

USA Today, Oct. 27, 2021



Who killed Johnny? Chicago police officer shot a 14-year-old in the back. But it was the teen's accomplice who went to prison for the death.

Milwaukee Journal Sentinel investigation sparks clemency petition in case, which highlights controversy over 'felony murder' charges used in many states.

Alexandra Kukulka and Sam Roe
Milwaukee Journal Sentinel/USA TODAY Network

On a drizzly fall morning in 2002, 26-year-old Edgar Naranjo parked his car on a Northwest Side street in Chicago. In the passenger seat sat his friend, a 14-year-old boy named Johnny Salazar. The pair put on hooded rain ponchos and nylon masks to hide their faces, walked around the corner to a small brick home and knocked on the door.

When a middle-aged woman answered, they pushed their way inside, with Naranjo holding his finger to his lips, signaling her to stay quiet. Johnny, according to Naranjo, carried a pellet gun.

The woman immediately screamed, and unbeknownst to the intruders, she had a son living in the basement who was a Chicago police officer.

Hearing her shouts, the 30-year-old officer grabbed his gun, ran up the stairs and, according to his statement to investigators, yelled "Chicago police!" As he chased the intruders out the front door, the officer said, he heard his mother say in Spanish, "They have guns!"

Outside the house, the officer said, one of the intruders, later determined to be Johnny, stopped and "began to turn in his direction." The officer, who had been on the force just 10 months and was still on probation, fired eight shots, injuring Naranjo and killing the teen.

Within hours, police cleared the officer, Rafael Balbontin, of wrongdoing, telling the media that the intruders had guns and that the officer fired in self-defense.

"His actions were heroic," a police spokesman said.

According to media reports at the time, a Cook County prosecutor also defended the officer, saying that as the suspects were running away, one turned and pulled the trigger of a gun several times. Luckily, the prosecutor said, the gun did not fire.

Although it was Officer Balbontin who shot Johnny, prosecutors charged Naranjo — the teen's accomplice — with first-degree murder in the boy's death. They argued that Naranjo was responsible because his actions led to the shooting: Had he not brought Johnny to Balbontin's house and forced their way inside, the officer would not have felt threatened and shot the teen.

Naranjo was convicted and is now serving 40 years in prison.

But an examination of the case by the Milwaukee Journal Sentinel, including a review of police records, autopsy reports, depositions and recently obtained trial transcripts, casts doubts on the police version of events.

For instance, police told the media at the time of the incident that Johnny was shot in the chest. But autopsy records later showed the teen was shot once in the back and once in the back of the arm.

And though the prosecutor claimed that one of the intruders turned in Officer Balbontin's direction and tried to fire a gun several times, the officer himself later testified that he never saw a weapon. A review of police and court records also shows no evidence supporting the prosecutor's claims.

Hailed as a hero, Officer Balbontin remained on the force. But just two years after the shooting, the officer murdered his wife, stabbing her in the head, chest and back in front of their young son.

The officer was sent to prison for 25 years — 15 years fewer than Naranjo got for bringing the teen to the home invasion.

“I thought it was unfair, definitely,” Naranjo said in a series of prison interviews. “Here you have a guy killing his wife. I didn’t even pull the trigger.”

The case has gained fresh attention in the post-George Floyd era: Not only is it a stark example of a questionable police shooting, but it highlights the increasingly controversial practice of law enforcement officials charging offenders with murder when another party, such as a police officer, kills someone.

Last year, Naranjo contacted representatives of the Center on Wrongful Convictions at Northwestern University’s School of Law and informed them of the Journal Sentinel’s investigation into his case. The center then in April filed a clemency petition to ask Illinois Gov. J.B. Pritzker to free Naranjo. The petition reflects the Journal Sentinel reporting, stating new facts have emerged that raise questions about the police narrative of the shooting. The petition also states Naranjo’s sentence was too harsh given that a police officer — not Naranjo — shot Johnny.

