did everything but get down on my knees," Harris recalled, adding: "I know I was at boiling point. It wasn't just about Mario. It was about so many young people … and the laws becoming tougher and more mean-spirited."

Indeed, to Harris and Rocha's supporters, the treatment of juvenile offenders has been a backdrop to the case.

An initiative passed in 2000 by 62% of California voters gave district attorneys the power to determine whether juveniles accused of certain serious crimes should face adult punishment.

The most severe sentence that can be imposed in Juvenile Court is detention until age 25. Had Rocha not been tried as an adult, his supporters say, he might have been freed by now.

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Last year, the Los Angeles County district attorney's office filed 178 juvenile cases in adult court, and 119 juveniles were transferred to adult court after judicial hearings, according to the agency's statistics.

A report published Oct. 12 by Amnesty International and Human Rights Watch found that 2,225 offenders are serving life without parole in U.S. prisons for crimes committed before they turned 18. For an estimated 59% of those inmates, it was their first conviction.

The U.S. is one of only a few countries that allow children to be imprisoned for life without parole. Elsewhere in the world, about 12 young offenders are currently serving such sentences, the study found.

The larger issue of juvenile justice was the subtext of Harris' hourlong presentation to Long. He agreed to have Latham attorneys review the court file.

It took the attorneys about six months to complete their initial investigation. The firm paid a private investigator to interview witnesses. In the process, he found new ones.

"We quickly came to the conclusion that this case was meritorious … that [Rocha] was innocent and had not received fair legal representation," said Long, a 34-year veteran of Latham.

In three habeas corpus petitions and during an eight-day evidentiary hearing, the lawyers argued that the defense attorney hired by Rocha's family — Anthony Garcia — had given a "substandard performance."

Among other things, the Latham lawyers found that Garcia had failed to call witnesses who could have provided exculpatory evidence. They argued that Garcia failed to adequately cross-examine witnesses who — with uncertainty — fingered Rocha as the shooter. And the attorney failed to protect Rocha against the accusation that he was a gang member, the Latham lawyers argued.

Garcia did not return several phone messages. But in a 2002 declaration to the court, Garcia said he could not remember why he failed to call witnesses found by the Latham lawyers. He added that he "unconditionally" believed that Rocha was innocent.

"If there is a question as to any decisions that I made, this Court of Appeal should provide that opportunity to this young man to show that he is innocent," Garcia said in that declaration.

One trial witness testified to seeing a shooter get down on one knee, put a gun in his left hand and shoot down the driveway, Long said.

Rocha is right-handed.

Latham attorney Thomas Ian Graham said another witness, who identified Rocha from a 16-photo lineup, admitted he had only caught a "glimpse" of the shooter. The lawyers said many of
the witnesses had been drinking and smoking pot. Witnesses also disagreed over the number of shooters.

"The ID evidence was flawed," Long said.

Law enforcement officials dismiss such arguments and say they did not overlook potential evidence.

"He was convicted based on evidence presented in court and eyewitness testimony," said Deputy Dist. Atty. Robert L. Grace Jr., who prosecuted the case.

As the Latham team prepares for today's hearing, the presence of Rocha and Harris is almost palpable at the firm's offices. For years, Harris has called the lawyers once or twice a month to touch base — "I don't want to be intrusive" — and even attended a rehearsal when Long practiced his opening statement for an earlier hearing.

Then there's Rocha. "Each of us has been touched to one degree or another by the Mario story, not just the night in question, but Mario the young man," Long said. "He's an extraordinary person."

Rocha has acknowledged that he was "a confused and naive" boy and no angel. In an essay about his life, "Unfit," written from jail, he admitted to smoking pot, boozing and skipping school in his early teens, at a time when, as he put it, "my future seemed aimless." His father, a drug addict, abandoned the family when Rocha was 12.

"My daily struggles with peer pressure at school, domestic problems at home, and a fear of violence on the street subdued my hope for success," Rocha wrote. He also wrote of his deepening relationship with Harris.

In a recent letter to a documentary filmmaker, Rocha said Harris "has inspired me to carry on this great legacy of defending the defenseless and fighting for the weak and young."

The filmmaker, Susan Koch, learned of Rocha when she met Harris at Latham's offices. "He's a real force," she said.

She was working on a documentary about young female offenders but quickly became fascinated by Rocha's ability to rally such a cross-section of the community: the Latham attorneys, the dynamic nun and supporters from his tough Highland Park neighborhood.

Grace, the prosecutor, is aware of Rocha's following. He prefers to focus on Aceves and the family members who grieve for him. The family declined to comment.

Of Rocha, he said: "You could tell very early on that he must have a very engaging personality and discernible talent that draws people to him and makes people want to believe him, and in what he says."
Grace added this caution: "There are a lot of very talented and engaging people who have committed crimes. And it's perfectly reasonable to me that people who have met him after this incident describe him to be a very nice person. But you've got to remember that they didn't know him prior to having met him in jail."

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