“Tragedy is everywhere in this case,” said Steven Drizin, the centers’ co-director and a Northwestern law professor. “There’s no need to compound this tragedy by requiring that Edgar serve two more decades in prison for his role in this crime.”

Naranjo was convicted of “felony murder,” a charge available to prosecutors in 41 states. Under felony murder laws, prosecutors can charge all participants in certain felonies with murder if any one of them causes someone’s death, even if the death is unexpected, said Guyora Binder, a law professor at the University at Buffalo and author of the book “Felony Murder.” In 13 of these states, he said, including Wisconsin, the laws go further, allowing murder charges even when a person is killed by someone resisting the felony, such as a police officer or robbery victim.

Felony murder rules date in the U.S. to the 19th century, but there has been a nationwide push in recent years to scale back such laws, partly because critics believe the definition of felony murder has become too broad, Binder said.

In California, for example, the legislature in 2018 barred felony murder charges against participants in a felony who did not personally kill anyone. State Sen. Nancy Skinner, a Democrat, said she introduced the bill because Black and Latino people are disproportionately convicted of felony murder.

Wisconsin law lists 12 felonies, such as certain batteries and burglaries, that could lead to a felony murder charge. But the law caps prison sentences at 15 years for felony murder,

meaning defendants could get time for the felony they committed and up to 15 more years for felony murder, said Michael O'Hear, a professor at the Marquette University Law School.

In 2017 in Appleton, [Henry Nellum got in a fight and fired a gun inside Jack's Apple Pub](#). Appleton police Lt. Jay Steinke responded to the scene, shot his gun four times and killed bystander Jimmie Sanders. [Nellum was convicted and sentenced](#) to five years in prison for being a felon in possession of a firearm and 11½ years for felony murder.

O'Hear said there have been no major efforts to repeal Wisconsin's felony murder law since 1988 but that it has been slightly modified twice.

In February, as part of a broad criminal justice reform package in Illinois, Pritzker signed legislation restricting prosecutors from charging a person with murder if a third party, such as a police officer, directly committed the killing.

Had the new law been in place in 2002, when Naranjo and Johnny forced their way into the Chicago police officer's home, Naranjo likely would not have been charged with the teen's death.

The changes do not affect Naranjo's prison sentence or those of others convicted under the old law. But Drizin said he would like to see Naranjo's case draw attention to felony murder laws and aid others serving time for murders they didn't directly commit.

The Chicago police news affairs office would not answer questions for this story, saying in an email that it "does not handle cases this old."

The city eventually viewed Officer Balbontin's shooting of Johnny as troubling and a potential major legal liability: In 2009, the City Council agreed to pay Johnny's family \$2.25 million to settle a wrongful death lawsuit against the city — one of the highest payouts by the City of Chicago for a police shooting.

Still, Laura Salazar, Johnny's mother, said Naranjo remains partly responsible for her son's death and should not be released early.

"We all make mistakes," she said, but she cannot forgive him for treating her son "like an animal" when, after the shooting, Naranjo put Johnny in the getaway car and dumped his body in an industrial area "instead of taking him to a hospital or, hell, bringing him home to me. Instead, you leave him by the factories not too far from my house?"

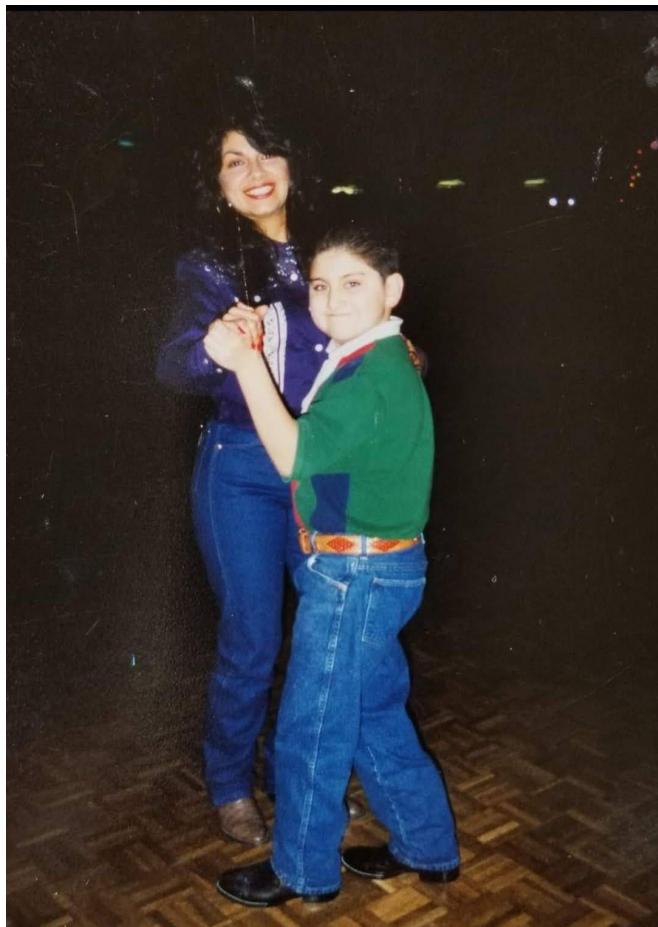
Naranjo admits he planned the burglary, brought a weapon to the crime scene and dumped Johnny's body. But he said he never intended for Johnny to be killed or even hurt.

He said he hopes the nation's recent focus on police shootings and brutality will prompt authorities to review his sentence and recognize that the punishment does not fit the crime.

"That murder is not mine," he said.

The burglary scheme

At the Dixon Correctional Center, a medium-security facility in Dixon, Illinois, Naranjo shares a 10-foot-by-10-foot cell with another inmate. The cell has a bunk bed, faucet, toilet and 13-inch television. Most days, Naranjo said, he does prison work, reads and watches sports on TV.



Johnny Salazar and his mother, Laura Salazar, dancing at a concert in Texas in 1998.
COURTESY OF LAURA SALAZAR

Born in Mexico City, Naranjo came to the U.S. in 1983 when he was 6 years old. His family settled in Chicago's Little Village neighborhood, where they opened a Mexican restaurant and catering business. Naranjo worked there throughout his childhood, eventually moving into an apartment below the restaurant.

He had several run-ins with police in his 20s, including for battery and possession of a stun gun, but none resulted in felony convictions, according to Northwestern's clemency petition. Then, when he was 26, and just a few weeks before the botched burglary, his

father kicked him out of the apartment below the family restaurant after finding marijuana in one of the catering trucks, Naranjo said.

He ended up living at Johnny's house because he knew the family through Naranjo's older brother. Even though Naranjo was 12 years older than Johnny, the two often played basketball together and went out to eat, recalled Salazar, Johnny's mother. She said all of Johnny's five siblings were girls, and so she was pleased that her son had found a male friend whom he seemed to enjoy.

She said Johnny loved tennis, Elvis Presley and karaoke, laughing as she recalled his rendition of "Oops! ... I Did it Again" by Britney Spears, which he sang to make his sisters laugh.

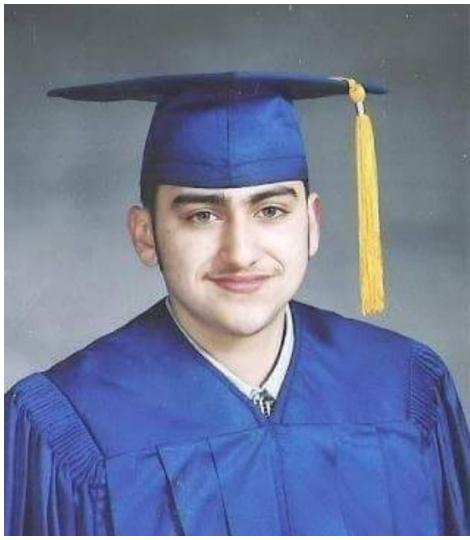
Johnny had just started his freshman year at Curie High, his mother said, but he didn't like school. "He was a handful," she said. "But he was perfect to me. He was my baby. My macho man."

Meanwhile, Naranjo, out of work and short of cash, hatched a plan: steal bottled colognes from a flea-market vendor — an acquaintance named Juan Balbontin — and resell them.

Naranjo knew the vendor had several thousands of dollars in colognes in his home, some with brand names like Gucci. But Naranjo said he didn't know the vendor had a son who was a police officer and lived in the basement.

According to his videotaped confession to police, Naranjo said he asked Johnny if he wanted to go with him to steal the colognes. On the morning of Oct. 4, 2002, the two parked around the corner from the vendor's home on a leafy residential street near the corner of Oak Park and West Belmont avenues. They brought an unloaded, air-pump pellet gun with them, Naranjo said in his confession, and Johnny carried it.

In an interview, Naranjo said the plan was to intimidate the vendor and his family and not hurt them. He said Johnny carried the gun so that Naranjo could grab the colognes.



Johnny Salazar's eighth grade graduation picture COURTESY LAURA SALAZAR

Wearing ponchos and masks, they pushed their way only a few feet into the house when Juana Balbontin, the vendor's wife, started screaming.

Juan Balbontin came to his wife's aid, hitting Naranjo with a mop wringer. Naranjo and Johnny ran out of the house, with the officer and his father in pursuit.

Officer Balbontin testified he identified himself as an officer twice during the burglary: once when he yelled "Chicago police!" after he ran up the basement stairs and once outside when he yelled "Chicago police! Freeze!" before pulling the trigger.

Naranjo said that at no point did he hear the officer identify himself as police.

Officer Balbontin, who had never shot his gun before on duty, said he was in his front yard, a few feet from his porch, when he opened fire. The two intruders were about 60 feet away, in front of a neighbor's house.

Naranjo said he heard gunshots and Johnny scream that he was shot. Naranjo told him to keep running.

Meanwhile, Officer Balbontin accidentally shot his father, who ran in the line of fire. A bullet struck him in the shoulder, and Officer Balbontin immediately went to his father's aid and stopped chasing the intruders.

Naranjo and Johnny ran about 60 feet down the block and turned the corner. The teen collapsed a few yards away in the parkway. Naranjo got into his car, backed up and dragged Johnny into the back seat.

The teen wasn't moving or talking and appeared dead, Naranjo recalled. He picked the pellet gun off the ground near Johnny and put it next to the driver's seat.

As he sped off, Naranjo saw that he had been shot in the left hand and that his middle finger and thumb were nearly torn off.

According to Naranjo's statement to police, he threw the pellet gun out the window near an on-ramp to the Eisenhower Expressway. It was never recovered by police.

Naranjo then drove to the Archer Heights neighborhood in Chicago, near Johnny's house and 13 miles away from Officer Balbontin's house. He dumped Johnny's body face-down on the curb of a dead-end street in a truck and trailer storage area, where a truck driver spotted the body four hours later.

After dumping the body, Naranjo drove to the Cook County Hospital to get his hand treated. What Naranjo said he didn't know is that when someone arrives at the hospital with a gunshot wound, hospital staff typically notify the police.

"I made every wrong move," Naranjo recalled. "I was just moving along with no plan."

Within several hours, detectives arrived. Naranjo made up a story about how he was shot by gang members in Little Village, leading detectives to investigate there.

That night, the detectives came back to the hospital and told Naranjo that no one in Little Village recalled hearing or seeing a shooting as he described.



Edgar Naranjo, middle, with his father, Zenaido Naranjo, and mother, Celia Naranjo, at a restaurant in 1997 in Chicago for Naranjo's 21st birthday. COURTESY OF YURI MARTINEZ

According to police and court records, Naranjo started crying and confessed, saying: "I know I made a mistake," "I want you to find Johnny" and "I hope he is not dead."

He went on to say: "I'm the family f--- up," "My dad is upset with me" and "I'm the one who always catches s----."

A prosecutor arrived at the hospital a few hours later. Naranjo agreed to have his confession recorded on videotape.

Naranjo thought he would be charged with just burglary. But law enforcement authorities told him he would be charged with Johnny's murder. They also told him a Chicago police officer lived in the house he invaded and that the officer was the one who fired the shots.

Naranjo said he recalled thinking: "This is not going to end well."

The murder trial

He was right: It would not end well for him. He would go on to be convicted of first-degree murder and receive a lengthy prison sentence.

A review of the trial transcripts shows the prosecution's case against Naranjo was far more detailed than the defense's presentation, which failed to fully explore whether the officer should have ever fired his weapon.

The trial began in December 2003 in Cook County Circuit Court. Naranjo waived his right to a jury trial and instead chose to have the judge decide the verdict.

Prosecutors called seven witnesses, including Officer Balbontin, who said he never saw the intruders carrying a weapon but had reasonable belief that they were armed because he heard his mother yell out that they had guns.

Under department rules, Chicago police officers may use deadly force as a last resort when they think their lives or those of others are in danger.

Balbontin testified that when he chased the pair outside and told them to freeze, Johnny "kind of like turned around really quick."

"I just immediately started shooting because I knew they had guns," he testified. "I didn't want to get shot first."

Prosecuting attorney Ray Regner asked the officer to come down from the stand to demonstrate for the court how Johnny turned around. The officer complied.

"Your honor," Regner said, according to the transcript, "let the record reflect the witness has indicated that the offender turned very quickly, 90 degrees to his left, while crouching down at the same time."

Naranjo's lawyer, Rogelio Pena, called only one witness: Dr. Nancy Jones, the Cook County medical examiner who conducted the autopsy on Johnny.

She said the location of the wounds suggested the shooter was behind Johnny but left open the possibility that, at some point, “the side of his body may have been toward the shooter.” That was consistent with the officer’s account of the teen turning toward the officer.

After the doctor’s testimony, the defense rested its case.

Judge Michael Toomin asked Naranjo: “Your lawyer has rested, indicating he’s resting after calling Dr. Jones alone. Are there any other witnesses that you’ve discussed with him that you want to present here to shed some light on this case?”

“No, sir.”

“You are comfortable with the decision to rest at this time?”

“Yes, sir.”

“Very well,” the judge said.

In closing statements, prosecutors said that Naranjo’s actions set off a chain of events that led to Johnny’s death.

“The law provides he is responsible for any death proximately caused and related to his criminal conduct,” Regner said. “And his act need only be contributory. It does not need to be so caused.”

The prosecutor said Naranjo planned the home invasion, put on a mask, and brought a weapon; resistance to the burglary was foreseeable. “Why else would they bring the gun into the home other than to subdue or quell any resistance they might meet?” he asked.

The closing argument by Naranjo’s attorney was just three minutes long — one-fourth the length of the prosecution’s remarks — and much of it rehashed facts that were not in dispute. He did say he didn’t think the officer “acted in the manner that he was trained, and he recklessly fired the weapon through the street.” But he did not call witnesses to explore those points.

Five days later, at a hearing, Judge Toomin announced his verdict: Naranjo was guilty. “This is a classic case of felony murder,” he said.

A month later, a sentencing hearing was held. Judge Toomin addressed Naranjo: “You had a good family, a nurturing family, good home. You have enjoyed good educational opportunities,” noting Naranjo had attended Daley College and worked toward a degree in, ironically, criminal justice.

“No indication of substance abuse,” the judge continued. “No mental problems. No gang involvement. It is difficult to understand how you find yourself in a position today before this court where you have been found guilty of such serious crimes.”



Yuri Martinez, Edgar Naranjo's sister, in her Chicago home on Oct. 20. ALEXANDRA KUKULKA FOR THE JOURNAL SENTINEL

Still, the judge said, "there was no provocation, no justification, no excuse, no reasonable explanation for your conduct."

The judge told the courtroom that under sentencing guidelines, first-degree murder called for 20 to 60 years in prison (the same penalty range, Northwestern's Drizin says, that Naranjo would have faced if he had pulled the trigger). Residential burglary carried 4 to 15 years. The judge then announced he was sentencing Naranjo to 50 years: 40 for murder and 10 for burglary — average terms for both crimes.

Naranjo's sister Yuri Martinez, sitting in the courtroom, recalled that she was shocked, expecting her brother wouldn't get so much time because he didn't "kill anybody directly." She said she had to gather herself for a few moments before turning to her and her brother's parents and translating the judge's decision to Spanish.

"My dad just looked down and started crying," Martinez said, "and my mom did the same thing."



Edgar Naranjo and his sister, Yuri Martinez, in Cancun, Mexico, in the mid-1990s.
COURTESY OF YURI MARTINEZ

Salazar, Johnny's mother, was not in court that day nor did she write to the judge. She said she had attended a few hearings but stopped because it became too stressful. "I just didn't want to be a part of it," she said. "It was just too much for me."

Prosecuting attorney Regner declined to be interviewed for this story.

Naranjo's lawyer, Pena, said he can't recall why he didn't call outside experts to weigh in on the police investigation but that "the amount of witnesses doesn't win the case."

"I did the best I can, I believe so," the lawyer said, "but the judge saw it otherwise."

Officer kills wife

Naranjo went to prison, and Officer Balbontin remained on the force. But over the next several years, two developments took place that cast the shooting in a different light.

On Jan. 18, 2005, almost a year to the day that Naranjo was found guilty, Officer Balbontin's wife, Arcelia, called 911, telling the dispatcher that she was fighting with her husband in their Belmont Cragin neighborhood home and feared he would take his own life.

When police arrived, Officer Balbontin met them on the steps, put his hands behind his back and said, "Arrest me," according to the Chicago Sun-Times.

Inside, police found Arcelia's body. Officer Balbontin had used a folding knife to fatally stab her 20 times in the head, chest and back. She was 29.

The officer's then 5-year-old son witnessed the attack, a relative told the Chicago Tribune, then locked himself in a bedroom with his infant brother.

Officer Balbontin — once declared a hero by Chicago police for defending his home and shooting Johnny — was found guilty of murdering his wife. He was sentenced to 25 years in prison.

Meanwhile, Donald Shapiro, a Chicago personal injury lawyer who had won several million-dollar judgments in high-profile cases, was slowly amassing damning evidence against Officer Balbontin and Chicago police in Johnny's death. The attorney had filed a wrongful-death lawsuit in 2003 against the officer and city on behalf of Johnny's mother.

Shapiro obtained records that showed police cleared Officer Balbontin just hours after the shooting, even before the autopsy was conducted. Had they waited just one day, they would have learned that Johnny was shot once in the back and once in the back of the arm.

In a deposition, Shapiro pressed Officer Balbontin on whether the intruders posed a deadly risk, and the officer acknowledged that he not only didn't see a gun, he also didn't see the intruders' arms or hands.

That testimony ran counter to what Nicole Morley, then a Cook County prosecutor, was reported to have said shortly after the shooting. According to a Chicago Tribune article, Morley said that as the intruders were running away, one turned and pulled the trigger of a gun several times, but it didn't fire. There is also no evidence supporting this claim in police and court records reviewed by the Journal Sentinel.

When the Journal Sentinel asked Morley, now an assistant district attorney in Chester County, Pennsylvania, where she got the information that an intruder attempted to fire a weapon, she said she could not remember details from the 19-year-old shooting.

"I remember some pieces of this case, but after almost 20 years, not only are those pieces fuzzy and unreliable, I do not remember any of the details let alone how I acquired information nor can I even say whether that Tribune quote is accurate," she wrote in an email.

In another deposition, James O'Keefe, a former training director at the New York Police Department, said the shooting, in his opinion, wasn't justified.

Officer Balbontin, he said, had time to assess the threat, stay in the house, get behind a parked car or call for backup.

"It's not the Wild West," he said. "The police are not trained to beat you to the draw. We are trained to take cover and concealment and shoot when we see a threat."

"Someone running away from me doesn't threaten me," O'Keefe said. "Someone stopping when I say, 'Stop!' doesn't threaten me. Someone turning around after they stop to see who I am and what I want doesn't threaten me. What threatens me is if I see a weapon. That didn't happen."

Shapiro also obtained the expert testimony of one of the nation's best-known forensic pathologists, Dr. Michael Baden, at the time host of the HBO television series "Autopsy" and former chief medical examiner for New York City.

He chaired two congressional forensic panels, one evaluating the assassination of President John F. Kennedy and the other of Dr. Martin Luther King Jr. (Recently, Baden, 87, was hired by George Floyd's family to conduct a private autopsy on him. Baden and a colleague concluded the death was a homicide due to the way Floyd was subdued.)

Baden said the evidence did not support Officer Balbontin's testimony that Johnny was turned 90 degrees toward him when he shot. The pathologist said the bullet wounds suggest Johnny was "bent forward slightly, as if in a running position."

He said it was his opinion the teen "was moving away from Officer Balbontin with his back toward Officer Balbontin at the time at the moment of discharge of the weapon."

But in response to questions by Stacy Benjamin, an attorney for Officer Balbontin and the City of Chicago, Baden acknowledged Johnny could have stopped in a running position or that he turned toward Officer Balbontin and then turned away just before being shot.

In the end, the City Council agreed to settle the suit and pay Johnny's family \$2.25 million.

Several aldermen expressed outrage and voted no.

"I cannot see giving taxpayer money to the family of a home invader," Ald. Bernard Stone said at the time. "It encourages lawlessness."

Paths cross in prison

For a brief period, both Naranjo and Balbontin were serving time at Stateville Correctional Center in suburban Chicago.

Naranjo said he never ran into the former officer, but once while working at the prison chapel he saw a request sheet from Balbontin asking for a Bible and religious literature. Naranjo put the materials in an envelope for the next mail run.

Ultimately, Balbontin was transferred to Pontiac Correctional Center, a maximum-security prison, and Naranjo was transferred to Dixon.

Naranjo appealed his case, and in 2005 the First District Illinois Appellate Court upheld the murder conviction but dismissed the burglary charge. His sentence was reduced from 50



Edgar Naranjo at Dixon Correctional Center in Dixon, Ill., on Oct. 19. COURTESY OF MERARI AGUILAR

years to 40 years. He is due to be released in 2045; he is eligible for parole in 2042.

The clemency petition filed by Northwestern's Center on Wrongful Convictions says if Naranjo is released, he will move to Mexico and live with a cousin, who operates a construction business and will employ him as an administrative assistant and interpreter.

Clemency petitions are reviewed by the state Prisoner Review Board, which makes a recommendation to the governor, who has the final say. A decision is expected by the end of the year.

"It's a case that cries out for mercy," said Drizin, the center's co-director, "particularly because Edgar no longer poses a risk to public safety."

Naranjo questions how he could be imprisoned for so long when another person — a police officer who acted in a questionable manner and who went on to kill his wife — was the one who shot Johnny.

"I already gave 20 years of my life," he said.

Sam Roe, the Journal Sentinel's investigations editor, teaches investigative reporting at Columbia College Chicago. This story is an outgrowth of a class project. Alexandra Kukulka is a former student in Roe's class and now a reporter at the Post-Tribune in northwest Indiana.